

MEETING MINUTES

STATE OF WASHINGTON BOARD OF PILOTAGE COMMISSIONERS

October 12, 2006

Present:

Chairman: Harry Dudley

Commissioners: Chuck Davis, Ole Mackey, Jay Niederhauser, Pat Hannigan, Vince Addington,
Andy Palmer and Norm Davis

Assistant Attorney General: Susan Cruise

Administration: Peggy Larson and Judy Bell

Mary Nelson: Port of Grays Harbor/GHPD

Richard McCurdy, Walt Tabler: Puget Sound Pilots

Luis Kohls: Pacific Merchant Shipping Association

Matthew Darbous: Quay Cruise Agencies, USA

Ron Kinsey: USCG Sector Seattle

Eric Klapperich, Katharine Sweeney: pilot applicants

REGULAR MEETING

The regular meeting of the Board of Pilotage Commissioners was convened at 9:40 a.m. by Chairman Harry Dudley at 2901 Third Avenue, Seattle, Washington.

Minutes. There being no corrections or additions, the September 14, 2006 Minutes stand approved as written.

OLD BUSINESS

Review and Approval of Correspondence re: MSO Report, *NORWEGIAN STAR*, 8-6-06. At the previous Board meeting Chairman Dudley was charged with drafting two letters for Board review and approval addressing the subject occurrence involving Puget Sound Pilot, Captain N.A. Werner: one letter to Norwegian Cruise Line summarizing what the Board understood happened on the bridge of the vessel and an invitation to provide more information; and a second letter to the shipping companies with an emphasis on passenger vessels reminding them of the provisions of WAC 363-116-405 and of our compulsory state pilotage laws. Subsequently, two letters from NCL officers have been forwarded to the Board causing further review and discussion. It remains unclear after reviewing all accounts of the event just who had the conn during the reported occurrence. It was moved by Commissioner C. Davis and seconded by Commissioner Addington that the first letter to NCL not be written in light of having received further information and that the second letter be written as formerly outlined including sending it a second time just prior to next year's cruise ship season. The motion carried.

Review of Interpretation of RCW 88.16.190 ~ regarding the *MISS CLAUDIA*. Walt Tabler with Puget Sound Pilots has written a letter to the Board objecting to the Board's recent action regarding its interpretation of tug escort rules (RCW 88.16.190) regarding the *MISS CLAUDIA*. Commissioner Palmer asked for more time to pursue gathering information regarding the Board's consideration of adopting a Statement of Policy. It was moved by Commissioner Palmer and seconded by Commissioner Addington to direct Susan to research legislative history relevant to the passage of certain amendments in 1994 to RCW 88.16.190. The motion carried. In the meantime, the Board's actions relevant to the *MISS CLAUDIA* and the *CAPTAIN H. A. DOWNING* stand.

Proposed Agency Request Legislation: Bill Request # Z-0106.1/07 - *Clarifying Liability Limitations for Providing Pilotage Services*. The Board's request for an extension to file agency request legislation to make technical corrections to RCW 88.16.118 was granted. Further consideration was given to recent stakeholder comments and final adjustments were made to the present Z-Draft. It was moved by Commissioner Hannigan and seconded by Commissioner

Addington that staff send the amended Z-Draft to the Code Reviser for finalization, assemble the submittal package and file it with the Office of the Governor by October 25, 2006. The motion carried.

Setting of the Number of Pilots re: WAC 363-116-065. PSP and PMSA/Polar submitted a joint written presentation on setting the target number of pilots to be licensed in the PSPD. Commissioner Addington stated that he is re-evaluating elements of his written proposal that he submitted last month which needs further study and review. It was moved by Commissioner Niederhauser and seconded by Commissioner Addington that the number of licensed pilots in the PSPD be set at 57 which includes one non-watch-standing president. The motion carried. Commissioner Palmer noted that it would be about two years before that number will be reached according to the information presented today. This number may be re-visited from time to time at any meeting for which the agenda indicates the matter for consideration.

NEW BUSINESS

Proposed Rule-Making Regarding WAC 363-116-300: Pilotage Rates for Puget Sound. At the September Board meeting a motion was passed to direct PSP to stop collecting the initial \$10 per vessel assignment training surcharge on October 1, 2006, subject to the approval of legal counsel. Susan Cruise has determined that a rule-making hearing is necessary to amend the fee, so the directive was not issued. After further discussion the Board also determined that the second \$10 training surcharge should be temporarily reduced to \$5. Due to the overage of funds in the account, this reduction in the fees will bring the balance down to a more appropriate level. It is the Board's intent to address this matter again next May during the annual PS tariff hearing when WAC 363-116-300 is considered. It was moved by Commissioner Hannigan and seconded by Commissioner Addington that the initial \$10 per vessel assignment training surcharge for establishing a fund for pilot trainee stipends be eliminated and that the second per vessel assignment training surcharge for each trainee be reduced from \$10 to \$5. Additionally, the effective date will be January 15, 2007, based on the standard filing process for rule-making. The motion carried. Draft language was prepared and will be filed for a December 14, 2006 public hearing.

Discussion of Need for a Pilot's Letter of Intent to Retire. Due to reports to the Board concerning a certain pilot's current status, discussion ensued regarding what is determined to be necessary information, how is it shared, and for what purpose. PSP By-Laws require that a pilot, contemplating retirement, must submit written notice to PSP of his or her intent to retire at least six months in advance. Most of the time this information is shared with the Board; however, some of the time the anticipated date of retirement is not included. It was agreed that it is necessary to monitor these instances in order for the Board to keep informed about how many pilots are in the work force which dictates when to call up trainees to maintain the proper number of pilots.

Committee Reports: Trainee Evaluation Committee

- Commissioner Niederhauser addressed the TEC's spreadsheet which is a projection of future trainees and pilots for the next six years. This working document is one that changes periodically due to the ongoing receipt of new information. It shows pilots' anticipated retirements, the spread of new pilots through their first five years, as well as the anticipated progression of applicants currently in and eventually entering the training program. This data is all shown in relation to the targeted number of pilots.
- TEC members Niederhauser, Hannigan and Lee met with Captains Grobschmit and Kalvoy for a training program orientation. Both trainees began their programs on October 1, 2006.
- It was moved by Commissioner Niederhauser and seconded by Commissioner Addington that based on the spreadsheet projection, the Board accept the TEC's recommendation that the next two applicants be notified to begin training on January 1, 2007. The motion carried. These are applicants numbered nine and ten, Captains Bruce Nelson and Ed Marmol.

- Draft amendments to WAC 363-116-082 which were presented by the TEC last month have been modified by PSP and a new draft was presented to the Board as intended rulemaking. The recommended adjustments to the license limitations and upgrade sequence for Puget Sound and Grays Harbor Pilots to shorten a new pilot's first year from 12 months to 8 months, provided a course of manned model training in Port Revel be substituted for the four month shortfall, resulted in negative feedback from the senior Puget Sound Pilots. However, other housekeeping recommendations will still be pursued. Since the desire to get this proposal into place by mid-March is no longer intended, it will be used as a discussion paper for ongoing review.
- Responses to letters from pilot aspirants requesting the Board's review and determination of qualifications to sit for the next pilot exam have been drafted. Susan will review the drafts prior to sending them out.

Miscellaneous Correspondence Review. A letter was sent to Commissioner Chuck Davis from Mr. K.C. Werner commenting on his review of the near miss last December between the WSF WENATCHEE and the KNUD MAERSK. This letter accompanied a letter to WSF written by Werner which criticized their lack of bridge team manning requirements.

As an informational item Commissioner Lee requested that each Board member be given a copy of the *"International Best Practices for Maritime Pilotage"* publication. In response to that Commissioner Niederhauser furnished copies of an excerpt from *"ON STATION"* dated March 1, 2003, which announces APA's and IMPA's opposition to the booklet.

Chairman Dudley shared a message he received from Captain John Scragg, PMI, concerning recency requirements on federal licenses. In the future when our Board requires a trainee to complete a training program lasting up to three years because of the need to obtain the federal pilotage endorsement for Puget Sound while training, there could be a problem for the trainee in that he or she needs to prove a 90-day recency on their federal license while obtaining the pilotage endorsement. However, the Board, in order to pay a stipend to a trainee requires that they not work while they are training. The USCG has been contacted regarding whether or not it will allow time in a state training program as qualifying time for recency requirements.

Legal Update. Susan Cruise reported that the appeals by the five appellants regarding the 2005 pilot exam for the PSPD are proceeding. The hearing scheduled for November 6-8, 2006 will most likely be delayed due to the ongoing discovery process. Susan estimated the total cost to defend the Board to be a minimum of \$150,000 – ranging up to \$175,000.

Administrator's Report. Peggy Larson reported that the amended language to WAC 363-116-078 regarding the Training Program was filed with the Code Reviser and will become effective on November 4, 2006. Also, the Agency audit by the State Auditor's Office is still ongoing.

Pilots' Activity Reports. Captain Richard McCurdy, President, Puget Sound Pilots, reported that there were 734 jobs this September compared to 755 a year ago for an average of 670 for the past 3 Septembers; two pilots remain on major medical leave; two pilots have just returned from Port Revel for manned model training; Captain McCurdy is involved in the planning of a table-top exercise to shutdown Seattle Harbor on January 23; the USCG has published proposed changes to their physical standards for licensed personnel; PSP has begun putting two pilots on Sitcum Waterway jobs due to visibility difficulty; and tomorrow formally ends the cruise ship season.

Mary Nelson, Director of Finance and Administration, Port of Grays Harbor, reported that vessel traffic is about 40% below projections; the Bay City Log Dock is on target but Terminals 2 and 4 are taking the impact; Captain Cooke is on duty this month; and the FEMA issues regarding the BioDiesel plant have been resolved, construction is underway in the slip one area, and by summer of next year the 100 million gallon production facility should be operational.

Public Comments. Captain Eric Klapperich reminded the Board that he would like a written response to his August 10, 2006 letter regarding his request to enter training. Chairman Dudley is currently working on a response for Susan's review.

Commissioner Comments. Chairman Dudley expressed his desire to perform a comparison of our Board's medical standards to the US Coast Guard's newly proposed standards.

Confirmation of Next Regular Meeting Date. The next regular meeting is scheduled for November 9, 2006, at 9:30 a.m. The meeting will be held in the Fourth Floor Rainier Conference Room, 2901 Third Avenue, Seattle.

Review of Pilot Physical Examination Reports. After reviewing the physicians' reports it was moved by Commissioner C. Davis and seconded by Commissioner Mackey that the physical examination reports for Captains C.N. Larson, L.R. Petke, J.R. Semler, W.E. Thorsen, Jonathan E. Ward and R. Wiley be accepted for annual license renewal. The motion carried. The Board also received and accepted follow-up information concerning Captain V. Engstrom. Captains W.K. Anderson and W.A. Bock remain in temporary inactive status due to a medical condition.

The Chairman adjourned the regular session Board meeting at 12:45 p.m.

Respectfully submitted,

Peggy Larson, Administrator

Harry H. Dudley, Chairman

Charles M. Davis, Vice Chairman

Commissioner Oliver E. Mackey

Commissioner John S. Niederhauser

Commissioner Patrick M. Hannigan

Commissioner Vincent Addington

Absent

Commissioner Craig W. Lee

Commissioner Andrew C. Palmer

Commissioner Norman W. Davis