

MEETING MINUTES

STATE OF WASHINGTON BOARD OF PILOTAGE COMMISSIONERS

August 10, 2006

Present:

Chairman: Harry Dudley

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

Assistant Attorney General: Susan Cruise

Administration: Peggy Larson and Judy Bell

Mary Nelson: Port of Grays Harbor

Richard McCurdy, Walt Tabler: Puget Sound Pilots

Mike Moore: Pacific Merchant Shipping Association

Chris Peterson: Crowley Marine

Jeff Shaw: Polar Tankers

Pat Kelly: pilot trainee

Eric Klapperich, Jostein Kalvoy, Katharine Sweeney: pilot applicants

Captain Jan Stale Sorensen, Tom Paul, Captain Del Kelly: public

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 July 13, 2006 Minutes stand approved as written.

NEW ITEM

Consideration of Correct Tonnage to Use When Interpreting RCW 88.16.190. In a letter dated August 8, 2006 from General Steamship Corp. to the Board, a request was made for a determination as to whether or not the *M/T MISS CLAUDIA* falls under the tug escort requirements for a laden tanker in Puget Sound. The deadweight tonnage of the vessel as listed in Lloyd's Register is 40,185 metric tons which converts to 39,523.7 long tons. Lengthy discussion followed regarding the legislative intent of the statutory tug escort requirements, the proper conversion of tonnage measurements, the interpretation of Lloyd's Register over time, and the comparison of how the Board ruled concerning the *CAPTAIN H.A. DOWNING* on a similar request. It was moved by Commissioner Addington and seconded by Commissioner Hannigan that for purposes of interpreting the tug escort rules, the *MISS CLAUDIA*'s deadweight tonnage be considered to be 39,523.7 tons. The motion carried with a vote of seven in favor, Commissioner Palmer opposed and Commissioner N. Davis abstained. Since the vessel tonnage falls below the 40,000 deadweight tonnage threshold, it will not be subject to tug escort requirements. A subsequent motion followed in an attempt to put language in place to cover future requests for similar determinations by the Board. It was moved by Commissioner Hannigan and seconded by Commissioner Palmer that all vessels be required to have their deadweight tonnage determined in accordance with the Lloyd's Register published metric tonnage. The motion failed with a vote of two in favor, one abstention and six opposed. The Board intends to re-visit this matter for purposes of developing a Statement of Policy.

OLD BUSINESS

Pilot's Report of Incident: *APHRODITE*, 6-27-06. The Board has received the written report submitted by Puget Sound Pilot, Captain Burt Knowles. Tom Paul, attorney for the pilot, stated that the US Coast Guard investigating officer has concluded that the USCG has no jurisdiction over the pilot's license and has sent the file to headquarters for closure. It was moved by Commissioner Addington and seconded by Commissioner C. Davis that the Board table the consideration of this

matter to the September Board meeting and invite Captain Burt Knowles to attend if he chooses. The motion carried. Chairman Dudley asked the Board to review RCW 88.16.100 before the next meeting to become familiar with what options it has when considering Board action, if any.

Pilot's Report of Incident: SWAN, 6-23-06. The Board has received the written report submitted by Puget Sound Pilot, Captain Dan Shaffer. Captain Jim Shaffer was the second pilot on board. Commissioner Niederhauser submitted oral comments regarding his investigation of the incident. The vessel *SWAN* was carrying bridge deck sections to the construction site of the new Tacoma Narrows Bridge when it contacted the underside of the existing Tacoma Narrows Bridge. After unsuccessfully completing delivery due to the lack of proper clearance under the bridge, the vessel proceeded back to anchor in Tacoma Harbor. The pilots were unaware of any contact with the bridge at this time. The pilots were given incorrect air draft and bridge height data that was calculated by the ship's master and the bridge engineers. Damage to the vessel consisted of chipped paint on three rivets and bent scaffolding. It was moved by Commissioner C. Davis and seconded by Commissioner Mackey that this matter be declared an "Incident with minor damage and without pilot error". The motion carried.

Pilot's Report of Marine Safety Occurrence: WESTERDAM, 6-11-06. Commissioner Hannigan requested that this item be tabled to the next meeting.

FYI: Public Hearing on 9-14-06 Regarding WAC 363-116-078(5)(10): Training Program. The Board will be conducting a public hearing at 9:30 a.m. on September 14, 2006, to consider the adoption of proposed amendments to WAC 363-116-078: Training Program (10) Stipend.

Request for Distribution of Marine Safety Occurrence Reports. At the request of Jeff Shaw, the Board is reviewing its procedures for distribution of reports from pilots with regard to WAC 363-116-200(1)(c). When the Board receives a Pilot's Report of Incident or a Pilot's Report of Marine Safety Occurrence/Near Miss, it will notify the industry representative on the Board as well as the pertinent pilot organization in order to obtain information for purposes of forwarding a copy of the report to the vessel owner, operator, or agent. This will enable an industry representative to attend the next Board meeting or provide information relating to the matter.

Discussion and Consideration of WAC 363-116-065: Number of Pilots. The Pacific Merchant Shipping Association and the Puget Sound Pilots reported that they are continuing to gather information through surveys, etc. in preparation for assisting the Board in setting the number of pilots necessary in the Puget Sound Pilotage District. Captain Mike Moore asked for feedback from the Board that would establish specific data needs for their consideration. Chairman Dudley asked the Board members to communicate with staff what they determine is necessary to receive in terms of data and other information so the major stakeholders, PSP and PMSA, can prepare their submittals of such data. It was determined that at the October Board meeting the Board will attempt to "set" the number of pilots. This timeline will provide the necessary lead time for admittance of new trainees into future training programs and licensure of the necessary number of new pilots.

NEW BUSINESS

Pilot's Report of Marine Safety Occurrence: MOZU ARROW, 7-27-06. While undocking from Pier 1N Everett the operator of the assist tug *SHELLEY FOSS* surmised that the ship's propeller may have clipped the tug's hull. The pilot and master were not aware of the occurrence until they were informed once both vessels were out into the Bay. According to Commissioner Hannigan, Foss Maritime did not conduct a survey to verify the occurrence or if there was any damage. It was moved by Commissioner C. Davis and seconded by Commissioner N. Davis that this report of a navigational safety concern be filed as a Marine Safety Occurrence. The motion carried.

Pilot's Report of Marine Safety Occurrence: NORWEGIAN STAR, 8-6-06. Commissioner Hannigan and Captain Dick McCurdy briefed the Board on the circumstances of the event. It was

determined that the matter needs to be discussed in further detail. It was moved by Commissioner C. Davis and seconded by Commissioner Mackey that this matter be tabled, a notice be sent to the vessel operator or agent inviting him/her to respond to the matter and/or attend the September Board meeting, and that audio tapes be requested covering the subject event. The motion carried.

Consideration of Petition for Vessel Exemption: Motor Yacht *SUNCHASER*. A petition for vessel exemption was received regarding the foreign flagged 142', 395 gross ton Motor Yacht *SUNCHASER*. Pursuant to RCW 88.16.070 and WAC 363-116-360, this vessel qualifies for an exemption from pilotage requirements and was issued an interim exemption by Chairman Dudley on July 21, 2006, subject to final Board approval at today's meeting. It was moved by Commissioner Palmer and seconded by Commissioner Hannigan that the Board concur with his action and issue the exemption for the *SUNCHASER* for three months so long as it remains in the charge of Captain William Waite. The motion carried.

Consideration of Petition for Vessel Exemption: Motor Yacht *NINA LU*. A petition for vessel exemption was received regarding the foreign flagged 112', 208 gross ton Motor Yacht *NINA LU*. Pursuant to RCW 88.16.070 and WAC 363-116-360, this vessel qualifies for an exemption from pilotage requirements and was issued an interim exemption by Chairman Dudley on August 1, 2006, subject to final Board approval at today's meeting. It was moved by Commissioner Palmer and seconded by Commissioner Hannigan that the Board concur with his action and issue the exemption for the *NINA LU* for three months so long as it remains in the charge of Captain Scott Demello. The motion carried.

Review and Consideration of Licensure of PSPD Trainee: Captain Patrick Kelly. On behalf of the Trainee Evaluation Committee (TEC) Commissioner Niederhauser reported that after a thorough review of all *Pilot Trainee Trip Reports* submitted to the Board, the TEC by a vote of 3-1 is recommending the issuance of a license for Captain Patrick Kelly who has successfully met the requirements of his eight-month training program. This includes the completion of an additional 20 prescribed (24 actual) trips as outlined by the TEC and participation in a ship handling seminar during the past 30 days. It was moved by Commissioner Niederhauser and seconded by Commissioner Hannigan that license #167 for the Puget Sound Pilotage District be issued to Captain Patrick Kelly. The motion carried with a vote of 8 in favor and Commissioner Mackey opposed. The TEC has been continuously reviewing summaries of training reports on this trainee for the past eight months. In addition, the Board has also reviewed these evaluations. These reviews, along with the recommendation by the TEC are the basis for the licensing action taken today. PSP has remitted the license fee payment, Captain Kelly's license will be dated and signed today, and he will be eligible for dispatch beginning tomorrow. The PSP roster is now at 54 licensed pilots.

Committee Reports: Trainee Evaluation Committee.

- Earlier today the TEC met with Captains Grobschmit and Kalvoy to discuss the drafts of their training programs. The TEC will meet again on August 22 to finalize the programs for distribution to the two applicants and the Board members for review. Captains Grobschmit and Kalvoy may accept their training programs conditioned upon the Board's approval at the September 14 meeting provided there are no changes to the programs as presented by the TEC. Their prior acceptance will allow the training licenses to be issued and the physical exams to be reviewed.
- Two elements of the training programs for Captains Grobschmit and Kalvoy that will be different than previous programs are: a) they will experience a modification to the training program provisions (WAC 363-116-078) concerning the training stipend, and b) they will be subject to different rest rules than previous trainees.

- Pilot applicant Kathryn Sweeney asked the TEC if their earlier recommendation to the Board to decide in October to start 2 or 3 trainees in January was a statement of policy. Chairman Dudley responded that the Board has not developed a statement of policy regarding the admittance of applicants into the training program. The TEC's proposal to start additional trainees in January is just that ~ a proposal. In October when the Board anticipates setting the number of pilots, the TEC's proposal will be re-visited.
- Pilot applicant Eric Klapperich read into the record a letter he wrote to the Board expressing his frustration and disappointment with the exam review and appeal process resulting in his loss of two positions on the list of successful pilot applicants awaiting training. Due to the recent adjustment of scores and rankings he could be delayed as many as four months and is asking for consideration that he be invited into the training program with the group of applicants with whom he originally ranked. Chairman Dudley stated that his request would be considered at the time the Board makes the next determination of when and how many applicants to admit into training.

Miscellaneous Correspondence Review. A letter received July 24, 2006 from Mrs. June Raker of Kingston alleges wake damage to her and her neighbors' property caused by container ships transiting Puget Sound at high speeds during high tide. Chairman Dudley assisted by Susan Cruise will draft a response for the Board's review at the next meeting.

Legal Update. Susan Cruise recommended to the Board that the two current versions of RCW 88.16.118 enacted in 2005 should be merged into one enactment through agency request legislation. The first version limits the liability for damages greater than \$5000 of pilots and trainees. The second version limits the liability of pilots and the Port of Grays Harbor (no mention of the trainees). Since the second version has control, because it was adopted last (RCW 1.12.05), it is Susan's opinion that the trainees do not have the protection of limited liability under the second amendment that the first amendment provides. The Code Reviser will draft language to remedy the problem which will then be made available for review by the Board and all stakeholders. It was moved by Commissioner Palmer and seconded by Commissioner C. Davis that this language be considered at the September 14 Board meeting for filing as agency request legislation. The motion carried. The deadline for filing non-fiscal legislative requests is September 29, 2006.

Administrator's Report. Peggy Larson reported the status of the stipend revenue account. The amount of the tariff charges combined with the higher than projected monthly vessel movements has created a balance higher than what is necessary to pay stipends at this time. Susan Cruise will advise the Board on how to adjust the charges in order to reduce the overage in the account. Walt Tabler reminded the Board to officially notify PSP to reduce the \$10 trainee stipend charges by \$10 for the trainee who was just licensed. The total tariff charge now will be \$20 per vessel assignment – the initial \$10 plus an additional \$10 for the one trainee receiving a stipend.

Pilots' Activity Reports. Captain Richard McCurdy, President, Puget Sound Pilots, reported that there were 755 jobs in July compared to an average of 670 for the past 3 Julys which is approximately 11.3% over projections year to date; the number of comp day calls has significantly decreased since the addition of the four new pilots; two pilots remain out on major medical; PSP has purchased a pilot transmitter/beacon system to enhance safety while boarding and debarking vessels; and gillnet season has begun with continued hope that measures that were put into place last year will remain successful.

Mary Nelson, Director of Finance and Administration, Port of Grays Harbor, reported that there were 3 vessels at the bulk facility in July which brings the number of jobs to date to 55; the anticipated number of jobs per month for the remainder of the year is 10; the Weyerhaeuser pulp mill in Cosmopolis will close on September 15 and the last shipments are leaving by rail instead of as shipping exports as was anticipated; Seattle BioDiesel Co. is in the process of permitting a plant in

Grays Harbor to import vegetable oil for processing which would increase some deep draft vessel traffic but mostly barge traffic at Terminal 2 by next May or June; and Captain Cooke is on duty in August.

Public Comments. Captain Jostein Kalvoy introduced a guest who attended today's meeting with him, Captain Jan Stale Sorensen who is a pilot in Norway.

Confirmation of Next Regular Meeting Date. The next regular meeting is scheduled for September 14, 2006, immediately following a public hearing commencing at 9:30 a.m. The hearing and 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 Hannigan and seconded by Commissioner N. Davis that the annual physical examination reports for Captains D.W. Mayer and S.G. Cooke be accepted for license renewal. The motion carried. The Board is awaiting follow-up information concerning Captains V. Engstrom, I. Carlson and P. Kelly. Captains W.K. Anderson and W.A. Bock remain on medical leave.

An EXECUTIVE SESSION was called from 1:25 p.m. to 2:15 p.m. for purposes of discussing the pilot exam appeal cases. In attendance were Chairman Dudley, Commissioners C. Davis, Mackey, Niederhauser, Hannigan, Addington, Lee, Palmer and N. Davis; Susan Cruise, Judy Bell and Peggy Larson. Regular session was reconvened by the chairperson immediately following executive session.

The Chairman adjourned the regular session Board meeting at 2:15 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

Commissioner Craig W. Lee

Commissioner Andrew C. Palmer

Commissioner Norman W. Davis