

# MEETING MINUTES

## STATE OF WASHINGTON BOARD OF PILOTAGE COMMISSIONERS

August 11, 2005

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### Present:

Chairman: Harry Dudley

Commissioners: C. Davis, Mackey, Niederhauser, Hannigan, Addington, Lee and N. Davis

Assistant Attorney General: Susan Cruise

Administrator: Peggy Larson and Administrative Assistant: Judy Bell

Captains Richard McCurdy, J. Scoggins, A. Coe, J. Semler and Mr. Walt Tabler: Puget Sound Pilots  
Mary Nelson: Port of Grays Harbor

Mike Moore, Luis Kohls: Pacific Merchant Shipping Association

Gregg Trunnell: Pacific Maritime Institute

Jack Bujacich, Ed Marmol, Eric Klapperich, Larry Seymour, Ivan Carlson, Mike Anthony, Pat Kelly  
James Caspers and Josh Weston: pilot aspirants

Tom Paul: attorney representing Pat Kelly

Ron Kinsey: U.S. Coast Guard

Burt Shearer, Captain Del Kelly: public

### **PUBLIC HEARING**

A public hearing of the Board of Pilotage Commissioners was convened at 9:30 a.m. by Chairman Harry Dudley at 2901 Third Avenue, Seattle, Washington. The following new and amended WAC sections were considered during the public hearing regarding Pilot Licensing Qualifications and Procedures:

NEW:	WAC 363-116-065	Number of pilots.
AMENDATORY:	WAC 363-116-075	Qualifications for pilot applicants taking examinations before July 1, 2008.
NEW:	WAC 363-116-0751	Qualifications for pilot applicants taking examinations on or after July 1, 2008.
NEW:	WAC 363-116-076	Examination for pilot applicants.
NEW:	WAC 363-116-077	Simulator evaluation for pilot applicants.
NEW:	WAC 363-116-078	Training program.
AMENDATORY:	WAC 363-116-080	Licensing of pilots.
AMENDATORY:	WAC 363-116-082	Limitations on new pilots.
AMENDATORY:	WAC 363-116-083	Examination review and appeal procedures.
AMENDATORY:	WAC 363-116-175	Tariff proposals.
AMENDATORY:	WAC 363-116-300	Pilotage rates for the Puget Sound pilotage district.

Oral testimony was presented by Captain Del Kelly, Captain Richard McCurdy, Walt Tabler and Captain Mike Moore. Written testimony was received from Captain John Scoggins, Captain Mark Remijan and the Puget Sound Pilots. Agency documents include those from Chairman Dudley, Commissioner Lee, Susan Cruise and Peggy Larson. Testimony from Captain Kelly focused on his belief that all pilot applicants must have the federal pilotage endorsement for the district in which he or she desires to be licensed. Captain McCurdy and Mr. Tabler spoke to PSP's letter submitted to the Board dated August 4, 2005, which supports the adoption of the proposed WACs, offers a few minor language modifications, and stresses the importance of having them in effect for a pilot exam in November of 2005. Captain Mike Moore supported the expedition of an exam in order to minimize shipping delays. Other topics presented dealt with the current and projected pilot shortage, rest periods, shipping delays, repositioning of pilots, calculation of sea service, and license upgrade trip requirements.

Chairman Dudley closed the public hearing at 11:10 a.m. This hearing was recorded on audiotape.

## **REGULAR MEETING**

Following a fifteen minute break, the regular meeting of the Board of Pilotage Commissioners was convened at 11:25 a.m. by Chairman Harry Dudley at 2901 Third Avenue, Seattle, Washington.

**Consideration of Preceding Hearing: Chapter 363-116 sections as listed above.** Discussion opened by reviewing each of the eleven WAC sections for clarity, purpose and understanding. Legal counsel, Susan Cruise prepared comments on several sections that were considered for amendment in order to assure alignment with statutory and other provisions.

**An EXECUTIVE SESSION was called from 1:00 p.m. to 1:50 p.m. for purposes of** reviewing pilot physical examination reports. A lunch break was taken during this time as well. In attendance were Chairman Dudley, Commissioners C. Davis, Mackey, Niederhauser, Hannigan, Addington, Lee and N. Davis; Susan Cruise, Judy Bell and Peggy Larson. Regular session was reconvened by the chairperson immediately following executive session.

**Consideration of Preceding Hearing cont'd.** Discussion continued regarding the adoption of the new rules. Proposed amendments were considered and voted on resulting in a total of seven rules that were clarified or changed from the proposed version to the adopted version. The CR-103 that will be filed with the Code Reviser will detail those revisions. Discussion also continued regarding the urgency to hold an examination without delay. It was moved by Commissioner Hannigan and seconded by Commissioner Addington that the Board declare an emergency to exist and adopt the following:

### **Emergency Declaration**

The Washington State Board of Pilotage Commissioners hereby finds that an emergency exists which presents an imminent peril to the public health, safety or general welfare in the following particulars:

1. In enacting the 2005 amendments to the Pilotage Act, the Washington Legislature made the following finding:

*Sec. 4 This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.*

This language was added to enable the Pilotage Commission to immediately prepare for the earliest possible examination of applicants.

2. The legislature understands how important it is to provide a safe and efficient pilotage service to allow ships to move through our waters. The most vital function of the board is to provide these pilots.
3. This function is now being compromised and will continue to be more severely compromised into the future.
4. There is currently a severe shortage of pilots in the Puget Sound Pilotage District. It is difficult to predict the full extent of this shortage, but it appears that it will be:

Today through October, 2005	5 pilots short
Oct through March	4.6 pilots short
March until licensing of new pilot	5.6 pilots short

5. There are numerous facts, many of them unanticipated, that have created the current crisis:
6. Properly scheduled ship movements have been delayed during June and July due to a lack of rested pilots. These delays are likely to increase as the shortage of pilots worsens.
7. Shipping delays are enormously disruptive and expensive to the shipping industry.
8. As shown last year in LA/Long Beach, delaying ships causes them to seek out other ports. The ports of LA/Long Beach were severely damaged in the eyes of the shipping community by their inability to efficiently move ships.
9. For most of the past year, at least one Puget Sound Pilot has been unavailable for duty due to medical issues.
10. Currently, two pilots are unavailable for service due to medical reasons and will be out for a number of months.

11. The Puget Sound pilot corps is aging. Retirements, anticipated and unanticipated, will further deplete the number of pilots before new licenses can be issued. Unanticipated medical problems could have a major impact. Puget Sound Pilots no longer has the flexibility to absorb extra load caused by a temporary medical absence of a pilot.
12. Ship traffic has spiked upward in the last three months to the highest levels that have been seen in Puget Sound in the last 5 years.
13. There were 723 jobs in May 2005 compared to a three year average of 643 for that month.
14. There were 734 jobs in June, 2005 compared to a three year average of 618 for that month (a 19% increase).
15. There were 734 jobs in July, 2005 compared to a three year average of 633 for that month (a 16% increase).
16. The two applicants remaining from the 1996 exam have declined to enter the training program and will not be Puget Sound pilots.
17. If the next exam is not given until January 2006, no pilots taking it will be licensed before the end of the busy 2006 summer season.
18. The impact of any delay in licensing will be felt next summer and, due to the annual license size restrictions, will be repeated each summer for the next five years.
19. This acute shortage of pilots next summer and for the five summers thereafter, presents an emergency and an imminent peril and threat to the public health, safety and general welfare.

The motion carried with a vote of seven in favor and Commissioner Lee opposed. He questioned the vessel statistics quoted in the motion and noted they were different than what was reported to the Board in earlier monthly and quarterly reports.

Based on the foregoing *Emergency Declaration*, it was moved by Commissioner Hannigan and seconded by Commissioner Niederhauser that the Board shorten the time to give notice of a pilotage exam pursuant to new WAC 363-116-076 and old WAC 363-116-080 and immediately issue a notice that an examination will be given starting on November 14, 2005 and give public notice of such examination in compliance with new WAC 363-116-076 and old WAC 363-116-080. The motion carried unanimously.

It was moved by Commissioner C. Davis and seconded by Commissioner Vince Addington that the WAC rules that were heard and considered today be adopted pursuant to the approved amendments. The motion carried. These rules will not be filed under emergency provisions but will become effective after the expiration of 31 days from filing with the Code Reviser.

**Minutes.** There being no corrections or additions, the July 14, 2005 Minutes stand approved as written.

### **OLD BUSINESS**

**Consideration of Setting a Pilot Examination Date for the Puget Sound Pilotage District.** Pursuant to the adoption of the eleven WAC sections listed above and the emergency declaration to hold an examination the week of November 14, 2005, application packets will be made available as soon as the Exam Committee has them finalized. It was moved by Commissioner Mackey and seconded by Commissioner C. Davis that an examination administration fee be set at \$400. The motion carried. A simulator evaluation fee was not set at this time.

### **NEW BUSINESS**

**Request for Consideration of Method to Calculate Sea Service.** In a letter dated August 3, 2005, pilot aspirant Captain Josh Weston, requested that the Board and Puget Sound Pilots standardize their method of calculating sea time to coincide with that of the U.S. Coast Guard. The Board and PSP equate one day of duty time to one day of sea service. The USCG says that where

a 12-hour work day is authorized and practiced, each work day may be credited as 1.5 days of sea service. Commissioner Lee stated his opposition to changing the Board's practice based on his desire to see applicants gather more work experience. He said it runs counter to the Board's effort to raise the qualifying standards for pilot applicants. Captain Weston is in hopes of qualifying to enter the PSP rider program to further his pursuit of the PS pilotage endorsement on his federal license. It was the consensus of the Board to defer this item to the next meeting.

**Request for Consideration of Position as Equivalent to Master – WAC 363-116-075.** In a letter dated August 4, 2005, pilot aspirant Captain Pat Kelly, requested that the Board consider his work experience as chief mate equivalent to that of master for purposes of qualifying to take the exam later this year. He is currently working for Crowley Marine Services, Ship Assist & Escort Services Division. He presented work history from three different employers showing both master and chief mate time, along with a letter from his current employer defining the responsibilities of a chief mate. He referred to the Statement of Policy that the Board adopted on May 9, 2002 regarding, "*Qualifications of Pilot Applicants Under WAC 363-116-075(1) When Experience is on Vessels Employing More Than One Master*", and asked for the same consideration. Commissioner Niederhauser observed a discrepancy between his and Captain Kelly's calculation of sea service documented in the paperwork presented to the Board. The Board requested that Captain Kelly present more detailed information showing specific documentation of his total number of days of sea time verified by Crowley Marine Services. This matter was continued to the next meeting.

**Pilot's Report of Marine Safety Occurrence: 7-13-05.** While approaching Terminal 18 the pilot asked for an astern bell as a precaution before entering the congested East Waterway. Lacking a response it was determined that the *OOCL NETHERLANDS* had no engine available, ahead or astern. The pilot ordered a hard right rudder and the bow thruster full to starboard. The assist tug was brought to the port bow and ordered to push full. As the bow started to swing to starboard, away from the Seattle/Bainbridge ferry that was off-loading at Pier 52, both anchors were lowered to the water and VTS was notified that the vessel was adrift. After altering the direction of the vessel, the assist tug was used to move it toward the Elliott Bay East Anchorage. Repairs were made while drifting near the anchorage area. A second tug was ordered. Two hours later it was confirmed that the engine had been successfully repaired and the vessel proceeded to the berth with no further incident. A letter of commendation was sent by the Captain of the Port, USCG, to Captain Coe, a copy of which will be given to the Board. It was moved by Commissioner C. Davis and seconded by Commissioner Lee that this report be filed as a Marine Safety Occurrence. The motion carried.

**Pilot's Report of Marine Safety Occurrence: 7-21-05.** Upon departing Pier 66 Seattle, the chief mate of the *NORWEGIAN DREAM* reported that the starboard engine (propeller) had been lost. The port engine was used without incident. VTS was notified and repairs were made in approximately two hours. It was moved by Commissioner C. Davis and seconded by Commissioner Addington that this report be filed as a Marine Safety Occurrence. The motion carried.

**Consideration of Replacement of Board-Designated Physician, Dr. Hugh Clark.** This item was deferred to the next regular meeting.

**Committee Report: Policy Statement Development Regarding "In Ballast" Definition.** The next report will be at the September meeting.

**Committee Report: Pilot Examination Development.** Commissioner Niederhauser reported that the committee met on June 28 to discuss further the progress of the written exam and the simulator evaluation. An application package is being assembled and finalized in preparation of the November 14, 2005 pilot examination.

**Pilots' Activity Reports.** Captain Richard McCurdy, President, Puget Sound Pilots, reported that due to the Hood Canal Bridge temporary closure and high traffic volumes ten pilots were hired back on comp time; Captain Stensager remains on medical leave; Captain Bock is off duty due to a medical condition; and one other pilot may be applying for major medical.

Mary Nelson, Director of Finance and Administration of the Port of Grays Harbor, reported that vessel arrivals remain about 40% ahead of budget projections with 83 jobs year to date; there were 3 arrivals in July, 5 in August and a projected 3 in September; Captain Cooke began working in July and has had 7 jobs to date; and two vessels are scheduled for August 12 which will utilize both pilots and without delay.

**Miscellaneous Correspondence Review.** As requested, the Board received copies of Captain Doug Johnson's letter declining entry into the training program. Captain Dwyer has not yet followed up his verbal decline in writing. Copies were circulated of a press release from the Port of Grays Harbor concerning the addition of Captain Stephen Cooke to the pilot roster.

**Commissioner Comments.** Chairman Dudley expressed his gratitude for the completion of a long but rewarding project of improving the process of selecting and training Washington state pilots. Also, he announced that the Board's new website will be up and running very shortly at [www.pilotage.wa.gov](http://www.pilotage.wa.gov).

**Confirmation of Next Regular Meeting Date.** The next regular meeting is September 8, 2005, in the First Floor Conference Room, at 2901 Third Avenue, Seattle. It was moved by Commissioner Niederhauser and seconded by Commissioner Lee that due to scheduling conflicts the October 13<sup>th</sup> meeting be rescheduled to October 20<sup>th</sup>. The motion carried.

**Review of Pilot Physical Examination Reports.** After reviewing the physicians' reports it was moved by Commissioner Hannigan and seconded by Commissioner Addington that the annual physical examination reports for Captains W.K. Anderson and B.F. Henshaw be accepted for license renewal. The motion carried.

Based on information received on August 9, 2005 from a Board-Designated Physician, Captain W.A. Bock was reported unable to pilot due to a current medical condition. It was moved by Commissioner Hannigan and seconded by Commissioner Addington that Captain Bock be temporarily relieved of pilotage duties, his license be declared inactive, and in order to return to active duty the Board must receive a satisfactory physician's report indicating his/her findings/recommendations as to his ability to safely perform pilotage duties. The motion carried.

Captain Stensager remains on inactive status as of May 2005 due to a medical condition.

The Chairman adjourned the regular session Board meeting at 7:00 p.m.

Respectfully submitted,

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Peggy Larson, Administrator

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Harry H. Dudley, Chairman

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Charles M. Davis, Vice Chairman

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Commissioner Oliver E. Mackey

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Commissioner John S. Niederhauser

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Commissioner Patrick M. Hannigan

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Commissioner Vincent Addington

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Commissioner Craig W. Lee

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**Absent**

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Commissioner Andrew C. Palmer

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Commissioner Norman W. Davis