

# MEETING MINUTES

## STATE OF WASHINGTON ~ BOARD OF PILOTAGE COMMISSIONERS

July 9, 2009

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### Present:

Chairman: Harry Dudley

Commissioners: Chuck Davis, Pat Hannigan, Bill Snyder, Craig Lee, Norm Davis and Jeff Thompson

Assistant Attorney General: Guy Bowman

Administration: Peggy Larson, Judy Bell

Del Mackenzie, Frantz Coe, Walt Tabler (Administration): Puget Sound Pilots

Mary Nelson: *Port of Grays Harbor (by telephone)*

Mike Moore, Jordan Royer: Pacific Merchant Shipping Association

Larry Seymour, Steve Jones: Pilot Trainees

Bill Lowery: Pilot Applicant

Lyra Seymour, Caressa Seymour, Les Freitas, Loren Lee: Public

### REGULAR MEETING

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

**Minutes.** With regard to the May 19, 2009 Minutes under "2009 Legislative Status Report", it was moved by Commissioner Hannigan and seconded by Commissioner Snyder that the Minutes reflect the same new language contained in that portion of the statute enacted by the legislature as described, in part, in SSB 6095. Other minor changes as proposed by Chairman Dudley regarding HB 2120 and SSB 5352 were accepted. The motion carried with Commissioners Lee and Thompson abstaining. It was moved by Commissioner Lee and seconded by Commissioner Thompson that the record reflect that there were various other opinions expressed. It was moved by Commissioner Hannigan and seconded by Commissioner Snyder that Chairman Dudley's proposed modifications to the "Administrator's Report" concerning the Board's open public position be accepted. The motion carried. It was moved by Commissioner C. Davis and seconded by Commissioner Thompson that the May 19, 2009 Minutes be approved as amended. The motion carried. Refer to the Board-approved May 19, 2009 Minutes for the final adopted language.

There being no corrections or additions, the June 11, 2009 Minutes stand approved as written.

**A CLOSED SESSION was called from 9:55 a.m. to 10:05 a.m. to review the pilot training program** of Captain Larry Seymour. In attendance were Chairman Dudley, Commissioners C. Davis, Hannigan, Snyder, Lee, N. Davis and Thompson; Guy Bowman, Judy Bell and Peggy Larson.

### OLD BUSINESS

**Review and Consideration of Licensure of PSPD Trainee Captain Larry Seymour.** On behalf of the Trainee Evaluation Committee (TEC) Commissioner Snyder reported that after a thorough review of all *Pilot Trainee Trip Reports* submitted to the Board, the TEC recommended the issuance of a state pilot license to Captain Seymour. It was moved by Commissioner Snyder and seconded by Commissioner Hannigan that Captain Lawrence A. Seymour be issued state pilot license #177 for the Puget Sound Pilotage District. The motion carried.

**Discussion of Statement of Policy adopted 5-9-02 (revised 9-8-05) which applies to old WAC 363-116-075.** On May 9, 2002 a Statement of Policy was adopted by the Board entitled "Qualifications of Pilot Applicants under WAC 363-116-075(1) When Experience is on Vessels Employing More Than One Master". On September 8, 2005 this Statement of Policy was amended and re-titled "Qualifications of Pilot Applicants under WAC 363-116-075 When Experience is on Vessels Employing More Than One

Master". On July 1, 2008 WAC 363-116-075 was replaced by new WAC 363-116-0751. It was moved by Commissioner Hannigan and seconded by Commissioner Lee that both Statements of Policy relative to old WAC 363-116-075 be canceled. The motion carried.

**Discussion Concerning Setting the Number of Pilots in the Puget Sound Pilotage District and Management of the Comp Day System.** There was a brief discussion about how to establish a trigger for considering a change in the number of pilots. Further discussion continued during the PSP Activity Report while reviewing June pilot activity in relation to the comp day system.

**Pilot's Report of Incident: GLOBAL WISDOM, 4-8-09.** Chairman Dudley reported on his inquiry into the status of the "USCG Report of Investigation into the Circumstances Surrounding the Incident Involving the MV *GLOBAL WISDOM Allision on 4-8-09*". According to the Investigating Officer at Sector Portland, OR, the case did not trigger a causal analysis because none of the criteria that would require such analysis was met and, therefore, the case became what is referred to as a "Data Collection" case. The case has been closed by the Coast Guard. It was moved by Commissioner Lee and seconded by Commissioner C. Davis that this matter be declared an "Incident with damage and no pilot error". The motion carried.

### **NEW BUSINESS**

**Pilot's Report of Marine Safety Occurrence: APL DENVER, 6-21-09.** The Board received a written report submitted by Puget Sound Pilot, Captain Jostein Kalvoy. While approaching Port Angeles the vessel experienced a loss of propulsion due to one of the diesel generators tripping off line. Within a few minutes propulsion was restored. VTS was notified and permission to proceed to Victoria pilot station was given with no holds or other restrictions. It was moved by Commissioner Lee and seconded by Commissioner Hannigan that this report be filed as a Marine Safety Occurrence. The motion carried.

**Consideration of Request for Vessel Exemption: Motor Yacht KATYA.** A petition for vessel exemption was received regarding the foreign flagged 150', 472 gross ton Motor Yacht *KATYA*. 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 25, 2009, subject to final Board approval at today's meeting. It was moved by Commissioner Lee and seconded by Commissioner Thompson that the Board concur with his action and grant a three month exemption to the *KATYA* as requested, beginning June 28, 2009, so long as it remains in the charge of Captain D.A. Cunningham. The motion carried.

**Consideration of Request for Vessel Exemption: Motor Yacht C1.** A petition for vessel exemption was received regarding the foreign flagged 96', 190 gross ton Motor Yacht *C1*. 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 Thompson and seconded by Commissioner Snyder that the Board grant a three month exemption to the *C1* as requested, beginning July 15, 2009, so long as it remains in the charge of Captain Brent Daw. The motion carried.

**Consideration of Request for Vessel Exemption: Motor Yacht HUNTRESS.** A letter requesting a vessel exemption was received from Captain Paul Knox regarding the foreign flagged 180', 882 gross ton Motor Yacht *HUNTRESS*. Pursuant to RCW 88.16.070 and WAC 363-116-360, this vessel does not qualify for an exemption from pilotage requirements. It was moved by Commissioner C. Davis and seconded by Commissioner N. Davis that this vessel exemption be denied. The motion carried.

**Approval of Pilot License Upgrade Programs for Captains Jim Hannuksela and George Thoreson.** It was moved by Commissioner Snyder and seconded by Commissioner N. Davis that the license upgrade programs for Captains Jim Hannuksela and George Thoreson be approved as drafted by the TEC. The motion carried. They are nearing completion of their first license year.

**Approval of Pilot Training Programs for Captain Scott Anacker and Captain Blair Bouma.** The TEC evaluated the experience of Captains Anacker and Bouma for purposes of developing customized pilot training programs. It was moved by Commissioner Snyder and seconded by Commissioner N. Davis that the Board approve the two training programs as drafted by the TEC. The motion carried. The applicants have fifteen days to respond to the Board concerning the acceptance of their training programs. Upon acceptance of their training programs they will be issued training licenses numbered 23 and 24 with the intent to begin training on September 1, 2009.

**Procedures for Submittal of 2010 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 2010 Legislative Session is due by October 9, 2009 if it has a supplemental budget impact, or September 28, 2009 if no fiscal impact.

**Consideration of Request by PSP to Adopt a Policy Statement on "PSP Presidents Returning to Duty".** In a letter dated June 26, 2009, PSP presented the Board with a draft Statement of Policy regarding refresher trips for pilots returning to rotation after serving as PSP president. It was moved by Commissioner Hannigan and seconded by Commissioner Snyder that the Board adopt the proposed policy as written by PSP as follows: *"A pilot who is out of regular rotation due to pilot association duties for a period of 12 months or more, shall complete a number of refresher trips\* prior to resuming full piloting responsibilities. The minimum number of such trips shall depend on the experience level of the pilot and how long the pilot was out of rotation according to the following chart."* A motion to amend was made by Commissioner Thompson and seconded by Commissioner Hannigan to insert the words *"made with any state licensed pilot"* after the words "refresher trips". It was moved by Commissioner Lee and seconded by Commissioner N. Davis to table the motion. The motion carried. Commissioner Lee will assume the task of developing further language that would include provisions for a pilot who has been out of rotation for medical reasons. Other issues will be addressed as well.

**Activity Reports.** Mary Nelson, representing Port of Grays Harbor, reported that there have been 22 vessel arrivals year-to-date with 4 arrivals in June for 9 jobs and with 4 arrivals projected in July showing a positive trend with the diversity of cargo and higher than usual summer activity; and annual maintenance work on the pilot boat CHEHALIS is out for bids.

Captain Del Mackenzie, representing Puget Sound Pilots, reported there are currently 56 licensed pilots including the president and newly licensed Captain Seymour; there were 677 jobs in June compared to 743 in June 2008; vessel traffic was down from last year by 7% in June; in June 38 comp days were created and 24 days taken for a net increase of 14; Captain Tom Jacobs was declared fit for duty on July 7 and there are currently no pilots on medical leave; Captain Mel Flavel has announced his intent to retire later this year; and Captain Frantz "Andy" Coe will be taking over as the new PSP President on July 14<sup>th</sup>. Captain Mackenzie presented a slide of daily June piloting activity showing the fluctuations in pilot assignments as it relates to the creation and usage of comp days.

Mike Moore, representing Pacific Merchant Shipping Association, reported on the trends and forecasts of various types of shipping vessels and their activity; he shared more handouts which report the current news about shipping and related industries. He reported that industry is not seeing a loss of container shipping as one might expect, compared to other types of cargo, and that the downturn in ships is higher than the downturn in cargo.

## **Committee Reports.**

### **Trainee Evaluation Committee:**

- The TEC met on July 8<sup>th</sup>.
- Training programs for Captains Seymour, Moreno, Brusco, Caspers and Scragg were reviewed.
- The TEC met with the four new trainees to address their concerns about certain aspects of their training programs. In order to resolve some immediate difficulties it was moved by

Commissioner Hannigan and seconded by Commissioner Snyder to modify the Training Program rules contained in WAC 363-116-078(5)(a), (5)(b)(i) and (7) which would adjust the timeline for taking local knowledge exams in order to move a trainee more efficiently through a training program. The motion carried. It was moved by Commissioner Snyder and seconded by Commissioner Thompson to file the language modifications under emergency provisions in order to provide flexibility in the administration and completion of certain segments of a training program. The motion carried.

- It was moved by Commissioner Snyder and seconded by Commissioner Thompson to modify the training programs for Captains Moreno, Brusco, Caspers and Scragg that would increase the tonnage limitation from 48,000 GT to 60,000 GT on training trips required for initial evaluation. The motion carried.
- Rules concerning the entry of a trainee into a training program with respect to priority of training trips were discussed and clarified. WAC 363-116-078(2) establishes the order of trainees.

**Legislative/WAC Committee:** No activity to report at this time.

**Work Group Report: Extension of Route and Contract Pilotage.** No activity to report at this time.

**Miscellaneous Correspondence Review.** A letter from Puget Sound Pilots dated June 26, 2009 was received protesting dissemination of what PSP refers to as “tariff arguments” by PMSA outside of the tariff setting calendar. Chairman Dudley encouraged PMSA, or anyone else including PSP, to keep the Board informed about the current developments in the shipping and pilotage industry and promotes open communication.

Copies of several “Notices of Proposed Rule Making” published by the Oregon Board of Maritime Pilots were distributed by staff as informational items to the Board.

**Legal Update:** Guy Bowman reported that he is waiting to hear from the Office of Administrative Hearings as to the appointment of an Administrative Law Judge to hear the cases involving three 2008 Pilot Exam applicants who have filed for a hearing regarding their Simulator Evaluation scores. He also reported that the matter regarding Captain Bruce Nelson is the only other case moving forward.

**Administrator’s Report.** The Board’s 2008 Annual Report has been released and is available on the web site at [www.pilotage.wa.gov](http://www.pilotage.wa.gov). Captain Cooke is having some difficulty finding appropriate trips in order to complete his license upgrade. The TEC is monitoring his program. New legislation is now requiring every state agency to maintain a web site that contains rule-making information. The Legislative/WAC Committee will forward any available information about anticipated WAC modifications to the Administrator as soon as any is available.

**Public Comments.** Mr. Loren Lee asked the Board what will happen in the Grays Harbor Pilotage District with respect to the pilot force when Captain D’Angelo begins training for a pilot position in the Puget Sound Pilotage District. This matter will be on the August agenda.

**Commissioner Comments.** Words of appreciation were exchanged on behalf of Captain Del Mackenzie for his two years of service as President of the Puget Sound Pilots. Captain Frantz “Andy” Coe was welcomed as his successor.

**Confirmation of Next Regular Meeting Date.** The next regular meeting is scheduled for Thursday, August 13, 2009 at 9:30 a.m. in the Agate Conference Room, 2901 Third Avenue, Seattle.

**Review of Pilot Physical Examination Reports.** After reviewing the physicians’ reports it was moved by Commissioner C. Davis and seconded by Commissioner Thompson that the physical examination reports for Captains J.P. Bujacich, D.L. Shaffer, I.J. Carlson and W.J. Sliker be accepted for annual license renewal. The motion carried. It was moved by Commissioner C. Davis and seconded by

Commissioner Snyder that Chairman Dudley be empowered to review the physical examination report for Captain T.A. Jacobs and reinstate his license to active status should he be found fit for duty before the next Board meeting. The motion carried.

**A CLOSED SESSION was called from 1:05 p.m. to 1:30 p.m. to hear Captain Stephen Jones** present information regarding the June 11, 2009 Board action to not extend his pilot training program and to deny issuance of a state license. In attendance were Chairman Dudley, Commissioners C. Davis, Hannigan, Snyder, Lee, N. Davis and Thompson; Guy Bowman, Judy Bell and Peggy Larson.

**REGULAR SESSION cont'd.**

It was moved by Commissioner Lee and seconded by Commissioner Thompson that Captain Stephen Jones be allowed to submit written input relative to the training evaluations he has received, particularly the more recent ones and those that resulted in an intervention. The submittal is due August 12 for consideration by the Board at the next regular Board meeting on August 13, 2009. If an extension is necessary a written request for more time must be submitted to the Board prior to August 13<sup>th</sup>. The motion carried.

There being no further business to come before the Board, the Chairman adjourned the regular session Board meeting at 1:35 p.m.

Respectfully submitted,

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Peggy Larson, Administrator

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Harry H. Dudley, Chairman

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Charles M. Davis, Vice Chairman

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Commissioner Patrick M. Hannigan

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Commissioner Craig W. Lee

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Commissioner Norman W. Davis

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**VACANT**

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Public Member

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Commissioner William H. Snyder

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Commissioner Jeffrey L. Thompson

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**Absent**

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Commissioner Elsie J. Hulsizer