

MEETING MINUTES

STATE OF WASHINGTON BOARD OF PILOTAGE COMMISSIONERS

June 14, 2007

Present:

Chairman: Harry Dudley

Commissioners: Chuck Davis, Ole Mackey, Pat Hannigan, Bill Snyder, Vince Addington and Craig Lee
Administration: Peggy Larson and Judy Bell

Richard McCurdy, Walt Tabler: Puget Sound Pilots

Mike Moore, Jordan Royer, Peter Soles: Pacific Merchant Shipping Association

Mary Nelson, Stephen Cooke: Port of Grays Harbor

Ron Kinsey: USCG Sector Seattle

Gordon Wildes: pilot trainee

Jim Hannuksela, Katharine Sweeney: pilot applicants

Matt Hannuksela: pilot aspirant

PUBLIC HEARING

A public hearing of the Board of Pilotage Commissioners was convened at 9:40 a.m. by Chairman Harry Dudley at 2901 Third Avenue, Seattle, Washington.

WAC 363-116-185: Tariffs, and Pilotage Rates for the Grays Harbor Pilotage District. RCW 88.16.035(4) requires the Board of Pilotage Commissioners to annually fix pilotage tariffs. The filed rule as proposed by the Port of Grays Harbor reflects a 3% increase in all tariff categories, except *Pension Charge* and *Travel Allowance*, to be charged for pilotage services in the Grays Harbor Pilotage District for the 2007-2008 tariff year. Under the *Pension Charge* category it is proposed that there be an increase of \$3 per pilotage assignment, including cancellations. Under the *Travel Allowance* category it is proposed that the transportation fee per assignment remain at \$55.00. A written proposal dated May 10, 2007, considered by the Board today, was submitted by Gary Nelson, Executive Director of the Port of Grays Harbor. The GHP 5-year Capital Spending Plan and 2006 year-end audited Financial Statement, previously submitted to the Board, were also considered in today's tariff determination. Oral comments in support of the proposal were presented by Mary Nelson for the Port of Grays Harbor. Written testimony submitted by Captain Mike Moore on behalf of the Pacific Merchant Shipping Association supports the Grays Harbor proposal. Chairman Dudley closed the public hearing at 9:45 a.m.

REGULAR MEETING

The regular meeting of the Board of Pilotage Commissioners was convened immediately following the public hearing.

Consideration of Preceding Hearing: WAC 363-116-185. Following the Board's review and consideration of all written and oral testimony, it was moved by Commissioner Mackey and seconded by Commissioner Snyder that the Board adopt the proposed 2007-2008 Grays Harbor Pilotage District tariff (described above) as filed with the Code Reviser and outlined in the tariff recommendation letter dated May 10, 2007 from the Port of Grays Harbor. The motion carried.

The new tariff shall be in effect 0001 hours, August 1, 2007 through 2400 hours July 31, 2008. All written materials and more detailed records of testimony and discussion are contained in the rule-making file. (9:45 a.m.)

Minutes. Very lengthy discussion took place concerning what level of detail should be placed in the Minutes relating to the Puget Sound Pilotage District tariff hearing. It was moved by Commissioner Hannigan and seconded by Commissioner Snyder to strike language from the Minutes found on page 2, paragraph 7 as follows: ~~This action, according to PMSA, represents a gross income of \$357,736 per pilot which is a 7.17% increase; a net income of \$299,000 which is a 7.34% increase; and \$27.65~~

~~million in total revenue which is a \$2.6 million increase; and it would fund 54.7 pilots. These revenue predictions are based on all of the same numbers used by PSP in their proposal; but include a carryover of 24% from the last tariff adjustment. It also includes \$1.5 million for pension expenses. This action, according to PMSA, represents a gross income of \$370,000 per pilot which is a 10.8% increase; a net income of \$311,000 which is an 11.7% increase; and \$28.3 million in total revenue. The motion carried with a vote of four in favor, Commissioners Lee and Addington opposed and Chairman Dudley abstained.~~

It was moved by Commissioner Hannigan and seconded by Commissioner Snyder to strike language from the Minutes found on page 2, paragraph 5 as follows: ~~Commissioner Hannigan stated he was reluctant to take action on the line item request for the \$194 pension charge until he was clear about the Board's authority to set tariffs which reimburse pilots' pension expenses.~~ The motion carried with a vote of five in favor, Commissioner Addington opposed and Chairman Dudley abstained.

It was moved by Commissioner Addington and seconded by Commissioner Hannigan to correct the following sentence found on page 2, paragraph five as follows: *"The motion carried with a vote of five in favor, two opposed, Commissioner Lee Addington abstaining and the Chair not voting."* The motion carried.

It was moved by Commissioner C. Davis and seconded by Commissioner Addington that the May 23, 2007 Minutes be approved as amended. The motion carried.

It was moved by Commissioner Addington and seconded by Commissioner Lee that the staff be tasked with transcribing the one hour of discussion during the May 23, 2007 Board Meeting pertaining to the consideration of the Puget Sound Pilotage District tariff. The motion failed with a vote of two in favor and four opposed.

OLD BUSINESS

Adoption of Emergency Rule-Making Regarding WAC 363-116-070: Collection of Fees. Peggy Larson presented financial data showing actual and projected revenue and expenditures for the 2005-07 and 2007-09 biennia in order to guide the Board in setting an appropriate license fee to fund the Board's operations. It was moved by Commissioner Hannigan and seconded by Commissioner Snyder that WAC 363-116-070 be modified to increase active pilot license fees from \$3,000 to \$6,000 and increase inactive pilot license fees from \$500 to \$1,000 to be filed under emergency provisions for implementation on 7-1-07. A friendly amendment was offered by Commissioner Lee to increase active Puget Sound pilot license fees from \$3,000 to \$7,000, active Grays Harbor pilot license fees from \$3,000 to \$4,000 and all inactive pilot license fees from \$500 to \$1,000. Commissioner Hannigan rejected the friendly amendment. A motion to amend Commissioner Hannigan's motion was made by Commissioner Lee and seconded by Commissioner Addington to increase active Puget Sound pilot license fees from \$3,000 to \$7,000, active Grays Harbor pilot license fees from \$3,000 to \$4,000 and all inactive pilot license fees from \$500 to \$1,000. The motion to amend failed with a vote of two in favor and four opposed. The original motion to increase active pilot license fees from \$3,000 to \$6,000 and increase inactive pilot license fees from \$500 to \$1,000 to be filed under emergency provisions for implementation on 7-1-07, carried with a vote of five in favor and Commissioner Lee opposed. This new rule will continue in effect for 120 days. It is the Board's intent to adopt a permanent rule through standard rule-making procedures.

NEW BUSINESS

Issuance of Pilot Training Licenses for Captain Eric Klapperich and Captain Gordon Wildes. Captains Klapperich and Wildes have accepted their Board-approved training programs. It was moved by Commissioner Snyder and seconded by Commissioner C. Davis that the Board issue training licenses, numbered 11 and 12 respectively, allowing them to begin pilot training on July 1, 2007. The motion carried.

Consideration of Petition for Vessel Exemption: Motor Yacht *WHALE SONG*. A petition for vessel exemption was received regarding the foreign flagged 94', 185 gross ton Motor Yacht *WHALE SONG*. 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 May 30,

2007, subject to final Board approval at today's meeting. It was moved by Commissioner Lee and seconded by Commissioner Addington that the Board concur with his action and issue the exemption for the *WHALE SONG* for three months so long as it remains in the charge of Captain Tomasz Zydler. The motion carried.

Procedures for Submittal of 2008 Agency Request Legislation. The schedule for submission of agency-sponsored legislation has been released by the Governor's office. Proposed legislation for consideration during the 2008 Legislative Session is due by October 12, 2007 if it has a supplemental budget impact, or September 28, 2007 if no fiscal impact. The Board's *Legislative Committee* has begun discussions for purposes of formulating draft statutory changes for presentation to the Board and the public.

Inquiry Regarding Pension Benefit Disbursements – Retired Puget Sound Pilot Captain S.A. Robichaux. In two separate letters to the Board Dated April 17 and June 12, 2007, Captain S.A. Robichaux has requested "if the Puget Sound Pilots' retirement program is being properly managed and dispersing of the funds is according to the rules". PSP will continue to work towards resolution of the issues addressed in the correspondence and will get back to the Board with a written assessment of the situation.

Correspondence Regarding Sea-Time Qualifications – Captain Matthew Hannuksela. Pilot aspirant Matthew Hannuksela has corresponded with the Board and appeared before the Board today to request an official response to his inquiry regarding his sea-time and whether or not he meets the minimum qualifications to sit for the next PSPD pilot exam. Chairman Dudley apologized for the long delay and stated he will have the Board's legal counsel review a draft response prepared by the TEC. Statutes were enacted and regulations were adopted in 2005 with respect to pilot exams administered before and after July 1, 2008. In addition, a Policy Statement regarding WAC 363-116-075 was adopted on September 8, 2005 with respect to exams administered prior to July 1, 2008.

Committee Reports:

Trainee Evaluation Committee

- The TEC met on June 13th.
- It was moved by Commissioner Snyder and seconded by Commissioner Hannigan that the TEC draft a *Safety Advisory Bulletin* based on the *Lessons Learned* document, concerning the recent incident involving the *HORIZON PACIFIC*, for Board review and approval at the next meeting. The motion carried.
- The TEC met with Captains Eric Klapperich and Gordon Wildes to review their training programs.
- The modified *Pilot Trainee Training Trip Report* was finalized and presented to the Board for consideration. It was moved by Commissioner Snyder and seconded by Commissioner Hannigan to approve the form for implementation on July 1. The motion carried. Information and instructions regarding the revised form will be provided to all trainers of pilot trainees.
- Draft language was presented showing modifications to WAC 363-116-078 regarding the makeup of the TEC. It was moved by Commissioner Hannigan and seconded by Commissioner Snyder that the TEC provide staff with a comprehensive list of all WACs being considered by the TEC for amendment for purposes of filing a CR-101 to begin the rule making process. A request for submittals of other WAC modifications was extended to all Board members and the public for review by the Chairman. The motion carried.
- The TEC reported on the status of trainees Bruce Nelson and Ed Marmol. During this sixth month of training, careful consideration will be given to either licensing after a minimum seven months or training program extension.
- Pilot applicant Katharine Sweeney asked the TEC if they have talked about admitting the next person into the training program. They have not and stated they will be reviewing data regarding pilot retirements and other factors that will assist in their determination of when to recommend to the Board that they invite the next trainee/s to begin training.

2008 Legislative Committee

- The Board will wait to hear a report of the Committee's first meeting.

Pilots' Activity Reports. Captain Richard McCurdy, President, Puget Sound Pilots, reported that there were 717 jobs in May resulting in a three year May average of 703; since the implementation of a reduction of two pilots to one on car carriers in the Blair Waterway there appears to be about 20 less pilot assignments per month, however vessel traffic seems to be steady; the busiest day was May 22 with 33 jobs; 69 comp days were assigned and 53 days taken; there were no delays during May; Captain Bock remains on the inactive list due to a medical condition and anticipates retirement July 9; Captain Fosse who returned to work in May has moved up his estimated retirement month to October; Captains Werner and Wiley have set their retirement dates in October as well; the six newest pilots have all completed a manned model training class at Port Revel France; and Captain McCurdy described an event where a piloted northbound tanker in Rosario Strait released his escort tug to respond to an emergency rescue after receiving a call from the USCG Captain of the Port ~ Chairman Dudley asked the pilot Board members to speak with the pilot of the tanker to ascertain whether or not he will be filing a *Marine Safety Occurrence Report*. Captain McCurdy's term as President of Puget Sound Pilots will end in July.

Mary Nelson, Director of Finance and Administration, Port of Grays Harbor, stated that activity has doubled year-to-date since April with 14 arrivals and 31 jobs through May; there were 7 arrivals in May and 7 are projected for June as well; Captain D'Angelo has been scheduled for GMDSS training at the end of August; Captain Cooke is on duty in June; and Captain D'Angelo will be on duty in July.

Miscellaneous Correspondence Review. The Board received a copy of a letter from Captain Kirk Greiner to USCG Commander Richard Houck expressing his opinions regarding how the Board conducts investigations into incidents involving state pilots and the process of exchanging information between the Board and the USCG. Chairman Dudley has drafted a letter to RADM Houck giving him input from the Board's perspective and inviting him to discuss the matter further. It was moved by Commissioner Lee and seconded by Commissioner C. Davis to send the letter to RADM Houck drafted by Chairman Dudley. The motion carried.

Results of a questionnaire sent to prospective pilot aspirants from the Board's staff were summarized and presented to the Board. This was done in an effort to update the mailing list of those people interested in taking the next PSPD pilot exam and to get an estimate of potential applicants for planning purposes.

Legal Update. Susan Cruise was absent but available by telephone if necessary.

Administrator's Report. Peggy Larson emphasized that the budget document presented earlier to the Board contained a projection of pilot training entry dates which was intended for use as a budget discussion paper only. This schedule in no way represents a forecast supported by the TEC or the Board. There is a very high level of interest in the public position on the Board which will be vacated by Commissioner Ole Mackey after today's meeting. A request was made for Board direction to proceed with rule making on two emergency rules now in effect. It was moved by Commissioner C. Davis and seconded by Commissioner Snyder to direct staff to file the CR-102s on WACs 363-116-082 and 070 for a public hearing on August 9, 2007 to consider making these emergency rules permanent. The motion carried. One of the new trainees who will begin training on July 1 has decided not to take a stipend for the first couple of months. The Board was asked to review WAC 363-116-078(10) to determine if Board action is necessary prior to the trainee changing his status with regard to taking the stipend. Discussion took place regarding the time commitment required of Board members, especially the public position which is currently open to applicants. The Governor's appointment staff would like to know for purposes of communicating this information to potential candidates. It is expected that in addition to the typical monthly Board meeting, there are other standing and adhoc committee meeting commitments. This information will be forwarded to the Governor's staff and posted on the Board's website.

Public Comments. Mike Moore, PMSA, stated that the Oil Spill Advisory Council has been busy meeting this week and discussing their work plan. Also Senator Maria Cantwell is on the verge of reintroducing legislation with respect to modifying the Oil Spill Prevention Act of 1990 with possible review of the tug escort section. The USCG and the State of Washington had a summit meeting which will be televised on TVW next week concerning shared strategies on oil spill prevention.

Confirmation of Next Regular Meeting Date. The next regular meeting is scheduled for Thursday July 12, 2007, at 9:30 a.m. The 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 Lee and seconded by Commissioner Snyder that the physical examination reports for Captain M.E. Blake be accepted for annual license renewal and Captains E.C. Klapperich and G.R. Wildes for training licensure. The motion carried. Follow-up information from Captain M.G. Mendenhall was received and accepted. Captain W.A. Bock remains in temporary inactive status due to a medical condition.

The Chairman adjourned the regular session Board meeting at 1:25 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

Absent

Commissioner Andrew C. Palmer

Absent

Commissioner Norman W. Davis