

MEETING MINUTES

STATE OF WASHINGTON BOARD OF PILOTAGE COMMISSIONERS

July 13 and 14, 2006

Present:

Chairman: Harry Dudley

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

Assistant Attorney General: Susan Cruise

Administration: Peggy Larson and Judy Bell

Richard McCurdy, Robey Robichaux, Walt Tabler: Puget Sound Pilots

Mike Moore, Luis Kohls: Pacific Merchant Shipping Assn

Ron Kinsey: USCG Sector Seattle

Scott Craig: Crowley Marine

Ivan Carlson, Mike Blake, Bill Sliker, Jack Bujacich, Pat Kelly: pilot trainees

Larry Seymour, Steve Semler, Jim Kearns, Jim Caspers, Ryan White: pilot aspirants

Bruce Nelson, David Grobschmit, Eric Klapperich, Steve Jones, Katharine Sweeney: pilot applicants

Cindy Bujacich, Tom Paul, Captain Del Kelly: 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. It was moved by Commissioner Niederhauser and seconded by Commissioner Addington that the word "minimum" be inserted in paragraph 3 on page 3 for the sentence to read, "Five of the six trainees will be finishing their minimum seven-month training programs just prior to the July 13 Board meeting." The motion carried.

OLD BUSINESS

Discussion and Consideration of WAC 363-116-065: Number of Pilots. In response to the public notice that was published in mid-June, the Board has received correspondence from both the Pacific Merchant Shipping Association and the Puget Sound Pilots. The Board will continue to gather information and establish the data needs necessary to assist them in determining the number of pilots to be licensed in the Puget Sound Pilotage District. 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.

Proposed Rule-Making Regarding WAC 363-116-078(10): Training Program, Stipend. 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.

Proposed Agency Request Legislation, Z-0017.1/07: Open Forum for Stakeholder Comments. After reviewing and discussing the proposed draft containing amendments to several sections of RCW 88.16, it was decided that the thrust of the proposal may not be as urgent as was once anticipated; that is, to hold a Puget Sound pilot examination prior to July 1, 2008 that does not require a federal pilotage endorsement at the time of application. There were no oral or written public comments received. The Board welcomes stakeholder comments up until August 10, 2006 at which time a final determination will be made as to whether or not the Board will submit an agency request for the 2007 Legislative Session.

NEW BUSINESS

Seven-Month Review and Consideration of Licensure of Five PSPD Trainees. 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 is recommending more training for Captain Patrick Kelly. It was moved by Commissioner Niederhauser and seconded by Commissioner Lee that pursuant to WAC 363-116-080(5) and WAC 363-116-078(13) and upon the recommendation by the TEC, the Board determined that Captain Kelly is in need of more training and further evaluation, that his training program be extended to August 10, 2006, that he make an additional 20 trips as outlined by the TEC, and that he participate in a ship handling seminar conducted by pilot members of the TEC. The motion carried.

Collectively the TEC is recommending the issuance of licenses for the four remaining trainees who have successfully met the requirements of their training programs. It was moved by Commissioner Niederhauser and seconded by Commissioner Lee that licenses numbered 163-166 for the Puget Sound Pilotage District be issued to Captains Michael Blake, Jack Bujacich, Ivan Carlson and William Sliker respectively. The motion carried.

The TEC has been continuously reviewing summaries of training reports on each trainee for the past seven 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 payments, the licenses will be dated and signed today, and the new pilots will be dispatched in rotation beginning tomorrow. The PSP roster is now at 53 licensed pilots.

Pilot's Report of Incident: *SWAN, 6-23-06.* This item was deferred.

Pilot's Report of Incident: *APHRODITE, 6-27-06.* This item was deferred until the Board receives a copy of the US Coast Guard's investigative report.

Pilot's Report of Marine Safety Occurrence: *WESTERDAM, 6-11-06.* This item was deferred.

Consideration of Petition for Vessel Exemption: *Motor Yacht LARA.* A petition for vessel exemption was received regarding the foreign flagged 107', 360 gross ton Motor Yacht *LARA*. 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 June 12, 2006, subject to final Board approval at today's meeting. It was moved by Commissioner Lee and seconded by Commissioner Palmer that the Board concur with his action and issue the exemption for the *LARA* for three months so long as it remains in the charge of Captain Walton Clark III. The motion carried.

Consideration of Petition for Vessel Exemption: *Motor Yacht WILHELMINA.* A petition for vessel exemption was received regarding the foreign flagged 83', 107 gross ton Motor Yacht *WILHELMINA*. 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 Palmer and seconded by Commissioner Hannigan that the Board grant a twelve-month exemption as requested, to the *WILHELMINA* so long as it remains in the charge of Captain Jonathan Leahy. The motion carried.

Committee Reports: Trainee Evaluation Committee.

Committee members Pat Hannigan and Jay Niederhauser proposed to the Board the TEC's recommendation of how to sequence the admittance of trainees into future training programs. They envision the next 2 trainees starting their minimum seven-month programs together. Then 3 months later 2 more trainees would start. (There would be 3 months of 2 trainees, then 4 months of 4 trainees, then 3 months of 2 trainees – assuming each would finish at the end of the minimum seven months.) This sequence would then be repeated based on an ongoing assessment of the need for new pilots.

It was moved by Commissioner Hannigan and seconded by Commissioner Lee that the Board authorize the formal notification for entry into a training program to be sent to the next two applicants awaiting training, with the intent to issue training licenses in September and to begin training on October 1st. The motion carried. The next two applicants in line for training are David Grobschmit and Jostein Kalvoy.

Miscellaneous Correspondence Review. A letter has been received by one of the Puget Sound pilot exam appellant's attorney asking for information regarding their understanding of the Training Program regulation WAC 363-116-078. Chairman Dudley has shared his draft response with the Board for comment. Hearing none, the response will be sent.

Chairman Dudley noted that a response to Jeff Shaw of Polar Tankers is pending regarding his request that copies of Marine Safety Occurrence Reports be sent to the appropriate individuals or industry representatives prior to the Board's consideration of them.

Legal Update. The Board will be conducting a non-adjudicative proceeding following the meeting today for purposes of hearing the five appellants and their legal counsel present their appeals regarding the 2005 Pilot Examination for the Puget Sound Pilotage District. This will be conducted in closed session.

Administrator's Report. Peggy Larson reported having just received a request from Clipper Navigation on July 12, 2006 to add three and drop one from the approved list of operators for the *VICTORIA CLIPPER*. It was moved by Commissioner Lee and seconded by Commissioner C. Davis to empower the Chairman to review the paperwork and make the necessary adjustments. The motion carried.

Pilots' Activity Reports. Captain Richard McCurdy, President, Puget Sound Pilots, reported that there were 792 jobs in June compared to an average of 659 for the past 3 Junes; the Port of Tacoma will soon be undergoing a study to develop a portable pilot unit; the Port of Seattle is studying the impacts of moving the cruise ship terminal from Pier 30 to 91; it was noted that British Petroleum has implemented its "preferred procedure" to use the western route over the eastern route to and from their terminals in the north sound which has met with great opposition with PSP and others – a user group has been formed to address these issues; and the PSP officers for the next year are President – Dick McCurdy, Vice President – Cal Hunziker, Secretary/Treasurer – Bill Snyder, and remaining Board members are Andy Coe, Jim Shaffer, Don Mayer and Del Mackenzie.

Gary Nelson, Executive Director, Port of Grays Harbor, submitted a written report stating that as of June 30, vessel arrivals YTD are at 18 and MTD are at 3 which is about 40% fewer than projected; 3 vessel calls are anticipated in July and one is scheduled in August; Captain D'Angelo is on duty in July and Captain Cooke is scheduled for August; Captain Cooke is scheduled for an Emergency Ship Handling course at PMI in July and his first-year license limitations were lifted in July.

Public Comments. Mike Moore, briefed the Board on some of the activities playing out with regard to the oil spill and safety arenas – of particular interest to the Board, he mentioned, might be bunkering operations.

Walt Tabler reminded the Board to officially notify PSP to reduce the \$10 trainee stipend charges by \$40 for the four trainees who were just licensed. The total tariff charge now will be \$30 per vessel assignment – the initial \$10 plus an additional \$10 for each of the two trainees receiving a stipend.

Pilot applicant, David Grobschmit, inquired about the status of the ranking of applicants with respect to the Board's consideration of the five appellants' appeals later today. Chairman Dudley responded that the ranking could be modified depending upon the Board's findings.

Commissioner Comments. Commissioner Chuck Davis praised the trainees for their hard work and endless dedication. Many others echoed the recognition of their accomplishment.

Commissioner Addington inquired about the status of the trainee stipend account balance. Staff replied that due to the higher than projected number of vessel assignments, the revenue collected to date is in excess of what is necessary to pay stipends. Chairman Dudley asked Susan to look into what options the Board has with respect to reducing the charge or suspending the charge and by what means. This matter will be discussed further at the August Board meeting.

Commissioner Hannigan stated his strong opposition to the new BP preferred procedure resulting from a recent lawsuit, saying it goes against any and all interests of safety.

Confirmation of Next Regular Meeting Date. The next regular meeting is scheduled for August 10, 2006, at 9:30 a.m. in the Fourth Floor Rainier Conference Room, at 2901 Third Avenue, Seattle.

An EXECUTIVE SESSION was called from 11:05 a.m. to 12:15 p.m. for purposes of reviewing pilot physical examination reports and preparing for today's non-adjudicative proceeding. In attendance were Chairman Dudley, Commissioners C. Davis, 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.

Review of Pilot Physical Examination Reports. After reviewing the physicians' reports it was moved by Commissioner Palmer and seconded by Commissioner Addington that the annual physical examination reports for Captains B.L. Michelson, S.E. Mork, D.L. Shaffer and D.H. Stensager be accepted for license renewal. The motion carried. It was moved by Commissioner Palmer and seconded by Commissioner Addington that the physical examination reports for Captains M.E. Blake, J.P. Bujacich, I.J. Carlson, P.S. Kelly and W.J. Sliker be accepted for initial licensure including a request for follow-up information from Captains Carlson and Kelly. The motion carried. The Board is awaiting follow-up information concerning Captain V. Engstrom.

Based on information received on May 22 from Captain W.K. Anderson's physician and on June 21 from Captain W.A. Bock's physician, they were both reported unable to pilot due to current medical conditions. They have been temporarily relieved of pilotage duties, their licenses 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 their ability to safely perform pilotage duties.

The Board concurred with Chairman Dudley's interim action to return Captain A.L. Fosse's license to active status in order for him to return to full pilotage duties on June 13, 2006.

The Chairman adjourned the regular session Board meeting at 12:20 p.m.

CLOSED SESSION July 13 and 14, 2006

A twelve-hour closed session of the Board of Pilotage Commissioners began on July 13, 2006 at 1:10 p.m. for purposes of conducting a non-adjudicative proceeding regarding the 2005 Pilot Examination for the Puget Sound Pilotage District. In attendance were eight Board members, the AAG, two staff, five exam appellants, and two attorneys and one legal aide for the appellants. The closed session recessed at 5:15 p.m. to be reconvened on July 14, 2006 at 9:00 a.m. In attendance on July 14, were seven Board members, two staff and a representative from the Pacific Maritime Institute. The Chairman adjourned the closed session at 5:20 p.m.

Respectfully submitted,

Peggy Larson, Administrator

Harry H. Dudley, Chairman

Charles M. Davis, Vice Chairman

Commissioner John S. Niederhauser

Commissioner Vincent Addington

Commissioner Andrew C. Palmer

Absent

Commissioner Oliver E. Mackey

Commissioner Patrick M. Hannigan

Commissioner Craig W. Lee

Commissioner Norman W. Davis