

# MEETING MINUTES

## STATE OF WASHINGTON ~ BOARD OF PILOTAGE COMMISSIONERS

October 15, 2013

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### Present:

Chairman: Harry Dudley

Commissioners: Norm Davis, Elsie Hulsizer, Ned Kiley, Don Mayer, Ed Marmol and Grant Stewart

Assistant Attorney General: Guy Bowman

Administration: Shawna Erickson, Peggy Larson

Jonathan Ward, Verne Justice and Walt Tabler: Puget Sound Pilots

Mike Moore: Pacific Merchant Shipping Association

Mary Nelson: Port of Grays Harbor

Bari Bookout: Port of Seattle

Lou Paulsen: Port of Tacoma

Paul Tramm: USCG Sector Puget Sound

Alex Johnson: Public

### PUBLIC HEARING

A public hearing of the Board of Pilotage Commissioners was convened at 9:35 a.m. by Chairman Harry Dudley in the Agate Conference Room, 2901 Third Avenue, Seattle, Washington.

**WAC 363-116-185: Pilotage Rates for the Grays Harbor Pilotage District.** RCW 88.16.035(1)(e) requires the Board of Pilotage Commissioners to annually fix pilotage tariffs. Financial data considered in this tariff hearing includes the 2012 year-end audited Financial Statement in addition to some current-year unaudited data as well as some late-year projected data. The filed rule as proposed by the Port of Grays Harbor reflects an effective overall increase to the tariff of 4.0%, or \$212 per pilotage job, to be charged for pilotage services in the Grays Harbor Pilotage District for the 2014 tariff year. It calls for an across-the-board increase in all charges by 5.50% except as follows: *Boarding Charge* – no change, *Transportation charge per assignment* – no change, *Pension Charge* - an increase from \$353 to \$362. The pension charge is calculated by the Puget Sound Pilots organization who administers the Grays Harbor pension funds for retired GH Pilots with service credit prior to October 2001. The filing was based on a letter dated July 31, 2013 submitted by Gary Nelson, Executive Director of the Port of Grays Harbor, which details the request for rule amendments. In a letter dated August 13, 2013 from Mary Nelson, Director of Finance and Administration of the Port of Grays Harbor, an amended tariff request was submitted reflecting an effective overall increase to the tariff of 3.5% (rather than 4%), or \$186 per pilotage job (rather than \$212). This adjustment calls for an across-the-board increase in all charges by 4.6% (rather than 5.5%) with the same exceptions as noted above. This amendment was the result of action taken by the Grays Harbor Port Commission on August 13. A formal written tariff proposal was submitted on September 3, 2013. The GH Pilots 5-year Capital Spending Plan, previously submitted to the Board, was also considered in today's tariff determination. Oral testimony in support of the proposal was presented by Mary Nelson for the Port of Grays Harbor. Also testifying in support of the proposal was Captain Mike Moore on behalf of the Pacific Merchant Shipping Association. All written documents submitted in accordance with the timetable established for tariff document submission were considered in today's tariff determination, in addition to all other written and oral testimony from interested parties and members of the public. The public hearing was closed by Chairman Dudley at 9:45 a.m.

### REGULAR MEETING

The regular meeting of the Board was convened at 9:45 a.m. by Chairman Harry Dudley.

**Consideration of Preceding Hearing: WAC 363-116-185.** All written and oral testimony was reviewed and considered by the Board. Motion: Kiley/Hulsizer – provide a new 2014 GHPD Tariff in accordance with their request for an effective overall increase of 3.5%, calling for an across-the-board increase in all charges by 4.6% except as follows: *Boarding Charge* – no change, *Transportation charge per assignment* – no change, *Pension Charge* - an increase from \$353 to \$362 – Carried. The effective period of the new tariff is from 0001 hours January 1, 2014 through 2400 hours December 31, 2014.

**Minutes.** Approval of the September 10, 2013 Minutes was deferred.

**OLD BUSINESS**

State Pilot Licensing Requirements – Review/Consideration of Legal Analysis of Capt. F.A. Coe Matter. Assistant Attorney General, Guy Bowman, submitted a confidential written analysis to the Board which discusses the Board’s options for addressing Captain Coe’s taking of pilotage assignments during the period between when his federal license had lapsed and the time when he provided the Board with evidence of his renewal of that federal license. Motion: Hulsizer/Davis – hold a Closed Session at the next regular Board meeting and inform Captain Coe that he will have an opportunity to appear and present testimony, followed by a Board decision in Open Session that same day – Carried. Motion: Mayer/Hulsizer – the Board waives attorney/client privilege and will release Guy Bowman’s legal analysis memo to Walt Tabler who is requesting it on behalf of Captain Coe and his attorney – Carried.

**NEW BUSINESS**

**Consideration of Request for Vessel Exemption:**

**Motor Yacht KAHU** – 122’, 201 gt, New Zealand registry, Captain Neal Adams.

Motion: Kiley/Stewart – concur with Chair’s granting of a three-month exemption – Carried.

**Pilot’s Report of Marine Safety Occurrence: *TAIKO, 8-21-13***

Northbound TSS lane, 3.5 mi north of Edmonds ferry crossing	Main engine propulsion system failure.	Navigational Safety Concern	<u>Motion:</u> Mayer/Stewart File as a Marine Safety Occurrence – Carried.
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**Pilot’s Report of Marine Safety Occurrence: *MAERSK TEXAS, 8-29-13***

Everett, south end of Navy fence	Engine knocks were heard and two injectors were replaced.	Navigational Safety Concern	<u>Motion:</u> Mayer/Stewart File as a Marine Safety Occurrence – Carried.
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**Pilot’s Report of Marine Safety Occurrence: *OCEAN HARMONY, 9-21-13***

Mid-channel near Buoys 29 & 30 – Grays Harbor	Took evasive action to avoid a fishing vessel having mechanical issues.	Near Miss	<u>Motion:</u> Mayer/Stewart File as a Marine Safety Occurrence – Carried.
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**Pilot’s Report of Marine Safety Occurrence: *HORIZON CONSUMER, 9-29-13***

Sitcum Waterway, Tacoma	Complete loss of power – propulsion, steering and all electricity.	Near Miss	<u>Motion:</u> Mayer/Stewart File as a Marine Safety Occurrence – Carried.
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**Pilot’s Report of Incident: *PS Pilot V. Engstrom – POLAR DISCOVERY, 9-10-13***

Ferndale, Phillips 66 Dock	While docking the vessel, the grating attached to the dock made contact with the ship. No vessel damage occurred. Some previous grating damage was evident – possible new damage was undetermined. Commissioner Mayer, appointed by Chairman Dudley to conduct an investigation on behalf of the Board, presented his report.		<u>Motion:</u> Mayer/Hulsizer File as an Incident with Possible but Inconclusive Damage and No Pilot Error – Carried.
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**Pilot’s Report of Incident: *PS Pilot Mayer, 2<sup>nd</sup> Pilot Emerson, Trainee Coryell – SUN RUBY, 9-23-13***

Duwamish Waterway - just north of the Spokane Street Bridge	While maneuvering between multiple fishing nets, the ship’s bilge keel snagged a net causing an old rotting piling near shore to break from the strain.		<u>Motion:</u> Kiley/Marmol File as an Incident with Undetermined Damage and No Pilot Error – Carried. Commissioner Mayer abstained.
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**2013 Annual Tariff Hearings Preparation.**

PSPD – The Board reviewed PSP’s submittal of revenue and income data and projections based on unaudited financial information available as of September 30, 2013. A *DRAFT* CR-102 was also reviewed in preparation for filing. Due to the rescheduling of the annual tariff hearing from November to December, the submittal of the written Tariff Proposals and Rebuttals was postponed.

**Motion:** Hulsizer/Kiley – amend the *Timetable for Tariff Document Submission* to reflect an approximate one-month postponement – Carried. The PSPD tariff hearing will be determined by the availability of all Board members, and set for either December 13<sup>th</sup> or 12<sup>th</sup>. The new Timetable will be set, posted and distributed accordingly.

### **Committee Reports.**

#### **Trainee Evaluation Committee:**

- The TEC met on October 11.
- Training Orientation was held for Captains Jensen and Lowe on September 25<sup>th</sup>.
- Training Program progress was reviewed for Captains Coryell, White, Surface, Coleman, Galvin, Lichty, Jensen and Lowe.
- **Motion:** Mayer/Davis – modify Captain Coryell's extended Training Program by allowing him the option to take three observation trips per stipend month – Carried.
- Captain Mayer presented a *draft* TEC recommendation regarding PPU Training. No action was taken at this time other than to review/discuss the document and consider whether or not to adopt it, amend it, or leave the training as it currently exists - post licensing. Legal review has yet to commence.

**Legislative/WAC Committee:** No Report.

**Tariff Policy Committee:** **Motion:** Mayer/Hulsizer – add new data relative to transportation charges to the Board's summary sheet requested by Walt Tabler and shown in his e-mail dated 10-9-13 – Carried. The three *DRAFT* documents pertaining to tariff procedures were discussed with critiques heard from both major stakeholder groups. Final versions will be presented for action at the next Board meeting.

**Activity Reports.** Mary Nelson, representing Port of Grays Harbor, Captain Jonathan Ward, representing Puget Sound Pilots, and Captain Mike Moore, representing Pacific Merchant Shipping Association, offered current and projected statistical data as well as updates on current maritime events. A request was made by PSP President, Captain Jonathan Ward, to put the subject of "Setting the Number of Pilots" on the next meeting agenda for discussion only. Also at the next meeting, PSP and Lou Paulsen, Port of Tacoma, will show a power point presentation of the "Assessment of Ultra Large Container Ships in the Blair Waterway".

**Legal Update.** The Captain Nelson Administrative Case has been partially remanded back to ALJ Roberts for further fact finding. A pre-hearing conference with the ALJ is scheduled for the week of November 18, 2013. The Captain Sweeney Tort Case is scheduled in Superior Court for February, 2014.

**BPC Staff Report.** PS Pilot Captain Tom Jacobs is no longer actively piloting; however, because he has retained his valid state pilot license, the total number of currently licensed pilots in Puget Sound is 54, the set number. The renewal process of all pilot and trainee photo identification badges is complete. The total number of pilot trainees who will be engaged in training on November 1<sup>st</sup> has reached the unprecedented number of 9. A request was made of all "trainers" to complete the *Training Trip Report* forms legibly and, if possible, submit written narrative in a typed format rather than hand-written, in order to facilitate the completion and dissemination of weekly reports from Shawna.

**Commissioner Comments.** Commissioner Hulsizer asked the "neutrals" to set a date to meet after receiving all tariff documents, as has been the practice for the past couple of years. December 9<sup>th</sup> at 9:30 a.m. at the Board office has been selected.

**Public Comments.** Lou Paulsen, Port of Tacoma and Bari Bookout, Port of Seattle stated that the Ports of Seattle, Tacoma and Olympia will be presenting a formal written joint tariff proposal at the November 15<sup>th</sup> Board meeting and are willing to brief the Board at that time if it so desires. Chairman Dudley will be traveling from October 16 to November 10 during which time Vice Chair Norm Davis will be available.

**Confirmation of Next Regular Meeting Date.** The next regular meeting will be Friday, November 15<sup>th</sup> at 9:30 a.m. in the Alki Conference Room, 5<sup>st</sup> floor, 2901 3<sup>rd</sup> Avenue, Seattle. The December meeting will be held either December 12<sup>th</sup> or 13<sup>th</sup>, depending on Commissioner availability. The date will be announced as soon as possible.

**Review of Pilot/Trainee Physical Examination Reports.** Motion: Mayer/Kiley - accept the physicians' reports for Captains J.E. Ward, C.N. Larson, J.R. Semler, P.A. Giese, D.B. Soriano and E.M. vonBrandenfels for annual pilot license renewal; and affirm Chair Dudley's action to accept the physician's report for Captain B.E. Lowe in order for him to begin training on October 1<sup>st</sup> – Carried. A request was made for the Chair or Vice Chair to return a certain pilot back to work following a medical leave if he's declared fit-for-duty prior to the next Board meeting. Motion: Kiley/Stewart – empower the Chair or Vice Chair to return a pilot to work if warranted prior to the next Board meeting – Carried.

There being no further business to come before the Board, Chairman Dudley adjourned the regular session Board meeting at 2:10 p.m.

Respectfully submitted,

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Peggy Larson, Executive Director

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Harry H. Dudley, Chairman

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Norman W. Davis, Vice Chairman

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Commissioner Elsie J. Hulsizer

**Absent**

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Commissioner Charles F. Adams

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Commissioner Edmund I. Kiley

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Commissioner Donald W. Mayer

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Commissioner Edmund Marmol

**Absent**

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Commissioner Philip Morrell

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Commissioner J. Grant Stewart