

MEETING MINUTES

STATE OF WASHINGTON BOARD OF PILOTAGE COMMISSIONERS

April 10, 2008

Present:

Chairman: Harry Dudley

Commissioners: Chuck Davis, Ole Mackey, Pat Hannigan, Bill Snyder, Vince Addington, Craig Lee,
Norm Davis, Elsie Hulsizer

Assistant Attorney General: Susan Cruise

Administration: Peggy Larson and Judy Bell

Del Mackenzie, Don Mayer, Mel Flavel, Walt Tabler (Administration): Puget Sound Pilots

Gary Nelson, Mary Nelson: Port of Grays Harbor

Mike Moore, Jordan Royer, Matthew Darbous: Pacific Merchant Shipping Association

Jeff Boyer: Clipper Navigation, Inc.

Matt Hannuksela: Pilot aspirant

Del Kelly: Puget Sound Pilot - retired

REGULAR MEETING

The regular meeting of the Board of Pilotage Commissioners was convened at 9:35 a.m. by Chairman Harry Dudley at 2901 Third Avenue, Seattle, Washington.

Minutes. Regarding the March 13, 2008 Minutes, Commissioner Addington recommended that three non-substantive grammatical corrections be made. It was moved by Commissioner C. Davis and seconded by Commissioner Snyder that the March 13, 2008 Minutes be approved as corrected. The motion carried. Regarding the March 28, 2008 Minutes, Commission Addington requested a correction for Commissioner Lee's name to be replaced with his as a member of the *Legislative Committee*. It was moved by Commissioner Snyder and seconded by Commissioner Addington that the March 28, 2008 Minutes be approved as corrected. The motion carried.

OLD BUSINESS

2008 Legislative Activity Summary - SSB 6602: Modifying Certain Provisions of the Pilotage Act.

Governor Gregoire signed SSB 6602 on March 25, 2008 as passed by the legislature. The RCW amendments will take effect June 12, 2008, and are posted on the Board's web site.

Review and Consideration of Licensure of PSPD Trainee: Captain Bruce Nelson. The Trainee Evaluation Committee as well as the full Board has reviewed all of Captain Nelson's 243 Trainee Evaluations covering the past fifteen months of pilot training including four extension periods beyond his minimum seven-month/130-trip training program. The TEC met with Captain Nelson earlier this morning to review his performance during his latest training segment. One of the five TEC members, Commissioner Craig Lee, spoke to the Board about Captain Nelson's inconsistency of performance. It was moved by Commissioner Snyder and seconded by Commissioner Addington that the Board deny Captain Bruce Nelson a pilot license pursuant to WAC 363-116-080(5). It was moved by Commissioner C. Davis and seconded by Commissioner Lee that the Board delay its decision on the previous motion until it has extended an invitation to Captain Nelson or his representative to be present or submit input, written or otherwise, when the Board takes action at the next regular Board meeting. The motion carried with a vote of six in favor, Commissioner Mackey opposed, Commissioner Hannigan abstaining and Chairman Dudley not voting. Captain Nelson will be sent a letter informing him of today's Board action.

Consideration of Proposed Letter Regarding Pilot Retirement Plans. This item will be addressed by legal counsel, Susan Cruise, under agenda item *Legal Update*.

NEW BUSINESS

Annual Review of Vessel Exemption: VICTORIA CLIPPER. The annual review of the vessel exemption for the *VICTORIA CLIPPER* shows the vessel and the operational status of Clipper

Navigation, Inc. to be in compliance with the state statutory and regulatory requirements of RCW 88.16.070 and WAC 363-116-360. It was moved by Commissioner Snyder and seconded by Commissioner Addington to continue the exemption for the *VICTORIA CLIPPER* for another year beginning May 1, 2008 through April 30, 2009. The motion carried. All licenses, endorsements and certificates for the operators and the vessel that show expiration dates during an exemption period shall be renewed as a matter of course and copies of such must be submitted to the Board's office for verification in order to retain good standing.

Consideration of Request for Vessel Exemption: Motor Yacht *ANTARES*. A petition for vessel exemption was received regarding the foreign flagged 130', 298 gross ton Motor Yacht *ANTARES*. 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 March 31, 2008, subject to final Board approval at today's meeting. It was moved by Commissioner C. Davis and seconded by Commissioner Mackey that the Board concur with his action and issue the exemption for the *ANTARES* for three months so long as it remains in the charge of Captain Michael Smith. The motion carried.

Consideration of Request for Vessel Exemption: Motor Yacht *SEAQUEST*. A petition for vessel exemption was received regarding the foreign flagged 164', 494 gross ton Motor Yacht *SEAQUEST*. Pursuant to RCW 88.16.070 and WAC 363-116-360, this vessel qualifies for an exemption from pilotage requirements. It was moved by Commissioner Mackey and seconded by Commissioner Addington that the Board grant a one year exemption as requested, to the *SEAQUEST* so long as it remains in the charge of Captain Justin Dubowitz. The motion carried.

Issuance of Pilot Training Licenses for Captain Jim Hannuksela and Captain George Thoreson. Captains Hannuksela and Thoreson have accepted their Board-approved training programs. It was moved by Commissioner Snyder and seconded by Commissioner Mackey that the Board issue training licenses, numbered 15 and 16 respectively, allowing them to begin pilot training on May 1, 2008. The motion carried.

Pilot's Report of Marine Safety Occurrence: *EVER UNICORN, 3-15-08*. The Board has received a written report submitted by Puget Sound Pilot, Captain Patrick Hannigan. While proceeding northbound just north of Three Tree Point the pilot was notified of an engine problem requiring the ship to be stopped for an hour or two to make repairs. When an appropriate anchorage area was found and an assist tug dispatched, the vessel's crew proceeded to fix a leaky connection on the fuel line. Approximately 40 liters of bunker fuel spilled - no fuel was discharged into the water. VTS was notified as well as the USCG, Sector Seattle. After the repairs were completed the vessel was ordered to anchor for inspection with an escort tug standing by. It was moved by Commissioner C. Davis and seconded by Commissioner Addington 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: *QING PING HAI, 2-13-08*. The Board has received a written report submitted by Puget Sound Pilot, Captain John Scoggins. While proceeding outbound from Tacoma Schnitzer Steel to anchor in the Quartermaster Harbor anchorage area the ship lost its anchor and chain. The USCG was notified and the vessel again was underway. According to the Captain the mate had disengaged the clutch without having tightened the brake sufficiently. The anchoring in Quartermaster Harbor was uneventful using the remaining anchor. It was moved by Commissioner Mackey and seconded by Commissioner Snyder that this report of a navigational safety concern be filed as a Marine Safety Occurrence. The motion carried.

2008 Annual Tariff Hearings Preparation. PSPD – A 2008-2009 tariff proposal from Puget Sound Pilots has been submitted to the Board in accordance with the timetable established for tariff document submission. The PSP written tariff proposal submitted today contains an amended request for a 10.1% tariff increase (up from the original request of 9.2%). Walt Tabler fielded several questions concerning PSP's 2007 Audited Financial Statement. A public hearing has been filed for May 8, 2008 at 9:30 a.m. The deadline for public comments and any other written proposals is May 1st. Any member of the public will also have an opportunity to testify at the hearing.

GHPD - Mary Nelson presented a brief overview of the Grays Harbor Pilots' 5-Year Capital Spending Plan and request for proposed rule amendments which were received by the Board in accordance with the timetable established for tariff document submission. The request for tariff adjustments as described in the April 10, 2008 letter from the Port of Grays Harbor reflects an effective overall increase to the tariff of 2.5% or \$163 per pilotage job, as specified in the following tariff categories:

Draft and Tonnage Fees: It is proposed that each charge in this category be increased by 1.8%

Harbor Shifts: It is proposed that the harbor shift fee be increased by 1.8%

Pension Charge: It is proposed that the charge per pilotage assignment, including cancellations, be increased \$23.00

Travel Allowance: It is proposed that the transportation fee per assignment be increased \$45.00

It was moved by Commissioner Addington and seconded by Commissioner Mackey that the Board accept for filing, the Port of Grays Harbor's request as described above and as approved by the Grays Harbor Port Commissioners at their monthly meeting on April 8, 2008. The motion carried. It was further determined by the Board that wherever the word "fee" appears in the rule, it be replaced with the word "charge". The proposed rule amendments will be filed with the Code Reviser for a public hearing on June 12, 2008.

Activity Reports. Gary Nelson, Executive Director, Port of Grays Harbor, reported there is a total of 32 jobs for the first quarter of the year which follows the annual target of 134 jobs; Captain D'Angelo is on duty in April; Captain D'Angelo completed a radar course in March and is slated for requisite simulator training next year; the shoaling around Buoy 11 is being remedied; and Gary will be following up on the coordination of tanker training for the Grays Harbor Pilots with the Puget Sound Pilots.

Captain Del Mackenzie, President, Puget Sound Pilots, reported there are currently 54 active pilots including the president; there were 648 jobs in March compared to 680 the previous March, resulting in a three year March average of 662; 32 comp days were created and 16 days taken; there was one vessel delay; Captains Bill Thorsen returned to active duty on March 30th; Micheal Wood remains on medical leave; seven pilots recently attended the new electronic navigation class at Pacific Maritime Institute; one pilot attended shiphandling training at MITAGS; two pilots attended manned model training in Port Ashe; and Captain Mackenzie reported on the status of PSP's Technology Committee, Safe Practices Committee, the Polar-Foss project and the VTS Committee. Chairman Dudley asked for a report to be submitted on the recent event involving the movement of a vessel by a PS pilot with a limited license who believed the vessel to be in ballast, which wasn't. Captain Mackenzie reported that PSP does not intend to resume the full BC-Direct-Service this summer due to the loss of productivity. He asked for assistance from industry and the Board to help resolve this problem.

Captain Mike Moore, Executive Director, Pacific Merchant Shipping Association, reported industry is watching the trends in the US economy like the increase in exports and the decrease in imports which has resulted in a lull in container traffic but which doesn't necessarily translate into that many more or less container ship jobs; what is more relevant when determining a correct number of pilots for the area is watching the number of ship arrivals. PMSA of Seattle is hosting the National Harbor Safety Committee Conference on May 12-14. The Harbor Safety Committee of San Francisco has drafted revisions to the Standard of Care concerning "Movement in Limited Visibility". Captain Moore recommended that this same Standard of Care be reviewed here in Washington state. He also recommended that the Board get a copy of the NTSB recording of the recent *COSCO BUSAN* hearing. Chairman Dudley stated his intentions to pursue this as a Board educational tool.

Tariff Education Presentations. PSP and PMSA concluded their exchange of written materials to the Board for presentation and discussion regarding tariff education items. Today's written presentations and responses included (1) *Cost of Living and Income Comparisons*, held over from the March 13, 2008 Board meeting.

Committee Reports.

Trainee Evaluation Committee:

- The TEC met on April 9th.

- The TEC reviewed the status of trainees Steve Semler and Katharine Sweeney who are in their seventh month of pilot training. Captain Semler has successfully completed all of his required training trips except for four trips in the Duwamish Waterway which the TEC wants to see completed before recommending him for licensure. His training program will be continued until such time as he can get those trips, as well as a recommendation that he continue taking certain training trips suggested by the TEC. It was moved by Commissioner Mackey and seconded by Commissioner Snyder that Captain Sweeney's training program be extended for one month and 20 trips based on a recommendation by the TEC, which will require her acceptance. The motion carried.
- Upgrading pilots, Captains Grobschmit and Kalvoy, will be given an amended schedule of trips due to the lack of appropriate vessels inbound to Cherry Point.

2008 WAC Committee: It was moved by Commissioner Hannigan and seconded by Commissioner Mackey that the Board schedule a public hearing on the proposed amendments to the Pilotage Rules under chapter 363-16 WAC on June 12, 2008, as approved at the March 28, 2008 special meeting. The motion carried. The Board-approved draft of the proposed amendments is posted on the Board's web site.

2008 Pilot Exam Committee: The Committee met on April 2, 2008 with the "Apparent Successful Contractor", Dr. Norman Hertz of COMIRA, to negotiate a personal services contract in response to RFP #08-001 for the development and administration of an examination for pilot applicants for the Puget Sound Pilotage District and subsequent local knowledge examinations. Upon completion of the draft contract, a special meeting will be held to consider Board approval.

Miscellaneous Correspondence. Commissioner Chuck Davis submitted his conclusions regarding follow-up on a request for a pilotage exemption from the owner of the Motor Yacht *ESTANCIA*. He states that U.S. federal law requires this vessel (over 200 gross tons) to be operated by a licensed master; and because the owner is non-licensed, his request to be an approved operator in Washington waters was denied.

A written and verbal request was made by pilot aspirant Matt Hannuksela for Board consideration to adopt a new Statement of Policy which he felt would allow for individuals who were unable to test for the November 2005 pilot exam due to the limited amount of time given between the September 2005 Statement of Policy and the test date, but who were eligible to sit for that exam based on that Statement of Policy. The Board took no action with regard to Captain Hannuksela's request.

Legal Update. Susan Cruise requested an Executive Session to make her report to the Board regarding potential litigation.

EXECUTIVE SESSION was called from 2:00 p.m. to 3:25 p.m. for purposes of receiving legal advice regarding potential litigation concerning pilot retirement plans. In attendance were Chairman Dudley, Commissioners C. Davis, Mackey, Hannigan, Snyder, Addington, Lee, N. Davis and Hulsizer; Susan Cruise, Peggy Larson and Judy Bell. Regular session was reconvened by the Chairman immediately following executive session.

Administrator's Report. Peggy Larson reported that Puget Sound Pilot Captain Dennis Stensager has submitted a copy of his letter of intent to retire on October 1, 2008. The captains of several "Tall Ships" plan to submit requests for vessel exemptions for their anticipated arrival in July. Pilot's timely renewal of federal government master licenses has become a critical issue recently. All pilots have been notified that failure to renew one's federal license invalidates his/her state license causing an immediate order to stop all piloting. BPC staff will continue to monitor federal master license renewals.

Public Comments. Walt Tabler notified the Board of a billing dispute concerning recent pilot services for the movement of a yacht. He asked that this particular yacht, if a request is ever made, not be granted an exemption from pilotage requirements until PSP's outstanding invoice is paid. Chairman Dudley referred to RCW 88.16.120 which gives the Board authority to support PSP's request.

Commissioner Comments. Commissioner Bill Snyder was selected to participate in ship simulation exercises at Marine Safety International as a member of an assessment team to determine the feasibility of a navigable waterway to a proposed LNG Carrier Terminal.

Confirmation of Next Regular Meeting Date. The next regular meeting is scheduled for Thursday, May 8, 2008. The Puget Sound Pilotage District tariff hearing will begin at 9:30 a.m. followed by the regular Board meeting. The hearing and meeting will be held in the Fourth Floor Rainier Conference Room, at 2901 Third Avenue, Seattle. Reminder: on June 12, 2008, there will be a public hearing on the Grays Harbor Tariff and multiple other WACs, followed by the regular monthly Board meeting.

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 physical examination reports for Captains R.L. D'Angelo, R.N. Kromann and D.A Sanders be accepted for annual license renewal. The motion carried. It was moved by Commissioner C. Davis and seconded by Commissioner Addington that the physical examination reports for Captains James Hannuksela and George Thoreson be accepted for training licensure. The motion carried. Captain M.D. Wood remains in temporary inactive status due to his current medical condition.

There being no further business to come before the Board, the Chairman adjourned the regular session Board meeting at 3:40 p.m.

Respectfully submitted,

Peggy Larson, Administrator

Harry H. Dudley, Chairman

Charles M. Davis, Vice Chairman

Commissioner Oliver E. Mackey

Commissioner Patrick M. Hannigan

Commissioner William H. Snyder

Commissioner Vincent Addington

Commissioner Craig W. Lee

Commissioner Norman W. Davis

Commissioner Elsie J. Hulsizer