

# MEETING MINUTES

## STATE OF WASHINGTON BOARD OF PILOTAGE COMMISSIONERS

November 10, 2005

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### Present:

Chairman: Harry Dudley

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

Assistant Attorney General: Susan Cruise

Administrator: Peggy Larson and Administrative Assistant: Judy Bell

Captains Richard McCurdy and Mel Flavel and Mr. Walt Tabler: Puget Sound Pilots

Jeff Shaw: Polar Tankers, Inc.

Luis Kohls: Pacific Merchant Shipping Association

John Scragg: Pacific Maritime Institute

Jostein Kalvoy and Katharine Sweeney: pilot applicants

Scott Craig: Crowley Marine

Ron Kinsey: USCG Sector Seattle

Captains Del Kelly and Bill Anderson: public

### REGULAR MEETING

The regular meeting of the Board of Pilotage Commissioners was convened at 9:30 a.m. by Chairman Harry Dudley at 2901 Third Avenue, Seattle, Washington.

**Minutes.** There being no corrections or additions, the October 20, 2005 Minutes stand approved as written.

### OLD BUSINESS

**Pilot's Report of Incident: APL ENGLAND, 9-10-05.** Commissioner Niederhauser requested more time to complete his investigation of the incident.

**Pilot's Report of Incident: CEC LEADER, 9-18-05.** Commissioner Mackey followed up on the Board's request to obtain a supplemental report from Grays Harbor Pilot Bobby D'Angelo which was reviewed and determined satisfactory. It was moved by Commissioner C. Davis and seconded by Commissioner Mackey that this matter be declared an "Incident with damage and without pilot error". The motion carried.

### NEW BUSINESS

**Determination of Submittal of Agency Request Legislation and/or Supplemental Budget Request.** Chairman Dudley, Susan Cruise, Walt Tabler and Peggy Larson have been working with officials in the Office of Financial Management in Olympia to determine the status of the Board's training stipend program. OFM wants a meeting with the parties mentioned above in order to discuss certain concerns they have regarding the Board's authority to collect funds and pay a training stipend. The deadline for either agency request legislation or a supplemental budget request has been extended to November 30; however, it is hopeful that OFM will not require either in order to resolve the issues. This matter will be continued as information becomes available.

**Review and Consideration of Licensure of PSPD Trainee: Captain Fred Triggs.** This item will be discussed later in the meeting after an Executive Session in which the Trainee Evaluation Committee wishes to present some pertinent background information regarding the status of this training program.

**Establish Procedure to Admit Applicants into the Training Program: WAC 363-116-065 & 363-116-078.** This item was deferred to the December meeting at which time a determination will be made relative to setting the proper number of trainees, developing the training programs, and monitoring the need for new pilots.

**Pilot's Report of Marine Safety Occurrence: 11-05-05.** A Puget Sound Pilot responded to an emergency request to take the *CSL CABO* off the dock and wait about nine hours until the tide was high enough to take it back alongside at BPB. Due to broken down loading gear on the dock, the ship would soon be too deep for the berth and would go aground at the dock if it wasn't moved. The pilot knew the assignment was well outside PSP Guidelines but accepted the job anyway. All went well and the pilot was commended for a job well done. It was moved by Commissioner C. Davis and seconded by Commissioner Niederhauser that this report be filed as a Marine Safety Occurrence with the Board's appreciation for Captain Alec Newman's excellent performance. The motion carried.

**Pilot's Report of Incident: THALIA, 10-26-05.** Captain McCurdy explained that due to a computer glitch in PSP's dispatch system Captain John Scoggins was dispatched to a vessel with a tonnage that exceeded his license limitations. Captain Scoggins became aware of the error and was replaced by another pilot part way through the assignment when it was safe and appropriate. It was moved by Commissioner C. Davis that this report be filed as a Marine Safety Occurrence. The motion carried. It was moved by Commissioner C. Davis and seconded by Commissioner Niederhauser that no action be taken regarding the technical violation of WAC 363-116-082. The motion carried.

**Inconsistencies between Ch 26 and Ch 123, Laws of 2005 Pilotage Act, Resolution of.** It has been noted by the Code Reviser that two versions of RCW 88.16.118 which were modified during the 2005 Legislative Session regarding limitations of liability currently exist. The Board has been asked to comment on the integration of the two versions. Susan Cruise and Walt Tabler as well as Gary Nelson are reviewing alternative language in order to resolve this housekeeping matter. Susan will keep the Board informed.

**Committee Report: Pilot Examination Development.** Commissioner Hannigan outlined a comprehensive list of responsibilities and issues pertinent to the exam process that requires Board action prior to the administration of the exam. It was moved by Commissioner Hannigan and seconded by Commissioner Addington that it be acknowledged that all background checks have been completed with no relevant findings and that all 21 applicants be approved without condition to take the 2005 pilot exam for the PSPD. The motion carried. It was moved by Commissioner Niederhauser and seconded by Commissioner Addington that the following people be named evaluators for the simulator evaluations, Captains Harry Dudley, Miklos Endrody, Bill Anderson and Craig Lee. Board members were reminded that they also may participate as observers. The motion carried. It was moved by Commissioner Niederhauser and seconded by Commissioner C. Davis that for purposes of counting five business days after an applicant receives notice of his/her exam results in which to request an informal review, November 25, 2005, will not be considered a business day due to it being an official state holiday and not having mail delivery. The motion carried. It was moved by Commissioner C. Davis and seconded by Commissioner Niederhauser that pursuant to WAC 363-116-077(6) and as detailed in Appendix A of the Examination and Evaluation Details dated 10-25-05, the fee for the simulator evaluation is established. The motion carried. Following lengthy discussion, it was moved by Commissioner Hannigan and seconded by Commissioner Addington that the following Statement of Policy be adopted regarding other exam issues. The motion carried. Details of the discussion and motions are on file in the BPC Office.

#### **STATEMENT OF POLICY**

**REGARDING:**                   **THE WRITTEN EXAMINATION AND SIMULATOR EVALUATION GIVEN IN NOVEMBER 2005**

*It is the policy of the Board that,*

**The Written Examination.**

On the written examination, the minimum passing score is 85. 85% of the questions must be answered correctly. Grades will be given on individual questions rounded to three (3) decimal points and final cumulative scores will be rounded to one (1) decimal point.

**The Simulator Evaluation Methodology and Minimum Passing Score.**

There will be three evaluators and one alternate evaluator observing the simulators. There are a total of 27 measurement opportunities in the simulator evaluation. The rating system that will be used by the evaluators has three levels for all measurement opportunities—highly effective, effective, and not effective. However, for those opportunities where a dangerous condition can occur, a fourth level, unsafe, is provided. Highly effective responses earn two points, effective responses earn one point and not effective responses earn zero points. Dangerous conditions result in a negative two points penalty.

Based on this scoring system, the maximum possible raw score (based on the Evaluation Criteria Table) is 54. The minimum possible score will be zero (any raw score below zero will equal zero).

In order to express raw scores as a fraction of 20, we will use the following formula:

$$\frac{\text{(Individual Evaluator's Raw Score)} \times 20}{54}$$

54

The converted scores from each evaluator will be averaged to give a final score for each applicant. Final scores will be expressed to one decimal point as a factor of 20. For example 10.1 represents 10.1 out of 20. Scores will be reported to one decimal place because to report scores to two or more decimals places implies a higher precision of measurement than is possible when conducting practical evaluations of performance.

The determination of the passing score is based upon the concept of minimum competence. Subject matter experts should evaluate each item and make a determination of the level of performance expected of a minimally competent candidate. The passing score is determined by calculating the average of the overall number of points assigned by each subject matter expert. Using this guidance, the exam developers have identified 14 out of 27 measurement opportunities where effective performance was critical to protect public safety, health and welfare. This raw score is an accurate indication of minimum competence. Using the conversion formula shown above a raw score of 14 points equates to a score of 5.2 out of 20.

The minimum passing score on the simulator evaluation will be 5.2 out of 20.

**Relative Weight Given To Written and Simulator Portions of the Exam.** 100 points will be available for a perfect written exam and 20 points will be available for a perfect simulator evaluation. The two scores will be combined for a total examination score.

**Tie Breaking Mechanism.** In the event of a tie in the combined written examination and simulator evaluation scores, the following method will be used to rank applicants for the purposes of 363-116-078(2) and other sections of Ch. 363-116 WAC. If two or more applicants have the same total score, the score on the written examination will be used as a tie breaker. The applicant who has the highest score on the written examination will be given precedence in the ranking. In the event that two or more applicants have the same score on both the written and the simulation evaluation, precedence in the ranking will be given to the applicant who has the most days of sea service that qualifies under WAC 363-116-075. Sea service is to be calculated in accordance with WAC 363-116-0751(1)(b).

**Review of Examination Results and Entry into the Training Program.**

It is the policy of the Board that applicants requesting a review of examination results must do so pursuant to WAC 363-116-083. This policy sets out additional guidelines and policies. Due to the emergency nature of the current shortage of pilots in the Puget Sound pilotage district which poses a direct threat to the public health, safety and welfare of the state, it is the intention of the Board at the December 8, 2005 meeting of the Board to review examination results, to consider any applicants' requests for review received prior to December 7, 2005 and to decide which applicants will be invited to start the training program provided for in WAC 363-116-078. Once applicants have been invited to start the training program, the Board and those applicants will pursue the process for starting the training program provided for in WAC 363-116-078 in the order of the then existing grades on the examination. This order will not be altered as a result of subsequent appeals or examination reviews, except as the Board may decide in its sole discretion.

Applicants may review their examination results by scheduling an appointment with the Board's staff on any business day between the Board's e-mailing the examination results to the applicants and December 6, 2005. Applicants must indicate if they are requesting review of the written exam, the simulator exam, or both when they schedule their appointment. As set forth in WAC 363-116-083(2) an applicant's request for review of examination results must be in writing and must be received by the Board within five business days of the applicant's receipt of notification of the examination results. Review sessions for written exams will be at the Board offices and review sessions for the simulator will be at PMI in Seattle. The cost of any reviews at PMI shall be paid by the applicant requesting review. The cost per hour for the briefing room is \$100 and the cost per hour for the full mission bridge simulator is \$500. An applicant timely requesting review of examination results as set forth in this paragraph and pursuant to WAC 363-116-083 may schedule an

appointment for review of that applicant's examination results on a date later than December 6, 2005 but the Board will not consider that applicant's review until the next regularly scheduled Board meeting after the applicant's review session takes place but no later than February 7, 2006. Applicants may schedule an appointment by telephone, but must provide a written request for review required by the WACs on the earlier of the time of the appointment or the latest time allowed by the WAC.

At the review session for the written exam, the applicant will be given a copy of his or her exam. At a review session for the simulator evaluation, applicants shall be given a copy of the grading sheets prepared by the evaluators and will be allowed to review the recording of their simulator exercise. At both review sessions, applicants will be given Examination Results Review Forms for requesting review of the results and a new applicant number to preserve anonymity. The form is attached hereto and the applicants shall be given as many forms as they desire. Each question reviewed will be on a separate form. The Board Administrator or Assistant Administrator will then copy the examination papers of the applicant, making sure that the applicant's original identifying number is not visible, and provide these documents along with all other examinations and Review Forms to the Examination Committee.

It is the policy of the Board for this informal review that applicants reviewing their examination results must do so personally without other persons, consultants, lawyers or advisors.

The Board will review the examinations and Review Forms in a closed meeting of the Board on December 8, 2005 at 0900. At that meeting the Board will review the examinations and the Review Forms and will notify the applicants in writing of the results of its review. The grades in effect after the December 8, 2005 meeting will be used to select the initial group of applicants for the training program. It is the intention of the Board to make this selection at the December 8, 2005 regularly scheduled Board Meeting.

The Board intends that immediately after the December 8, 2005 Board meeting, the Trainee Evaluation Committee and Board staff will start the process outlined in WAC 363-116-078 to start Trainees in the Training Program as soon as possible. To the extent necessary, the Board intends to hold a special meeting(s) later in December to approve training programs, issue Training Licenses and take such other steps as may be necessary.

**EXAMINATION RESULTS REVIEW FORM**

(To be used for both written exam and simulator evaluations.

**Use one form per question)**

**Notice to Applicants:** This is an anonymous review process. Use only the applicant review number assigned to you for this review. Do not use your name or your original examination number.

**Applicant Review Number** (Do not put your name on this form): \_\_\_\_\_

For the Written Examination: List the Question Number which is the subject of this review request. \_\_\_\_\_

For the Simulation Evaluation: List the Maneuver or the Decision Point which is the subject of this review request. Be as specific as possible about the point of time relative to your review question. For example, "When the ship was turning left at the first bend in the traffic lane."

Give a detailed reason why you contend your answer on the written exam or action in the simulator was correct and entitled to full credit.

Give a detailed reason why you contend your answer on the written exam or action in the simulator was mis-graded, (if different from above)..... (Finish answer on back if necessary)

**Committee Report: Trainee Evaluation.** Captains Vic Engstrom and Gary Hurt are approaching their license year anniversary dates and will require direction from the TEC regarding license upgrade trip requirements. Those letters will be prepared for approval at a future Board meeting. The Board plans to develop a procedure for advancing a pilot through the license upgrade steps and will determine if it will require Board action or be handled administratively.

**Legal Update.** Susan Cruise will be furnishing the Board with copies of the new desk book issued by the Attorney General regarding the Open Public Meetings Act.

**Administrator's Report.** Board members were reminded to RSVP concerning the Governor's Conference in Olympia on December 20. Effective immediately the public will now be required to check in at Reception on fifth floor in order to gain access to our fourth floor meeting room.

**Pilots' Activity Reports.** Captain Richard McCurdy, President, Puget Sound Pilots, reported that there were 718 jobs in October compared to a 648 average of the past 3 Octobers; cruise ship season is over ~ 9 ships will be calling at Seattle next year; Captains Stensager and Bock are back in rotation following medical leave; Captains Lichty and Johannes have formally indicated to PSP their intent to retire early in 2006; two pilots are currently in Port Revel, France and two pilots are attending ARPA training at PMI; he described in detail how the events unfolded regarding the *CSL CABO* discussed earlier in this meeting; and a description of the evolution of the new "tug guidelines" was presented in response to a request by Commissioner Addington.

Judy Bell asked for clarification on a written report that was submitted earlier this month to the Board from PSP that showed a different number than the 718 jobs reported today by Captain McCurdy. Walt Tabler stated he will look into it and respond. Also, it was noted that a PS Pilot in attendance earlier today was wearing a cast on his arm which wasn't mentioned in the PSP Activity Report with respect to his ability to pilot.

Gary Nelson, Executive Director of the Port of Grays Harbor, submitted a brief written report stating "there were 7 jobs and 3 arrivals in October; these jobs included 3 arrivals at PGH, 2 departures from Bay City, and 2 departures from PGH; y-t-d (Jan-Oct), there have been 121 jobs and 49 arrivals (12 at Bay City and 37 at PGH); the projection for the year-end is 58 arrivals; Captain Cooke should have his first year license rides completed by the end of November; pilot launch will be out of service for dry dock work the last half of November; and the recently announced closure of the Weyerhaeuser large log sawmill and pulp mill will reduce vessel arrivals in 2006 by 4 – no lumber is loaded out by vessel all barge traffic".

**Miscellaneous Correspondence Review.** In a letter dated 11-8-05 from Captain McCurdy to Captain Craig Lee at BP Shipping (USA), he copies the Board in response to a request made of him about a proposal that would restrict BP vessels transiting between the Cherry Point/Ferndale refinery dock and those docks located at March Point, Anacortes. The proposal would require the use of the western route through Rosario Strait and Guemes Channel and prohibit use of the eastern route passing north of Vendovi Island and between Saddlebag and Huckleberry Islands. Captain McCurdy stated the proposed restriction would materially limit the pilots' ability to navigate tankers to the BP facility in the safest manner. Jeff Shaw from Polar Tankers spoke to the Board as well, saying the preferred route is the "Saddlebag Route". Consensus was that there should be two route options and the use of the eastern route should not be prohibited.

**Commissioner Comments.** Chairman Dudley expressed his sincere appreciation to everyone involved during the past several months in the development and administration of the pilot exam scheduled for next week.

**Confirmation of Next Regular Meeting Date.** The next regular meeting is December 8, 2005, at 1:00 p.m. in the Fourth Floor Conference Room at 2901 Third Avenue, Seattle. The regular meeting will be preceded by a closed session beginning at 9:00 a.m. for purposes of reviewing pilot examinations and review forms.

**Review of Pilot Physical Examination Reports.** After reviewing the physicians' reports it was moved by Commissioner C. Davis and seconded by Commissioner Addington that the annual physical examination reports for Captains W.A. Bundren and D.B. Soriano be accepted for license renewal; and that the Board concur with the Chairman's action on 10-31-05 for Captain A.L. Fosse to return to work after being declared unfit for duty on 10-20-05, after receiving and reviewing the necessary documentation. The motion carried.

**An EXECUTIVE SESSION was called from 1:40 p.m. to 2:30 p.m. for purposes of** discussing the status of Captain Fred Triggs' training program. In attendance were Chairman Dudley, Commissioners C. Davis, Mackey, Niederhauser, Hannigan, Addington, Palmer and N. Davis; Susan Cruise, Judy Bell and Peggy Larson. Regular session was reconvened by the chairperson immediately following executive session.

**Review and Consideration of Licensure of PSPD Trainee: Captain Fred Triggs.** It was moved by Commissioner Niederhauser and seconded by Commissioner Addington that the Board postpone their decision relative to the licensure of Captain Fred Triggs because his training program doesn't technically end until November 13, 2005 and he is still actively engaged in obtaining his final training trips. The motion carried. The Board has requested copies of all of Captain Triggs' *Pilot Trainee Reports* and the pertinent spread sheets prepared by Commissioner Niederhauser.

The Chairman adjourned the regular session Board meeting at 2:40 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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**Absent**  
Commissioner Craig W. Lee

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Commissioner Andrew C. Palmer

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Commissioner Norman W. Davis