

MEETING MINUTES
STATE OF WASHINGTON ~ BOARD OF PILOTAGE COMMISSIONERS
December 10, 2020

REGULAR MEETING – Call to Order

The regular meeting of the Board of Pilotage Commissioners was convened at 10:05 a.m. by Chair Sheri Tonn via Conference Call and Microsoft Teams.

Present via Conference Call or Microsoft Teams:

Chair: Sheri Tonn

Vice Chair: Eleanor Kirtley (Marine Environment)

Commissioners: Jason R. Hamilton (Public), John Scragg (Pilot), Mike Anthony (Pilot), Timothy J. Farrell (Public), Rik Krombeen (Foreign Shipping), Dale Jensen (Dept. of Ecology), Phil Morrell (U.S. Shipping)

Administration: Jaimie Bever, Bettina Maki, Jolene Hamel

Assistant Attorney General: Albert Wang

Linda Styrk, Eric vonBrandenfels, John Harris, Jamie Galvin, Jack Bujacich: Puget Sound Pilots

Gary Nelson & Mike Folkers: Port of Grays Harbor

Mike Moore & Jordan Royer: Pacific Merchant Shipping Association

Lou Paulsen: The Northwest Seaport Alliance

Fred Felleman: WAVE Consulting/OTSC Member

Laird Hail, Nate Menefee: USCG

Vince Addington: General Steamship

Robert Fronenbroek: Pilot Aspirant

Andrew Drennen: Polar Tankers

BPC Staff Report.

- BPC staff will continue teleworking and taking turns in the office, under the guidance of Governor Inslee, and reassessing in June 2021.
- On Wednesday December 2, 2020, Jaimie Bever represented the BPC at the 5th Joint Pacific Coast Marine Review Panel/Puget Sound Harbor Safety Committee meeting, which was a virtual event. Topics of the joint meeting included transboundary whale protection programs, Washington State Department of Ecology's vessel traffic studies, and an update from the BPC regarding ESHB 1578.
- BPC Program Analyst Bettina Maki provided information regarding mandatory pilot retirements over the next several years. Bettina will revise the chart to include a pilot missing from 2021 and send it back out to the Board.

BPC Chair Report.

- Chair Tonn thanked PSP President Captain Eric vonBrandenfels for his service as president and congratulated Captain Ivan Carlson for being elected PSP President for 2021. Chair Tonn also congratulated Captain Eric Klapperich for his election to the role of PSP Vice President. The BPC looks forward to working with both Captain Carlson and Captain Klapperich in 2021.
- This past week, Chair Tonn and Jaimie Bever met with Sector Puget Sound Captain of the Port Patrick Hilbert to make introductions, discuss the M/V *LEVANT* investigation, and federal endorsements for first-class pilotage. Captain Hilbert will be visiting PSP's Port Angeles Pilot Station later this week.
- The Governor's Office is working on Commissioner reappointments. Commissioners who are up for reappointment will be contacted by the Governor's Office. Other appointments are likely being considered, as well.

Activity Reports. Captain Eric vonBrandenfels representing Puget Sound Pilots (PSP), Mike Folkers representing the Port of Grays Harbor (PGH), Mike Moore representing Pacific Merchant Shipping Association (PMSA), Lou Paulsen representing the Northwest Seaport Alliance (NWSA), and Laird Hail representing the United States Coast Guard (USCG) offered current and projected statistical data as well as updates on current maritime issues and activities.

Captain vonBrandenfels answered questions from Board members regarding callbacks reported on the November PSP Activity Report. He offered that, historically, about 5% of the balance of the callback days get used after a pilot turns in their license. However, due to recent increases in comp days due to pilot shortages, that number has increased. Chair Tonn was curious how many of the comp days built up

were assigned to active licensed pilots. Captain vonBrandenfels reported that 607 comp days remained for retired pilots, leaving 2,500 for licensed pilots. He added that next spring, another pilot will be retiring with 440 comp days. He also mentioned that the number is reducing and should be gone within a few years.

NEW BUSINESS

Meeting Minutes.

Motion: Jensen/Farrell – approve the November 12, 2020 meeting minutes as drafted – Carried.

2021 Board Meeting Schedule. The Board considered three proposed options for meetings in 2021: the third Thursday, the third Tuesday, or a combination of the two. A Special Meeting of the Board will occur on April 7, 2021 to set the cut score for the written portion of the Marine Pilot Exam. The April Regular meeting of the Board will occur on Monday April 19, 2021 to accommodate setting the cut score for the simulator evaluation portion of the Marine Pilot Exam. The adopted 2021 Board meeting schedule will be available on the BPC website after today. There was interest in a combination of in-person and virtual meetings in the future. State law will provide clarity in terms of flexibility regarding public meetings.

Motion: Farrell/Jensen – approve the proposed 2021 meeting schedule with the Board meeting the third Thursday at 10:00am in January, February, and March, a Special Meeting on April 7, time TBD, Monday April 19 at 10:00am, the third Tuesday at 12:00pm in May, June, July, August, September, and October, the third Thursday at 10:00am in November, and the second Thursday at 10:00am in December – Carried.

Committee Actions.

Trainee Evaluation Committee (TEC)

- TEC member Captain Mark Homeyer, Crowley, has recommended Steven McElhose, also with Crowley, to replace him as an industry representative on the TEC. The Board received Captain McElhose's resume for review and consideration. Captain Homeyer has been a valuable member of the TEC but unfortunately his schedule prevents him from being able to attend TEC meetings regularly. The TEC recommends that Captain McElhose replace Captain Homeyer.

Motion: Scragg/Anthony – appoint Captain Steven McElhose to replace Captain Mark Homeyer as an industry representative on the TEC – Carried.

- The TEC reviewed progress of the current pilot trainees and projected pilot retirements over the next couple of years in the Puget Sound Pilotage District. The TEC recommends inviting the four remaining candidates from the 2018 exam class to begin training on March 1, 2021. One of the remaining candidates is currently training in San Francisco.

Motion: Scragg/Anthony – Invite the remaining candidates from the 2018 exam class to begin training in the Puget Sound Pilotage District on March 1, 2021 – Carried.

- The TEC reviewed training programs for current trainees. There were no interventions to report. There are eight trainees in Puget Sound: two in the Observation Phase, five in the Training Phase, and one in the Evaluation Phase. There is one trainee in Gray's Harbor who is in the Training Phase.
- A Train-the-Trainer course is needed for the three recently licensed pilots and all the current trainees. BPC staff is working to establish a contract for an online course. Board members who have not attended a Train-the-Trainer are encouraged to attend.
- After much discussion, debate, and legal review regarding allowing trainees to take the conn on US Flagged Vessels without federal pilotage endorsements for the route, the TEC will not recommend changing current practice of requiring federal pilotage endorsements for trainees with the conn on a US Flagged vessel.
- The USCG Regional Exam Center (REC) recently made some drastic changes to the requirements for federal first-class pilotage in Puget Sound. The changes will have a detrimental and long-lasting effect on the ability of trainees to obtain federal pilotage. Captains Anthony, Bendixen, and Myers have responded to the changes with a 17-page list of negative impacts and errors. Captains vonBrandenfels and Bendixen have had long conversations with the REC regarding the concerns. The REC was very receptive to the concerns and progress is being made to clarify and efficiently interpret federal rules. Washington State Ferries is also concerned and assisting in clarifying the language. Commissioner Anthony recommended that the Board write a letter to the REC asking to be considered a stakeholder in any future changes. Nate Menefee,

USCG, offered that they will be working with all parties to understand the complex issues at hand and come to a resolution.

Motion: Scragg/Anthony – have the BPC write a letter to the REC requesting that the REC notify the BPC and provide a comment period for the BPC to respond to potential changes prior to finalizing any changes to the federal first-class pilotage requirements – Carried.

Oil Transportation Safety Committee (OTSC)

- The Board, at the November meeting, deferred to the December meeting the decision whether to direct the OTSC to research the Board's adopted definition of oil in the Interpretive Statement further, considering and comparing 33 CFR and 46 CFR. The Board's Assistant Attorney General Albert Wang provided his legal opinion, which was that the Board's job as a state agency is to carry out rules as expressed in statute, not to add or take away what the Legislature has directed the Board to do. The language in ESHB 1578 does not provide a definition of oil. Therefore, it is important to look at legislative context to determine how the BPC should proceed. In looking at the whole statute, which is also Ecology's statute, it is reasonable to assume that the Legislature intended to harmonize the BPC's statutory scheme with Ecology's statutory scheme. The Legislature and the stakeholders at the time the bill was passed very likely assumed it was the same definition of oil that they were regulating with the new laws. Albert clarified that it was not a matter of policy and whether the BPC should be requiring tug escorts for the substances listed in either of the CFRs. He closed by reiterating that he does not believe the Legislature is asking the BPC to redefine oil and that the BPC, until directed otherwise by the Legislature, should continue with the definition already adopted in the Interpretive Statement, which harmonizes with the Department of Ecology. Board member discussion followed. Chair Tonn concluded the discussion by suggesting the Board highlight the definition as one of the complications of implementing ESHB 1578 for future conversations with the Legislature. Board action was not necessary, as there was no change to the adopted definition of oil.
- The OTSC meeting has not yet been scheduled.

Grays Harbor Pilot License Status. Grays Harbor pilot, Captain Ryan White, will retire from his position at the Port of Grays Harbor effective January 2, 2021. BPC staff provided Captain White the requirements per Chapter 88.16 RCW and WAC 363-116 to keep his license in active status after his separation from the Port. In response, Captain White requested the Board place his state license in inactive status with a reduced annual license fee per 88.16.090(7) RCW.

Motion: Kirtley/Jensen – place Captain White's state pilot license in inactive status with a reduced annual fee of \$1,000 – Carried.

Puget Sound Pilot License Status. The Board reviewed a letter from Chair Tonn to Captain I.J. Carlson reminding him that pursuant to WAC 363-116-200(6) any pilot who shall absent themselves from pilotage duties for a period of 60-days or more without permission from the Board shall be liable to suspension or to the forfeiture of their license. The Board also reviewed letters from Captain Carlson explaining his absence and requesting a waiver for the time he was outside the provisions of the WAC referenced above, and from Puget Sound Pilots regarding the definition of pilotage duties. Chair Tonn pointed out that historically the Board has interpreted pilotage duties as meaning piloting vessels. However, while Captain Carlson was not taking pilotage assignments between May 19 and October 1, 2020, he was working extensively on the Puget Sound Pilotage District tariff filing with the Utilities and Transportation Commission in his role as Vice President of Puget Sound Pilots. Board member discussion followed including concerns about setting a precedent of waiving absences after the fact. Captain Eric vonBrandenfels offered that this was a unique situation, and that PSP will provide notification in the future should the Vice President find themselves in this situation again. There was consensus from the Board for staff to send a reminder of the provisions of WAC 363-116-200(6) to all pilots. The Board will revisit the definition of pilotage duties (including the role of the Vice President), a waiver from pilotage duties, and the criteria under which the Board grants waivers at a future meeting.

Motion: Anthony/Scragg – grant Captain Carlson a waiver from pilotage duties for the period of May 19 to October 1, 2020 by finalizing and sending the draft letter proposed. – Carried with Chair Tonn and Commissioners Anthony, Scragg, Kirtley and Jensen in favor, and Commissioners Krombeen, Farrell, Morrell, and Hamilton opposed.

Review of Pilot/Trainee Physical Examination Reports.

Motion: Farrell/Morrell – approve the physician's reports for Captains T.D. Coryell, L.P. Emerson, E.M.

vonBrandenfels, M.L. Anthony, E.P. Ninburg, A.B. Seamans, and S.E. Moreno for their annual pilot license renewal – Carried.

Presentation – Green Marine, BPC Commissioner Eleanor Kirtley. The BPC’s Marine Environment representative Dr. Eleanor Kirtley presented to the Board an overview of her educational and professional history, as well as information regarding her current role as Senior Program Manager of Green Marine and information about the organization. The slides from this presentation are available on the BPC website.

ESHB 1578 Update. At the January 21, 2021 meeting of the Board, the Department of Ecology is going to provide two presentations: one on the Risk Model and one on the Synopsis of Changing Vessel Traffic Trends. Commissioners were encouraged to review the scope of work with Ecology for synopsis prior to the Board meeting, in preparation for the presentation. The scope of work is available on the BPC website on the Oil Transportation Safety page.

Committee Updates.

Exam Committee

- The first simulation development session occurred in November and went well. Beta testing will continue on January 4-5, January 18-19, March 1-2, and March 8-9.
- The first round of application reviews are scheduled for January 4, 2021, and will continue monthly through March.
- The Board received, for review, a list of BPC exam publications, per Board member request at the November meeting.
- The FAQ’s from the exam webinar are near completion. Two of the three documents have been posted on the BPC website. The third and final round is currently with the pilots for review and input.
- The number of applications received will be released upon BPC approval starting at the January meeting.

BPC/PSP Joint Diversity Committee (JDC):

- JDC Co-Chair Linda Styrk asked Captain Eric vonBrandenfels to remain on the committee now that he is no longer PSP President, to which he agreed.
- The exam webinar continues to receive positive feedback. There were over 100 additional views accessed from the website, after the initial viewing.
- Linda acknowledged the excellent work of BPC Training Program Coordinator Jolene Hamel for her efforts in stewarding the webinar and FAQs. Several individuals echoed Linda’s comments. Jolene then received a round of applause from the group.

Pilot Safety Committee (PSC):

- The next PSC meeting will be scheduled for the first or second week of January.
- PSP pilot, Captain Scott Anacker, will act as an alternate for PSP President Captain Ivan Carlson on the committee.
- The Board will be looking at definitions and conducting rulemaking early in the New Year regarding WAC 363-116-081 Rest Period.

Confirmation of Next Regular Meeting Dates.

- January 21 – Teams/Phone
- February 18 –Teams/Phone

There being no further public business to come before the Board, Chair Tonn thanked everyone and adjourned the meeting at 1:30 p.m.

Respectfully submitted,

Jaimie C. Bever, Executive Director

Sheri J. Tonn, Chair

Eleanor Kirtley, Vice Chair

Commissioner Timothy J. Farrell

Commissioner Philip Morrell

Commissioner Rik Krombeen

Commissioner John Scragg

Commissioner Michael Anthony

Commissioner Jason R. Hamilton

Commissioner Dale Jensen