

MEETING MINUTES

STATE OF WASHINGTON BOARD OF PILOTAGE COMMISSIONERS

May 12, 2005

Present:

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

Assistant Attorney General, Susan Cruise

Administrator, Peggy Larson and Administrative Assistant, Judy Bell

Captains Bill Bock, Mel Flavel and Mr. Walt Tabler: Puget Sound Pilots

Mary Nelson: Port of Grays Harbor

Captain Mike Moore, Luis Kohls: Pacific Merchant Shipping Association

Steve Cooke: Himself

Douglas Coburn: Quay Cruise Agencies, USA

PUBLIC HEARING

A public hearing of the Board of Pilotage Commissioners was convened at 9:35 a.m. by Chairman Harry Dudley at 2911 Second Avenue, Seattle, Washington.

WAC 363-116-300: Pilotage Rates for the Puget Sound Pilotage District. RCW 88.16.035(4) requires the Board of Pilotage Commissioners to annually fix tariffs for pilotage services performed aboard vessels. The filed rule as proposed jointly by the Puget Sound Pilots, Polar Tankers, Inc. N.W. and Pacific Merchant Shipping Association reflects a 4.0% increase in all tariff categories except transportation to be charged for pilotage services in the Puget Sound Pilotage District. In addition, increased transportation charges have been proposed which reflect new taxi rates of \$2.50 per drop and \$2.00 per mile. The written presentation dated April 14, 2005, considered by the Board today, reflects a modified request for a 5.0% increase in all categories except transportation and a rounded \$2.50 taxi drop charge of \$3.00 in addition to the \$2.00 per mile taxi charge. The process for developing this joint proposal follows the guidelines of a 5-year tariff agreement established on April 10, 2001 between PSP, PTI and PSSOA. The PSP 5-year Capital Spending Plan and 2004 year-end audited Financial Statement, previously submitted to the Board, were also considered in today's tariff determination. Captain Bill Bock stated that the PSP would not be presenting oral testimony. Captain Mike Moore for PMSA stated that the rate committees would start early to begin the process this fall of reviewing traffic trends and begin next year's tariff negotiations. There was no other testimony presented. The public hearing was closed by Chairman Dudley at 9:37 a.m.. This hearing was recorded on audiotape.

REGULAR MEETING

The regular meeting of the Board of Pilotage Commissioners was convened immediately following the public hearing.

Consideration of Preceding Hearing: WAC 363-116-300. Following the Board's review and consideration of all written and oral testimony, it was moved by Commissioner Addington and seconded by Commissioner Niederhauser that the Board adopt the revised joint proposal for the 2005-06 Puget Sound Pilotage District tariff as outlined in the letter dated April 14, 2005 from Polar Tankers, Inc. N.W., Puget Sound Pilots and the Pacific Merchant Shipping Association, including tariff considerations necessary for the continued administration of Grays Harbor pensions.

Specifically:

- A **5% increase** in all tariff categories, except transportation, effective July 1, 2005 through June 30, 2006.
- A change in transportation fees as indicated in the joint proposal reflecting an increase in Seattle **taxi fares to \$2.50 per drop and \$2.00 per mile**, also effective July 1, 2005.

In addition, the Board acknowledges:

- Total projected vessel assignments for 2005 = **7,768**
- Number of tariff-funded pilots, including one non-watch-standing president and any compensation for accrued Comp Days = **53** (Based on a Maximum Safe Assignment Level = **149**)
- Target Net Income per pilot = **\$214,665**
- Individual Business Expense Allowance per pilot = **\$23,943**

Speaking to the motion, Commissioner C. Davis stated that the Board recognizes the formula set forth in the 5-year tariff agreement and as a result of the Board's acceptance of the tariff proposal, it should be made clear that the Board is not rubber-stamping the agreement.

Also speaking to the motion, Commissioner Lee asked for an explanation behind the request for a 5% increase. Captain Moore explained that the rate committees have agreed to try the use of a Dampening Adjustment Factor when calculating the 2005 tariff adjustment. The concept of this adjustment is to dampen an anticipated significant swing in the tariff adjustment for the following year. 2005 is the third consecutive year that the self-adjusting formula has calculated a decrease in the tariff. For a variety of reasons, if the MOU were to be extended beyond its current term, which ends this year, the 2006 tariff adjustment will swing positive and could be quite significant depending on this year's vessel traffic. Therefore the swing will be dampened by artificially raising the tariff adjustment by a factor of 6.79% above the adjustment called for by the formula (-1.79%). The result is a 5% increase in the tariff. The effect of this adjustment is to increase 2005 revenue, which will then cause the formula (should it be extended) to ask for less of the anticipated increase in 2006. In addition, Walt Tabler stated that PSP's request for a significant increase in the Target Net Income also contributed to the decision to use the dampening adjustment factor. Commissioner Addington added that this isn't the first time the formula has been tweaked.

The motion carried. (9:45 a.m.)

Minutes. There being no corrections or additions, the April 21, 2005 Minutes stand approved as written.

OLD BUSINESS

Consideration of Proposed Rule-Making. The Board continued its review of the proposed WACs and made a few additional changes. Susan Cruise is in the midst of her legal review and will be prepared to offer her comments at the next Board meeting. Upon finalizing a document for rule making, the next deadline for filing it with the Code Reviser is June 22, which would allow for a public hearing date on or after July 26. The deadline after that is July 6, which would allow for a public hearing date on or after August 9.

NEW BUSINESS

2005 Annual Tariff Hearings Preparation. GHPD - A 2005-2006 tariff proposal from the Port of Grays Harbor has been submitted to the Board in addition to the 2004 Preliminary Financial Statement in accordance with the timetable established for tariff document submission. The written proposal submitted today contains a request for an increase in the Vessel Draft Charge of \$9.01 per meter or \$2.79 per foot; a \$200 increase in the Boarding Fee per each boarding/deboarding from a boat or helicopter; and a \$10 decrease in the Pension Charge per pilotage assignment, including cancellations. A public hearing has been filed for June 9, 2005 at 9:30 a.m.

Committee Report: Policy Statement Development Regarding "In Ballast" Definition. Before the Board for review was the committee's draft policy statement regarding an "in ballast" definition for liquid petroleum gas carriers. It was moved by Commissioner Lee and seconded by Commissioner Addington to adopt a policy statement, which reads as follows:

***Statement of Policy Regarding the Interpretation of the Term "In Ballast"
as used in RCW 88.16.190 and WAC 363-116-500.***

It is the policy of the Board that an LPG carrier is deemed to be in a ballast condition if the vessel has retained on board only the minimum cargo necessary plus a safety factor to arrive at its next load port in a cold condition. This quantity is not to exceed 1.5 percent of the cargo carrying capacity.

The motion carried. Chairman Dudley stated that until language is worked out for LNG carriers, if one should call in our state waters it will be required to take a tug escort.

Committee Report: Pilot Examination Development. The committee members met for the first time on May 2nd. The Board was given an overview of what topics were discussed and what options are being considered with respect to the next pilot examination. There will be another meeting following today's Board meeting.

Pilots' Activity Reports. Captain Bill Bock, President, Puget Sound Pilots, reported that assignments for April were roughly 10% below tariff projections; Captain Niederhauser will soon be on medical leave due to an injury; the American Pilots Association and PSP, has just become aware of and will be responding to a piece of federal legislation that the USCG is proposing to Congress that would completely revise mariner licensing provisions and basically eliminate all references in the federal statutes to pilot, master, mate or engineer licenses and instead, all mariners would receive a merchant marine credential; the Washington state legislature has created the "Oil Spill Advisory Council" through Senate Bill 5432 on which PSP would like to be considered for one of the sixteen positions appointed by the governor; and PSP is still awaiting a written response from BP regarding their security procedures.

Mary Nelson, Director of Finance and Administration of the Port of Grays Harbor, reported that assignments through April are about 20% above tariff projections and May looks good as well; activity at the Weyerhaeuser facility is down, however the AGP Terminal activity is up 65%; the first quarter of 2005 was good overall; and Gary Nelson and Captain Steve Cooke are progressing toward an employment agreement.

Commissioner Comments. Commissioner Addington asked the Board for a determination on whether or not a "crew boat" meets the definition of a small passenger vessel for purposes of acquiring a vessel exemption under RCW 88.16.070. No Board member objected to the Chairman's response that if all other criteria were met, he would recommend that an exemption be granted.

Commissioner Niederhauser reported that he and Commissioner Hannigan met with the USCG licensing division personnel to assure that what the Board intends to codify in the WAC dovetails with federal licensing laws. Also, the state legislature passed the mandatory boater education law, Senate Bill 5145, which will phase in a boater testing requirement over the next ten years. The new Sector Seattle Command was announced in a press release yesterday regarding the reorganization of the US Coast Guard bases.

Commissioner Lee stated he would like to modify (non-substantive) the Policy Statement adopted at the March 15 Board meeting regarding the "in ballast" definition for crude oil and refined petroleum products. He will bring his suggested revision to the next meeting.

Commissioner Hannigan reported that a larger class vessel (8100 TEU) operated by Evergreen Lines will soon be calling at the Pierce County Terminal in Tacoma and will require dredging and a 100 foot lengthening of the dock in order to allow two vessels to be properly docked at the same time. This facility is only about a year old and already in need of modification to accommodate this larger size vessel.

Confirmation of Next Regular Meeting Date. The next regular meeting date is June 9, 2005, in the B Level Conference Room at 2911 Second Avenue, Seattle. The Grays Harbor Pilotage District tariff hearing will precede the meeting at 9:30 a.m..

Review of Pilot Physical Examination Reports. After reviewing the physicians' reports it was moved by Commissioner Lee and seconded by Commissioner Niederhauser that the annual physical examination reports for Captains M.R. Flavel, P.M. Hannigan, C.C. Hunziker, G.D. Hurt, B.S. Knowles, G.N. Larson, E.C. Lichty, R.F. McCurdy and M.J. Shuler be accepted for license renewal. The motion carried.

The Chairman adjourned the regular session Board meeting at 11:40 a.m.

Respectfully submitted,

Peggy Larson, Administrator

Harry H. Dudley, Chairman

Charles M. Davis, Vice Chairman

Commissioner Oliver E. Mackey

Commissioner John S. Niederhauser

Commissioner Patrick M. Hannigan

Commissioner Vincent Addington

Commissioner Craig W. Lee

Commissioner Andrew C. Palmer

Commissioner Norman W. Davis