

MEETING MINUTES

STATE OF WASHINGTON BOARD OF PILOTAGE COMMISSIONERS

August 9, 2007

Present:

Chairman: Harry Dudley

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

Assistant Attorney General: Susan Cruise

Administration: Peggy Larson and Judy Bell

Del Mackenzie, Walt Tabler: Puget Sound Pilots

Gary Nelson: Port of Grays Harbor

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

Jeff Shaw: Polar Tankers, Inc.

Ron Kinsey: USCG Sector Seattle

PUBLIC HEARING

A public hearing of the Board of Pilotage Commissioners was convened at 9:50 a.m. by Chairman Harry Dudley at 2901 Third Avenue, Seattle, Washington.

WAC 363-116-082: Limitations on New Pilots. The proposed rule modifies the requirements and the procedure for lifting pilot license limitations for a Grays Harbor Pilot, during his/her second license year. License upgrade trips on small tankers are added and the number of trips on other vessels is adjusted. It is intended to separate the two types of vessel categories so that as each requirement is fulfilled the appropriate limitation is lifted independently of the other. There was no testimony presented. This rule is currently in effect under emergency provisions.

WAC 363-116-070: Collection of Fees. The proposed rule increases the annual state pilot license fee for an active pilot by \$3,000 and an inactive pilot by \$500. Pilot license fees are the sole source of funding for the operations of the Board. Without an increase in this fee, operating revenue will fall short of the anticipated expenditures budgeted for the 2007-09 Biennium. Commissioner C. Davis stated that he does not believe it is appropriate to fund all of the Board's expenses from license fees levied on pilots, as some of the Board's expenses are in performance of general governmental functions performed by the Board (such as administration of the tanker escort statute) that are not directly related to regulation of pilots, and that maybe the Board should review in the future whether user-fees assessed as license fees of pilots are appropriate for generating income to fund extraordinary expenses that do not directly benefit licensed pilots such as appeals of training license examinations. This rule is currently in effect under emergency provisions.

The public hearing was closed at 9:55 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 363-116-082: It was moved by Commissioner Lee and seconded by Commissioner C. Davis that the word "propane" be replaced with more accurate terminology, "liquified petroleum". The motion carried. Following the Board's review and consideration of all testimony, it was moved by Commissioner Addington and seconded by Commissioner Hannigan that the Board permanently adopt the language currently in effect, including the housekeeping modification approved today. The motion carried.

Consideration of Preceding Hearing - WAC 363-116-070: Following the Board's review and consideration of all testimony, it was moved by Commissioner C. Davis and seconded by Commissioner Addington that the Board permanently adopt the language currently in effect. The motion carried. The new annual pilot license fees which went into effect on July 1, 2007, are \$6,000 for an active pilot and \$1,000 for an inactive pilot. (10:20 a.m.)

Minutes. There being no corrections or additions, the July 12, 2007 Minutes stand approved as written.

PUBLIC COMMENT PERIOD – PROPOSED CHANGES TO CHAPTER 88.16 RCW

Walt Tabler representing Puget Sound Pilots suggested changes to parts of the latest Agency Draft with which the Board concurred. PMSA/Polar submitted a written draft proposal containing Industry recommendations. They have some modifications they wish to make to their proposal and will be submitting a subsequent document which the Board will post on its web site for comments. Captain Chad Clapp submitted written comments which the Board determined would be more appropriately discussed during rule-making. Those stakeholders interested in participating in the process of developing a final Agency proposal for consideration by the legislature can find all proposals and drafts on the Board's web site. An opportunity for more stakeholder input will continue at the next regular Board meeting on September 13, 2007. The deadline for submittal of the Agency Request Legislation is October 12, 2007. It was moved by Commissioner Hannigan and seconded by Commissioner Addington that staff be directed to request an extension of the deadline to November 15 for purposes of allowing more time to gather additional stakeholder input and complete a legal review. The motion carried.

OLD BUSINESS

Review of Vessel Exemption Criteria and Activity. The Board continued its review of the vessel exemption criteria set forth in RCW 88.16.070 and WAC 363-116-360. Two very similar ideas for a modification to the Board-approved *Petition for Vessel Exemption Form* were submitted which were basically a certification requirement pertaining to navigational equipment and supporting documents that must be carried on board the vessel and with which the master must be familiar. Further consideration will be given to statutory and regulatory modifications as well as the proposed certification requirement and form revisions.

Transit of Rosario Strait Without an Escort Tug: *OT BRITISH LAUREL*, 6-5-07. Chairman Dudley reported on his interaction with Captain Metruck, USCG and the Puget Sound Harbor Safety & Security Committee to work toward a remedy for situations like the recent event in Rosario Strait involving the *OT BRITISH LAUREL*.

NEW BUSINESS

Approval of Pilot Training Programs for Captain Katharine Sweeney and Captain Stephen Semler. The TEC presented custom tailored training programs for Captains Katharine Sweeney and Stephen Semler to the Board for review. It was moved by Commissioner Snyder and seconded by Commissioner Hannigan that the Board approve the two training programs as written by the TEC. The motion carried. Captains Sweeney and Semler have fifteen days to respond to the Board concerning the acceptance of their training programs.

Consideration of Petition for Vessel Exemption: Motor Yacht *MY GIRL*. A petition for vessel exemption was received regarding the foreign flagged 164', 490 gross ton Motor Yacht *MY GIRL*. 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 Lee and seconded by Commissioner Addington that the Board grant a three-month exemption as requested, to the *MY GIRL* so long as it remains in the charge of Captain Jeffrey Cranshaw. The motion carried.

Activity Reports. Gary Nelson, Executive Director, Port of Grays Harbor, reported that the activity in the District indicates traffic will be up 10-15% by the end of the year; traffic at the Ag facility is showing an increase; and Captain Cooke is on duty in August.

Captain Del Mackenzie, President, Puget Sound Pilots, reported that there are currently 54 active pilots including the president; there were 777 jobs in July compared to 749 the previous July, resulting in a three year July average of 718; 106 comp days were created and 44 days taken; there were no delays; Captain Jonathan Ward will be off duty for possibly another three months due to a current medical condition; and information was shared concerning the Puget Sound Pilot's involvement in the Oil Spill Advisory Council's requirement concerning oil containment and the Port of Seattle's new cruise ship terminal at Pier 91.

Captain Mike Moore, Executive Director, Pacific Merchant Shipping Association reported that once the cruise ship terminal has relocated to Pier 90-91 then Terminal 25-30 will return to being a container facility; NYK has approved a lease contract that calls for the Port of Tacoma to build a \$300 million 168-acre container terminal along the east side of Blair Waterway; and SSA and the Puyallup Tribe have reached an agreement for a new terminal also in Tacoma. These are all projects that will affect the vessel traffic forecasts in the Puget Sound District.

Committee Reports.

Trainee Evaluation Committee:

- The TEC met on August 8th.
- The TEC met with Captains Katharine Sweeney and Stephen Semler to review their training programs.
- The TEC reported on the status of trainees Bruce Nelson, Ed Marmol, Eric Klapperich and Gordon Wildes. It was moved by Commissioner Snyder and seconded by Commissioner Lee to amend all existing and future training programs so that in the event the TEC requires additional training trips for a trainee per WAC 363-116-080(5), the TEC is authorized by the Board to assign such additional trips as deemed necessary, subject to the Board's approval at the next scheduled Board meeting. The motion carried.
- An amended draft *Safety Advisory Bulletin No. 07-1* based on the *Lessons Learned* document, concerning the incident involving the *HORIZON PACIFIC*, was presented to the Board for review. The Bulletin was modified to be more generic with no reference to the specific incident or pilot. It was moved by Commissioner Snyder and seconded by Commissioner Addington to adopt the revised Safety Advisory Bulletin. The motion carried.
- In the interest of preparing for the next Puget Sound Pilotage District exam, it was moved by Commissioner Snyder and seconded by Commissioner Lee that the Board start the process to hire a third party or parties to develop, validate, administer and grade the next pilot exam and simulator evaluation for the PSPD. A motion to amend from Commissioner C. Davis to strike the word "hire" and replace it with "contract with" was accepted. The amended motion carried. Commissioner Lee recommended forming an "Exam Committee".

2008 Legislative Committee:

- The committee has had no additional activity since turning over its Draft Legislative Proposal to the full Board for consideration.

Miscellaneous Correspondence Review. In a letter dated July 30, 2007, Puget Sound Pilots has made a formal request for a Puget Sound Pilotage District exam to be scheduled for July 1, 2008. The Board did not set an exam date but will begin the exam development and administration process.

A formal request has been made by pilot trainee Gordon Wildes to go from a non-stipend status to a stipend status beginning August 1, 2007. It was moved by Commissioner Hannigan and seconded by Commissioner C. Davis that Captain Wildes be authorized to begin receiving a training stipend on September 1st since there is no provision to pro-rate a stipend for a partial training month when going from non-stipend to stipend status. The motion carried.

Legal Update. Susan Cruise requested an Executive Session later in the meeting to discuss pending litigation.

Administrator's Report. The Board's 2006 Annual Report has been published and posted on the web site. At the request of OFM, the Board's staff will be considering the need to submit a supplemental budget appropriation request to cover projected legal expenses during the next biennium. Peggy Larson, along with PSP Captains Mackenzie, Snyder and McCurdy met with officials from the Port of Shanghai in Seattle on July 17 to discuss and compare pilotage operations.

Commissioner Comments. Commissioner Hannigan asked the Board to consider filing CR-102 language to amend WAC 363-116-300 regarding retirement funding through the PSPD tariff. Puget Sound Pilots has offered an opinion, provided by the law firm, Perkins Coie, that the Board has authority to approve a line-item charge for pension expenses in the tariff for the Puget Sound Pilotage District and that this does not subject the State to liability for benefits under a pension plan maintained by Puget Sound Pilots for licensed pilots. The law firm, Perkins Coie, did not provide this opinion at the request of the Board, nor is the Board a client of Perkins Coie. Perkins Coie represents Puget Sound Pilots. Industry representative Captain Mike Moore stated they have secured legal counsel to work with them on the many complex issues involved and requested time to work through that process. The Board concurred and also agreed that PSP, Industry and Chairman Dudley would meet in the near future to jointly discuss and work toward a unified approach to deal with the retirement funding situation. No action was taken to file WAC amendments at this time.

Confirmation of Next Regular Meeting Date. The next regular meeting is scheduled for Thursday September 13, 2007, at 9:30 a.m. The meeting will be held in the Fourth Floor Rainier Conference Room, 2901 Third Avenue, Seattle. It appears there will be quorum issues on the October 11th meeting date so the Board will set a new October meeting date when they meet in September.

Review of Pilot Physical Examination Reports. After reviewing the physicians' reports it was moved by Commissioner C. Davis and seconded by Commissioner Snyder that the physical examination report for Captain P.S. Kelly and the follow-up information for Captain I.J. Carlson be accepted for annual license renewal. The motion carried. Captain J.E. Ward remains on medical leave.

An EXECUTIVE SESSION was called from 1:25 p.m. to 2:20 p.m. for purposes of discussing pending litigation. In attendance were Chairman Dudley, Commissioners C. Davis, Hannigan, Snyder, Addington, Lee and N. Davis; Susan Cruise, Peggy Larson and Judy Bell. Regular session was reconvened by the chairman immediately following executive session.

There being no further business to come before the Board the Chairman adjourned the regular session Board meeting at 2:20 p.m.

Respectfully submitted,

Peggy Larson, Administrator

Harry H. Dudley, Chairman

Charles M. Davis, Vice Chairman

Absent

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