

MEETING MINUTES

STATE OF WASHINGTON BOARD OF PILOTAGE COMMISSIONERS

February 9, 2006

Present:

Chairman: Harry Dudley

Commissioners: C. Davis, Mackey, Niederhauser, Hannigan, Addington, Lee, Palmer and N. Davis

Assistant Attorney General: Susan Cruise

Administrator: Peggy Larson

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

Mary Nelson: Port of Grays Harbor

Mike Moore, Luis Kohls: Pacific Merchant Shipping Association

Ron Kinsey: USCG Sector Seattle

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

Larry Seymour, Katharine Sweeney, Jostein Kalvoy: pilot applicants

Tom Paul: attorney with LeGros Buchanan & Paul

Tom Kildall: Kildall Insurance Agency

Del Kelly: public

CLOSED SESSION

A three-hour closed session of the Board of Pilotage Commissioners began at 9:30 a.m. for purposes of reviewing pilot examinations and review forms. In attendance were all nine Board members and the Administrator.

REGULAR MEETING

The regular meeting of the Board of Pilotage Commissioners was convened at 1:35 p.m. by Chairman Harry Dudley at 2901 Third Avenue, Seattle, Washington.

Minutes. The approval of the January 12 and January 31, 2006 Minutes was deferred.

OLD BUSINESS

Final Report – 2005 Pilot Examination and Review. The informal exam review period ended on February 7, 2006 and the Board's review of all applicants' exam reviews is complete. Commissioner Hannigan stated that based on some revisions made in this morning's closed session, scores will need to be adjusted and verified. He anticipates that final results will be ready for release by noon on Monday, February 13, 2006. It was moved by Commissioner Lee and seconded by Commissioner N. Davis that Chairman Dudley be empowered to approve the finalization of the Board's review results for distribution to each applicant. The motion carried. It was moved by Commissioner Palmer and seconded by Commissioner Hannigan that Chairman Dudley be authorized to sign the cover letter accompanying the Board's review results and final exam scoring results. Receipt of these letters by each applicant begins the 30-day period in which an applicant must respond to the Board with a request for a formal hearing if he or she so chooses.

CIC Report – *M/V KNUD MAERSK* / *M/V WENATCHEE* Event on 12-20-05. Board action taken at a special meeting on January 31, 2006, appointed Commissioner Chuck Davis to conduct an independent investigation and formal review of the facts surrounding the close-quarters situation involving the *M/V KNUD MAERSK* and *M/V WENATCHEE* on December 20, 2005. Commissioner Davis submitted his written report to the Board and spoke in detail and at length about his research, findings, conclusions and recommendations relative to the actions of the Puget Sound Pilot, Captain S.A. Robichaux. Commissioner Davis concluded that Captain Robichaux appropriately agreed to depart from his vessel's obligations otherwise under COLREGS Rule 15, and maintain the course of the vessel and hold its speed under the radio agreement that the ferry would "take its stern". He

also concluded that Captain Robichaux did not inappropriately delay initiating action to avoid the close quarters situation. Commissioner Davis states his opinion that Captain Robichaux's actions throughout this event were in accordance with his professional obligations, the applicable Rules of the Road and principles of good seamanship. No disciplinary or other action was recommended pursuant to RCW 88.16.100 with respect to the actions of Captain Robichaux relative to this event.

It was moved by Commissioner Niederhauser and seconded by Commissioner Mackey that the Board again, as it did on January 12, 2006, file the pilot's report as a Marine Safety Occurrence and that a letter of commendation be sent to Captain Robichaux expressing the Board's appreciation for the professional manner in which he handled this situation. The motion carried.

It was moved by Commissioner Addington and seconded by Commissioner Hannigan that a courtesy copy of Commissioner Davis' report be sent to Washington State Ferries with a cover letter from Chairman Dudley. The motion carried. It was also determined that the Board will not formally challenge the WSF Report.

NEW BUSINESS

2006 Legislative Activity Report: SSB 6870 "An act relating to the Board of Pilotage Commissioners' Training Program". As reported at the January 31, 2006 special meeting this bill provides funding for the Board's trainee stipend program in the amount of \$500,000 and funding for related Board expenses of \$100,000. The bill has passed out of the Senate Transportation Committee and is in the House Transportation Committee. A House amendment was added making the bill Engrossed Substitute Senate Bill 6870. This amendment provides for stipend payments to be paid retroactively to December 1, 2005, to those trainees who qualify. Tax implications are yet to be resolved. It is the understanding that if trainee stipend receipts fall short, from month to month, that the pilotage account revenue can be used temporarily to supplement the trainee stipend payments. This bill is only a temporary solution to resolving some trainee stipend program issues, causing a long term solution to be sought prior to the next legislative session.

2006 Annual Tariff Hearings Preparation: Establish PSPD and GHPD Timetables for Document Submission. Timetables for tariff document submission have been drafted for Board consideration for both the PSPD and GHPD showing hearing dates of May 11, 2006 and June 8, 2006 respectively. It was moved by Commissioner Hannigan and seconded by Commissioner Addington that the timetables for both districts be adopted as drafted. The motion carried.

Consideration of Renewal of Petition for Vessel Exemption: Motor Yacht *SWEET PEA*. A petition for renewal of vessel exemption was received regarding the foreign flagged 127', 253 gross ton Motor Yacht *SWEET PEA*. 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 Addington that the Board grant a renewal of exemption for the *SWEET PEA* for another year effective upon receipt of Captain Sally Wilkins' renewed license and so long as the vessel remains in the charge of Captain Sally Wilkins. The motion carried.

Exemptions from Pilotage – Review of Statutory and Regulatory Provisions. In response to a state Representative's notification that legislation is being considered to amend the Board's vessel exemption provisions Chairman Dudley presented a draft letter to the Board which he authored that proposes the creation of a multi-state committee to analyze, discuss and possibly unify exemption criteria for west coast pilotage authorities. Commissioner Niederhauser submitted his written concerns in response to the Chairman's proposal. Commissioner Hannigan offered to bring information from other pilotage districts which he will solicit from the West Coast Pilot's Conference being held in March in San Francisco. Andy Palmer will assist Commissioner Hannigan. Susan Cruise will research the origin and intent of our state's exemption provisions. This matter will be continued at a future Board meeting.

Miscellaneous Correspondence Review. In a letter dated January 6, 2006, Captain Matt Hannuksela requested the Board to evaluate his sea service with respect to the current rules and regulations in anticipation of getting approval to sit for the next state pilot exam. Commissioner Hannigan stated he felt the request was inappropriate at this time since no exam is currently scheduled. Chairman Dudley tasked the TEC with reviewing his documented sea time relative to the current requirements for purposes of responding to him.

Committee Reports:

Pilot Examination Committee.

- Commissioner Hannigan suggested that in a few months he would like to arrange for a group session involving those people associated with the development and administration of the written exam to meet, discuss and document for the future, some helpful and important lessons learned, procedures, guidelines, tools, etc. for purposes of preparing for the next pilot exam.

Trainee Evaluation Committee.

- It was moved by Commissioner Niederhauser and seconded by Commissioner Lee to concur with Chairman Dudley's previous approval of Captain Gary Hurt's license upgrade program including amendments discussed today; and to approve the license upgrade program as drafted by the TEC with like amendments for Captain Stuart Mork. The motion carried.
- Trainee status report: Trips completed to date ~ Kelly has 29 trips, Blake has 45 trips, Bujacich has 15 trips, Carlson has 19 trips and Sliker has 20 trips. Mike Blake has completed his initial evaluation program. It was moved by Commissioner Niederhauser and seconded by Commissioner Mackey that the TEC recommends to the Board that Captain Blake be approved to advance in the training program pursuant to WAC 363-116-078(5)(c). The motion carried.
- It was moved by Commissioner Lee and seconded by Commissioner N. Davis that trainee Ivan Carlson be declared unfit for duty and his training license be put in inactive status due to a current medical condition. Upon receipt of a satisfactory physical report from a Board-Designated Physician Chairman Dudley is authorized to review and accept the report for purposes of re-entry into the training program. The motion carried. A letter will be issued.
- After presentation and discussion of the TEC's three proposed new forms it was moved by Commissioner Hannigan and seconded by Commissioner Lee that the Board approve the following three new report forms: the *Pilot Trainee Training Trip Report*, the *Pilot Trainee Observation Trip Report*, and the *Pilot License Upgrade Trip Report* with slight modifications as indicated. The motion carried. These forms will start being used immediately.
- There was lengthy discussion about the mechanics of how to fairly and properly issue retroactive stipend payments to the five current trainees. It was moved by Commissioner Mackey and seconded by Commissioner Palmer that in anticipation of the passage of ESSB 6870, Captain Mike Blake be paid a retroactive monthly stipend of \$6,000 based on a training month which began the day he accepted his training program which was 12-12-05, through 1-11-06; and for each subsequent 30-day period in which he remains eligible, up to the present time. The motion carried.
- For purposes of assuring future stipend payments to all five current trainees who meet the qualifications of the WAC, it was moved by Commissioner Hannigan and seconded by Commissioner N. Davis that in anticipation of the passage of ESSB 6870 Chairman Dudley be authorized to issue stipend payments to those eligible trainees at the conclusion of each 30-day training month for which they remain eligible. The motion carried.
- For purposes of paying retroactive stipends to eligible trainees, it was moved by Commissioner C. Davis and seconded by Commissioner Hannigan that the following be adopted:

STATEMENT OF POLICY

REGARDING: **THE PAYMENT OF TRAINEE STIPENDS**

It is the policy of the Board that with respect to pilot trainees who have agreed to forego other full-time or part-time employment to devote themselves on a full-time basis to the completion of the training program, but, because of the Board having been unable to commit to payment of the stipend, some pilot trainees have taken part-time employment, the Board may make payment of stipends retroactively for each day each pilot trainee was in fact available to complete his or her training program, prorated to the actual number of days of each training month.

This policy shall become effective upon passage of Engrossed Substitute Senate Bill 6870, and terminate upon commitment by the Board to payment of future stipends under WAC 363-116-078(10).

The motion carried. This policy reflects the intent of the Board subject to legal interpretation.

- Pursuant to the above Policy Statement it was moved by Commissioner Niederhauser and seconded by Commissioner Addington that Chairman Dudley be authorized to issue retro stipend payments to the other four eligible trainees upon passage of ESSB 6870. The motion carried.
- In the interest of balancing out the number of trainees on each pilot work watch and because one of the current trainees is out on medical leave and due to further review of potential pilot retirements, it was moved by Commissioner Hannigan and seconded by Commissioner Mackey that one additional trainee be invited to begin training. The motion carried.
- Based on the final ranking of successful applicants which is yet to be determined, it was moved by Commissioner Palmer and seconded by Commissioner Mackey that Chairman Dudley be authorized to approve the notification of the 6th ranking applicant of his/her selection to begin training; and upon acceptance of a training program and fulfillment of specified medical requirements, he be authorized to issue a training license. The motion carried.

Pilots' Activity Reports. Captain Richard McCurdy, President, Puget Sound Pilots, reported that there were 662 jobs in January compared to a 576 average for the past 3 Januarys; 9 pilots are in AIS training locally at PMI with 7 more later and eventually all; in March, B Watch and in November, A Watch will be attending BRM training; Captain Fosse is out on medical leave; and recently a Columbia River Bar Pilot and a Hawaiian Pilot have lost their lives due to tragic mishaps involving pilot ladders.

Mary Nelson, Director of Finance and Administration of the Port of Grays Harbor, reported that there were 4 vessels in January and 5 planned for February with 3 of the 5 going to the Weyerhaeuser Log facility; traffic so far is right on budget with a projected 4.5 vessels for each of those months; the pilot boat *CHEHALIS* has been out for repair and inspections for two months which was longer than expected, but is now back in service; Captain D'Angelo is back in rotation along with Captain Cooke; the 2006 tariff schedule drafted for Board approval today presents no problems.

Public Comments. Captain Mike Moore, PMSA, informed the Board that he and Captain McCurdy are working together on some customs issues.

Commissioner Comments. Chairman Dudley has deferred his discussion with BP regarding Senator Maria Cantwell's proposed legislation until he gathers more background information.

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

Review of Pilot Physical Examination Reports. After reviewing the physician's report it was moved by Commissioner Lee and seconded by Commissioner Addington that the annual physical examination report for Captain T.A. Jacobs be accepted for license renewal. The motion carried. Captain Fosse remains on medical leave.

The Chairman adjourned the regular session Board meeting at 5:50 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

Commissioner Oliver E. Mackey

Commissioner Patrick M. Hannigan

Commissioner Craig W. Lee

Commissioner Norman W. Davis