

MEETING MINUTES

STATE OF WASHINGTON BOARD OF PILOTAGE COMMISSIONERS

March 21, 2007

Present:

Vice Chairman: Chuck Davis

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

Administration: Peggy Larson and Judy Bell

Richard McCurdy, Mel Flavel, Walt Tabler: Puget Sound Pilots

Stephen Cooke, Mary Nelson: Port of Grays Harbor

Jim Papp, Mike Moore, John Benge, Jordan Royer: Pacific Merchant Shipping Association

Jeff Shaw: Polar Tankers, Inc.

Matthew Darbous: Quay Cruise Agencies, USA

Tom Paul: Burt Knowles

Katharine Sweeney: pilot applicant

CONTINUED REGULAR MEETING

The regular meeting of the Board of Pilotage Commissioners was convened at 9:35 a.m. by Vice Chairman Chuck Davis at 2901 Third Avenue, Seattle, Washington. This meeting was continued from March 8, 2007.

Minutes. It was moved by Commissioner Addington and seconded by Commissioner Hannigan that the February 8, 2007 Minutes be approved as written. The motion carried. The March 8, 2007 Minutes stand approved as written.

OLD BUSINESS

Consideration of Captain Knowles' Report Regarding the *APHRODITE*. As instructed by the Board in its letter to Captain Knowles on November 9, 2006, he has submitted his report to the TEC regarding his analysis of the incident *APHRODITE* with regard to the issue of error chain recognition. The TEC has accepted the report and has forwarded it on to the Board. It was moved by Commissioner Hannigan and seconded by Commissioner Addington that all conditions of the Board's letter have been met and that Captain Knowles' report be accepted and the \$2,500. fine be dismissed. The motion carried.

Consideration of Captain Arnold's Report Regarding the *HORIZON PACIFIC*. Captain Arnold has submitted his revised MSO report to the TEC. They will be contacting him to meet with them. It was moved by Commissioner Hannigan and seconded by Commissioner Lee to defer this matter until the TEC has completed their review of the report and discussion with Captain Arnold. The motion carried.

Consideration of Tabled Motions Regarding RCW 88.16.190. The motion on the table was one made by Commissioner Hannigan and seconded by Commissioner Lee and amended by Chairman Dudley. Instructions to Commissioner Hannigan were to "clean up" the language and construct more concise wording for dissemination to the Board members for review and input. Walt Tabler offered modifications for discussion as well. It was moved by Commissioner Hannigan and seconded by Commissioner Lee that the original motion be withdrawn (the seconder concurred) and the following language be adopted as a new Board Policy Statement:

"The final proviso of RCW 88.16.190 exempts vessels under 40,000 deadweight tons from the provisions of RCW 88.16.070 through RCW 88.16.190. It is the policy of the Board that for all voyages henceforth, deadweight tons referred to in this proviso means deadweight as measured in metric tons (one metric ton equals 1,000 kilograms)."

The motion carried with four in favor, Commissioner Addington opposed, Commissioner N. Davis abstaining and Vice Chairman C. Davis not voting.

The second motion on the table is: "It is the policy of the Washington State Board of Pilotage Commissioners to recommend to owners or charters of oil tankers under 40,000 DWT as defined in RCW 88.16.190 the use of tug escorts when underway not in ballast in the Puget Sound Pilotage District beyond a point east of a line extending from Davidson Island Light south to New Dungeness Light." Due to the absence of Commissioner Palmer who originated the motion, it remains tabled and the matter was deferred.

2007 Legislative Activity Report. Peggy Larson reported that the Board's budget request bill has been modified to reflect a supplemental appropriation request larger than what was originally submitted last fall. This additional spending authority will allow the Board to cover unanticipated expenditures that have arisen this past fiscal year. Countless hours were spent working with OFM budget staff to work through this process. Consequently the Board's agency request legislation to merge the two sections of the statute regarding pilot liability limitations did not make the cutoff, but will be reintroduced next Session along with other recommendations being considered.

NEW BUSINESS

2007 Annual Tariff Hearings Preparation. PSPD – Walt Tabler presented a brief overview of the Puget Sound Pilots' 5-Year Capital Spending Plan and fielded various questions from the Board.

In a letter dated March 21, 2007 a joint submittal from Puget Sound Pilots, Pacific Merchant Shipping Association and Polar Tankers, Inc. was presented which detailed their requests for rule amendments to the Puget Sound Pilotage District 2007-2008 tariff. The details of the letter are as follows:

The proposed rule reflects a range of increases to be charged for pilotage services in the Puget Sound Pilotage District for the 2007-2008 tariff year. The low end of the range is proposed by the Pacific Merchant Shipping Association (PMSA) and Polar Tankers, Inc. NW (PTI). The high end of the range and other specified increases and amendments are proposed by the Puget Sound Pilots (PSP). At this time nearly all rates are at issue. Upon consideration of all written and oral testimony, it is anticipated that the adopted rule will reflect increases to the tariff in the range between 0% and 14%. Exceptions include some tariff categories which are outside of this range or specifically allocated to new charges and are specified below.

PMSA and PTI propose that the low end of the range of increases is 0% applied across-the-board except for the *Transportation* and *Training Surcharge* categories to which no change is applied.

PSP proposes that the high end of the range of increases is 8% applied across-the-board (except for the *Transportation* and *Training Surcharge* categories to which no change is applied) and the creation of a new *Pension Charge* in the amount of \$195 per assignment (the equivalent of an additional 6% across-the-board increase).

PSP also proposes a modification to the *Delinquent Payment Charge* category to make interest payable starting 30 days from the first billing.

PMSA and PTI do not support the addition of a *Pension Charge* or the amendment to the *Delinquent Payment Charge*.

It was moved by Commissioner Addington and seconded by Commissioner Hannigan that the Board accept the proposal as described above including a clarifying amendment to the *Training Surcharge* category and file the proposed rule amendments with the Code Reviser for a public hearing to be held May 23, 2007. The motion carried.

Pilot's Report of Marine Safety Occurrence: *CLIPPER EMPEROR*, 2-11-07. While anchoring at the Smith Cove West anchorage area the starboard anchor and chain ran out to the bitter end due to a broken windlass brake. The anchor and chain were lost. The ship was then anchored successfully with eight shots on the port anchor. The USCG COPT was notified and required the vessel to have engines ready for immediate use while anchored. It was moved by Commissioner Snyder 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: WESTWOOD VICTORIA, 2-14-07. After departing Everett Pacific Terminal and all lines were let go, the vessel's main engine failed to start. Re-berthing was not an option so the tug *MARS* assisted the vessel through the congested area and to anchor at the General Anchorage Area approximately a mile westward. The engine problem appeared to be a sticking pilot valve(s) in the air start system. Two hours later the USCG MSO permitted the vessel to proceed from Port Gardner to Seattle Terminal 5 under escort of the *MARS*. It was moved by Commissioner Lee and seconded by Commissioner Mackey 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: FINO, 2-18-07. While transiting from the Port of Bellingham to Port Angeles anchorage the vessel lost power approaching Ediz Hook. The pilot had four trainees on board, one of whom was at the con. When it became apparent the engine was not coming back, the pilot decided to anchor outside the harbor to the east away from the other ships and used the bow thruster to help steer the vessel. The *BRIAN S* assisted in the anchorage and the VTS was contacted. It was moved by Commissioner Mackey and seconded by Commissioner N. Davis that this report of a navigational safety concern be filed as a Marine Safety Occurrence. The motion carried.

Consideration of Petition for Renewal of Vessel Exemption: Motor Yacht ANDREA. A petition for renewal of a vessel exemption was received regarding the foreign flagged 126', 456 gross ton Motor Yacht *ANDREA*. 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 Hannigan that the Board renew the exemption for the *ANDREA* for one year so long as it remains in the charge of Captain Harry Potts. The motion carried.

Consideration of Petition for Vessel Exemption: Motor Yacht HALCYON. A petition for vessel exemption was received regarding the foreign flagged 137', 297 gross ton Motor Yacht *HALCYON*. 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 Hannigan that the Board grant a twelve-month exemption as requested, to the *HALCYON* so long as it remains in the charge of Captain Noel Lucas. The motion carried.

Approval of Pilot License Upgrade Programs for Captains Kelly, J.K. Ward and Cooke. It was moved by Commissioner Hannigan and seconded by Commissioner Snyder that the license upgrade letters for Captains Pat Kelly and John Ward be approved as drafted by the TEC. The motion carried.

The license upgrade letter recently sent to Captain Stephen Cooke was reviewed at his request due to the fact that the size of the vessels he is required to pilot during this four-month period are larger than what normally call in Grays Harbor, making it very difficult to complete the specified requirements necessary to lift his second year license limitations. It was moved by Commissioner Mackey and seconded by Commissioner Addington that he be assigned equivalent trips in the Puget Sound Pilotage District. After discussing liability issues and license appropriateness, the motion was tabled. The TEC will pursue the matter further with input from legal counsel, Susan Cruise.

Committee Reports: Trainee Evaluation Committee

- The Committee met on March 2nd.
- There was continued discussion concerning modification of the Trainee Evaluation Forms.
- Commissioner Bill Snyder was chosen committee chair by the TEC members.
- The TEC reported favorably on the status of all four trainees.
- Captain Nelson is working on the completion of his initial training program requirements.

- In anticipation of starting the next two trainees on August 1st, the TEC will make a request to do so at the May Board meeting in order to have adequate lead-in time. Currently there are 53 licensed pilots and 50 working pilots in the PSPD (including one non-piloting president).

Pilots' Activity Reports. Captain Richard McCurdy, President, Puget Sound Pilots, reported that there were 633 jobs in February resulting in a three year February average of 623; there were 656 jobs in February of 2006; the busiest day last month was 33 jobs on 2-14; there were no delays last month; 47 comp days were assigned in February and 44 days taken; two pilots remain on the inactive list due to medical conditions ~ Captain Bock who is exhausting his comp days prior to his retirement in July and Captain Fosse who anticipates returning to work in June followed by retirement in early 2008; Captain Wiley anticipates retirement in November of 2007; several pilots have recently attended various training classes in Port Ashe, Australia as well as locally at PMI; and six pilots from PSP recently attended the West Coast Pilot Conference in Hawaii. Walt Tabler reported that in light of recently learning of the rising number of law suits in the US involving "pilot evaluators", PSP may be looking to the Board to address this liability issue through a statutory amendment, perhaps through the section already being considered for amendment which addresses liability limitations.

Mary Nelson, Director of Finance and Administration, Port of Grays Harbor, stated there have been 4 vessel arrivals so far this year – 1 at Bay City and 3 at the Port bulk facility; 1 vessel has arrived in March at Bay City and 3 are expected in April – 1 at Bay City, 1 at the Port bulk facility and 1 bio-diesel vessel; Capt. D'Angelo is on duty in March; and TWIC is a current topic of discussion in Grays Harbor.

Miscellaneous Correspondence. Chairman Dudley provided courtesy copies to the Board of letters to MAERSK Inc. regarding a previous Marine Safety Occurrence Report and also to Captain John Scragg regarding the use of the simulator for our November 2005 pilot exam. Commissioner Chuck Davis furnished the Board with the article regarding the legal action pending in Oregon State concerning the accidental death of a Columbia River Bar pilot while disembarking a ship. Discussion followed regarding the appropriateness of the Board to require safety equipment for pilots. It was moved by Commissioner Lee and seconded by Commissioner Snyder that the TEC review the subject further and determine if it is appropriate for the TEC to take on or recommend that a separate "Safety Committee" be created as a stand alone committee or a sub-committee of the TEC. The motion carried. Walt Tabler mentioned that PSP is looking into liability issues with regard to the way in which their organization is structured. Changes are being considered.

Legal Update. In Susan Cruise's absence, Peggy Larson reported that the hearing before the Administrative Law Judge concerning the 2005 pilot exam was held on March 5-7, 2007. A decision is not expected for several months.

Administrator's Report. Peggy Larson reported that the legislature is including a provision in the transportation budget bill that will give the Board the necessary authority to raise pilot license fees through rule-making in order to adequately fund the Board's 2007-09 budget. Due to unexpected expenses in the current 2005-07 biennium budget it will be necessary to increase the funding source for the Board by the start of the next biennium on July 1, 2007. Word is that TWIC could be coming to Seattle in the near future ~ but not necessarily the entire Puget Sound. Staff will work with WSF personnel to determine if we will proceed with state issued pilot ID cards for PSP and GHP or wait for TWIC.

Public Comments. Jeff Shaw questioned if the Incident and Marine Safety Occurrence Reports were being forwarded to the appropriate parties prior to a Board meeting; he was assured they were.

Confirmation of Next Regular Meeting Date. A request to change the next regular meeting date from April 19, to April 18 was considered. The Board concurred. The meeting will be held on April 18 at 9:30 a.m. in the Fourth Floor Rainier Conference Room, 2901 Third Avenue, Seattle.

An EXECUTIVE SESSION was called from 11:55 a.m. to 12:20 p.m. for purposes of reviewing pilot physical examination reports. In attendance were Vice Chairman C. Davis, Commissioners Hannigan, Snyder, Addington, Lee and N. Davis; Peggy Larson and Judy Bell. Regular session was reconvened by the vice chairperson immediately following executive session.

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 Captains V.K. Justice, J.T. Scoggins, M.J. Shuler and M.D. Wood be accepted for annual license renewal as well as Captains M.G. Mendenhall and R.L. D'Angelo, for which follow-up information will be requested. The motion carried. Follow-up on Captains J.E. Arnold and L.R. Petke was accepted. Captains W.A. Bock and A.L. Fosse remain in temporary inactive status due to medical conditions.

The Vice Chairman adjourned the regular session Board meeting at 12:25 p.m.

Respectfully submitted,

Peggy Larson, Administrator

Absent

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

Commissioner Norman W. Davis