

MEETING MINUTES

STATE OF WASHINGTON BOARD OF PILOTAGE COMMISSIONERS

September 8, 2005

Present:

Chairman: Harry Dudley

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

Assistant Attorney General: Susan Cruise

Administrator: Peggy Larson and Administrative Assistant: Judy Bell

Captain Richard McCurdy and Mr. Walt Tabler: Puget Sound Pilots

Mary Nelson: Port of Grays Harbor

John Scragg: Pacific Maritime Institute

Ed Marmol, Pat Kelly and Katharine Sweeney: pilot aspirants

Tom Paul: attorney representing Pat Kelly

Captain Del Kelly: public

REGULAR MEETING

The regular meeting of the Board of Pilotage Commissioners was convened at 9:30 a.m. by Chairman Harry Dudley at 2901 Third Avenue, Seattle, Washington.

An EXECUTIVE SESSION was called from 9:30 a.m. to 9:45 a.m. for purposes of discussing potential litigation. In attendance were Chairman Dudley, Commissioners C. Davis, Mackey, Niederhauser, Hannigan, Addington and N. Davis; Susan Cruise, Judy Bell and Peggy Larson. Regular session was reconvened by the chairperson immediately following executive session.

Minutes. It was moved by Commissioner Addington and seconded by Commissioner N. Davis that the Puget Sound Pilots' Activity Report on page four should be amended to read, "due to the Hood Canal Bridge temporary closure and high traffic volumes ten pilots were hired back on comp time". The motion carried. It was moved by Commissioner Addington and seconded by Commissioner Hannigan that the August 11, 2005 minutes be approved as amended.

OLD BUSINESS

Consideration of Replacement of Retiring Board-Designated Physician, Dr. Hugh Clark. In a letter dated July 13, 2005, Dr. Paul Sytman, M.D. requested the Board for consideration to be appointed a Board-Designated Physician. He works in the same facility as Dr. Hugh Clark who will be retiring at the end of August. It was moved by Commissioner Niederhauser and seconded by Commissioner Mackey that Chairman Dudley be authorized to contact Dr. Sytman and upon an acceptable interview approve him as a Board-Designated Physician. The motion carried.

Request for Consideration of Method to Calculate Sea Service: Josh Weston. Pilot aspirant Captain Josh Weston, requested that the Board and Puget Sound Pilots standardize their method of calculating sea time to coincide with that of the U.S. Coast Guard. The Board and PSP equate one day of duty time to one day of sea service. The USCG says that where a 12-hour work day is authorized and practiced, each work day may be credited as 1.5 days of sea service. Captain Weston is in hopes of qualifying to enter the PSP rider program to further his pursuit of the PS pilotage endorsement on his federal license. Considering that Captain Weston does not intend to sit for the November 2005 exam and in light of the likelihood that the PSP rider program will most likely cease after this exam, the Board chose to defer Captain Weston's question. It is by past practice that the Board equates one day of duty time to one day of sea service and will continue to do so for purposes of this upcoming exam. Future consideration will be given to the question when it is appropriate for subsequent pilot exams.

It was moved by Commissioner Hannigan and seconded by Commissioner Addington that a Board policy be established that defines the calculation of sea time to be: one day of duty time equates to one day of sea service with no multiples or reductions based upon the type of industry or the watch and schedule a certain officer has to stand. Commissioner Niederhauser reminded the Board that this issue was discussed during the rule making process and language was adopted, which will soon take effect, that was predicated on the "day for a day" practice established by the Board many years ago. The motion carried.

Request for Consideration of Position as Equivalent to Master – WAC 363-116-075: Pat Kelly.

At the Board's request Captain Pat Kelly submitted more detailed information documenting his sea service with his current employer Crowley Marine Services. According to Commissioner Niederhauser, Captain Kelly in his letter dated August 31, 2005, provided significant information which satisfies the interpretation of the existing Statement of Policy that the Board adopted on May 9, 2002 regarding, "*Qualifications of Pilot Applicants Under WAC 363-116-075(1) When Experience is on Vessels Employing More Than One Master*". He believes Captain Kelly has demonstrated that (1) he has the master's license for the position as required by company policy, (2) he has previous experience on that type of vessel, and (3) his duties relative to shipboard navigation, operation, and ship handling are similar to those of the sole master on one-master vessels. It was moved by Commissioner Niederhauser and seconded by Commissioner C. Davis that the current policy statement referenced above be amended as follows:

STATEMENT OF POLICY

**Regarding: Qualifications of Pilot Applicants Under WAC 363-116-075(1)
When Experience is on Vessels Employing More Than One Master**

~~Under WAC 363-116-075(1), a pilot applicant desiring to be licensed must demonstrate~~

~~One year of service in ocean or near coastal waters as master of cargo, tank, or passenger vessels of 5000 gross tons or more while holding a license as a master of ocean steam or motor vessels of any gross tons or as master of near coastal steam or motor vessels of any gross tons; ---~~

~~The Board is aware that vessel owners of certain classes of vessels, such as large passenger vessels, may require that two masters, a senior and a junior master, be employed. In some instances the junior master position may be referred to as "staff captain".~~

~~The Board will consider the time as a junior master or staff captain to be qualifying time as a master under WAC 363-116-075(1) if the pilot applicant can demonstrate clearly to the satisfaction of the Board, by copy of company policy or otherwise, that the qualifying time was obtained while on a vessel for which the owner required junior masters to (1) hold an unlimited a master's license for not less than the tonnage of the vessel, or a minimum of 1600 GRT whichever is greater, (2) have previous experience on board that type of vessel as a chief or first officer, and (3) where the duties of the junior master include responsibilities relative to the shipboard navigation, operation, and ship handling similar to the sole master on one-master vessels.~~

Commissioner Hannigan objected to revising the Board's policy and stated he would rather the Board make a determination whether or not Captain Kelly satisfies the intent of the current policy. Commissioner Addington disagreed and stated that was the same as creating an unwritten policy and that it would be more appropriate in this case to amend the Board's policy. Commissioner Niederhauser stated it is his intent that this proposed new policy not apply to any examinations given after July 1, 2008, and that the Board re-visit this matter in the near future. Several Board members echoed in agreement. The motion carried with a vote of four in favor and Commissioners Hannigan and N. Davis opposed.

With respect to Captain Kelly's request for Board determination that his work experience as chief mate for Crowley Marine Services be considered equivalent to that of master, it was moved by Commissioner Hannigan and seconded by Commissioner Niederhauser that Captain Kelly's chief mate time meets the criteria of the new Policy Statement and will be considered qualifying time. The motion carried.

Submittal of 2006 Agency Request Legislation, Determination of. The Board determined that there will be no Agency Request Legislation submitted for consideration during the 2006 Legislative Session.

Consideration of New Vessel Operators: *VICTORIA CLIPPER*. The preliminary review of Clipper Navigation's request to add five approved masters to operate the *VICTORIA CLIPPER* presented questions concerning two of the masters in their employ, Captains Dutee Dodson and David Fulton. Captain Marc Bissonnette, Director of Marine Operations at Clipper Navigation recently reported that both of them should be dropped since Captain Dodson was no longer employed with them and Captain Fulton is not serving in the capacity of master. It was moved by Commissioner C. Davis and seconded by Commissioner N. Davis that Captains Kit Carr, Graeme Heys, Michael Hayes and David Landis meet the regulatory requirements to be approved as new captains and that Captain Dutee Dodson be dropped from the current list. The motion carried. Captain Bissonnette also stated that the minimum license required to operate the *VICTORIA CLIPPER* is Master, 200 GRT (500 ITC) inland.

NEW BUSINESS

Request for Extension of Sea Service Qualifications: Casey McConville. In an e-mail received from Casey J. McConville dated August 26, 2005, he is requesting the Board to grandfather his sea service as master to qualify him to sit for a pilot exam given after July 1, 2008, when that sea time will no longer qualify due to a modification of vessel tonnage requirements as set forth in WAC 363-116-0751. Since his question is not relative to this exam scheduled for November, 2005, it was suggested that the matter be deferred to a Board meeting early next year. Chairman Dudley stated he and Susan Cruise will research the pertinent issues and the Board's options for resolving this matter. This matter was deferred.

Pilot's Report of Incident: *USNS WATKINS*, 8-20-05. The Board has received the written report submitted by Grays Harbor Pilot, Captain Robert D'Angelo. It was determined that a CIC report was not necessary. While preparing to get underway from anchor to Berth 4, Aberdeen, an assist tug *CAPTAIN LES EASOM* was moving from the starboard quarter of the *USNS WATKINS* to the port quarter at the direction of the pilot when it struck the vessel. A statement by the master was also submitted by the Port of Grays Harbor. After the vessel was moored at Berth 4, it was determined that some damage to the vessel had occurred. Various reports were made by the master. It was moved by Commissioner C. Davis and seconded by Commissioner Mackey that there was no pilot involvement and that this matter be declared an "Incident with damage and without pilot error". The motion carried.

Status of PSPD Pilot Trainee: Captain Fred Triggs. Commissioner Niederhauser reported that Captain Triggs' six-month, 100-trip training program will terminate on September 28, 2005, and to date he has made 120 training trips. The extra twenty trips were taken in order to fulfill the requirements for completing the geographic area and at least 100 trips with 5-year pilots. The committee will meet with Captain Triggs later this month to outline the Board-approved twenty make-up trips with specific pilots within a 45-day extension. Since the last review, an additional 4 reports show below average evaluations.

Requests for Extension of Pilot Exam Filing Deadline. Two requests were received on September 7, 2005, by pilot aspirants to extend the pilot exam application filing deadline for purposes of completing their federal pilotage endorsements. By authority of WAC 363-116-076 Chairman Dudley granted extensions to Captains Jim Caspers and Chad Clapp, with concurrence by the Board, as follows: The October 17 deadline for filing an application stands, except for the submittal of the federal license endorsement which is extended to November 7, 2005 at 5:00 p.m. Any additional requests for filing extensions must be received by October 17th and be considered by the chairperson for action. (Ten minute break.)

Committee Report: Policy Statement Development Regarding "In Ballast" Definition. Due to the absence of Commissioner Lee, this report was deferred.

Committee Report: Pilot Examination Development. Commissioners Niederhauser and Hannigan and Susan Cruise gave an overview of the Committee's work toward the research and development of a personal service contract for the simulator portion of the November pilot exam.

Susan is working closely with OFM to understand the required procedure for entering into a contractual agreement with an entity who can provide the necessary services for the Board. A proposal for the development and administration of the simulator evaluations was submitted by the Pacific Maritime Institute for Board consideration. It was moved by Commissioner Hannigan and seconded by Commissioner Addington to direct the Chairman to enter into a sole source contract with PMI for \$10,000 for the development of the simulator evaluation according to the scope of work set forth in their proposal and to direct staff to carry forward with the necessary OFM procedures. The motion carried. It is understood that the proposal from PMI is for a total cost of \$40,600 with the difference of \$30,600 being the cost of the examination administration which will be equally divided among the applicants. Based on an estimated number of 17 applicants the proposal indicates a per applicant simulator exam fee of \$1,573.53 made payable directly to PMI.

Trainee Evaluation Committee. It was determined that the TEC needs to be established pursuant to WAC 363-116-078(11) and ready to begin its designated activities as soon as the WAC takes effect on October 1st. It was moved by Commissioner Hannigan and seconded by Commissioner Mackey that the members of the Pilot Exam Development Committee be named as members of the Trainee Evaluation Committee with the addition of one active licensed Puget Sound Pilot to be recommended by Captain McCurdy. The members are: Commissioners Hannigan, Niederhauser, Lee and Mackey and one additional pilot yet to be determined. The motion carried. The Board will consider the recommendation by Captain McCurdy at the next Board meeting or, if necessary, Chairman Dudley will give interim approval sooner. The Chairman of the Committee will be determined by the Committee members.

Legal Update. Susan Cruise requested the Board to make a determination how the trainee stipend funds are to be managed. The WAC provides for either the Board to administer the training surcharge funds or direct another organization to administer the funds. Susan has had discussions with OFM personnel to explain the unique process of collecting the surcharge through the tariff and the disbursement of the stipend payment. It is the Board's desire to direct Susan to continue with her discussions with OFM personnel to determine the most efficient and best mechanism for the stipend fund management. It was moved by Commissioner C. Davis and seconded by Commissioner Hannigan to direct Puget Sound Pilots to collect and hold the training surcharge funds beginning October 1, 2005 until otherwise directed by the Board. The motion carried.

Administrator's Report. The eleven new WAC rules adopted at the August 11, 2005 Board meeting were filed with the Code Reviser and will become effective on October 1, 2005. The Puget Sound Pilot Examination announcement was published and to date 32 application packets have been sent out, but roughly only twenty aspirants appear to have the appropriate qualifications. The Board's new website is on line as of today at www.pilotage.wa.gov. Judy Bell is the web master and she welcomes suggestions and other feedback. The Board's 2004 Annual Report has been completed and is posted on the web. Most of what is contained in the Commissioner's "Red Books" can be found there also, however, the contents will continue to be printed and updated for the hard-copy books. It is anticipated that "Train the Trainer" classes will begin in November for those volunteer 7-year pilots in preparation of pilot training programs starting up early next year. PMI offers a 1-day class that may be appropriate for this activity.

Pilots' Activity Reports. Captain Richard McCurdy, President, Puget Sound Pilots, reported that there were 781 jobs in August compared to 661 for an average of the past 3 Augusts; recently 302 jobs were dispatched in a 10-day period; 9 ships have been delayed for a total time of 16 hours and 46 minutes; Captain Stensager remains on medical leave; Captain Bock remains on medical leave and is requesting authority be given to the Chair to reinstate his license before the Board meets in October; a project involving the *USNS WATKINS* will begin mid-month for four days involving some

drifting exercises around Indian Island that will involve PS pilots; PSP is sending two pilots to Dania Beach, Florida for ten days involving a widening and deepening project in the Blair Waterway, Tacoma; gillnet season is gearing up and looks more promising this year with an agreement of more communication and cooperation among the parties; and PSP is involved with the Port of Olympia's acquisition of Weyerhaeuser Log which is relocating from Tacoma to Olympia.

Mary Nelson, Director of Finance and Administration of the Port of Grays Harbor, reported that vessel arrivals are about 50% ahead of budget projections with 102 jobs year to date; there were 7 arrivals in August which generated 19 jobs; due to the centralization of some Weyerhaeuser operations Cosmopolis and Bay City may show a decline in activity; and Captain Cooke is working and riding with Captain D'Angelo. Note: Commissioner Niederhauser will speak with Captain D'Angelo concerning the license upgrade process and his submittal of incomplete report forms concerning Captain Cooke.

Miscellaneous Correspondence Review. A letter of appreciation sent to Captain F.A. Coe from Captain Metruck, COTP Puget Sound, USCG, regarding his Report of Incident involving the *OOCL NETHERLANDS* was forwarded to the Board and will be placed in Captain Coe's file. PSP submitted a letter to the Board clarifying the billing process that was used when the Tall Ships were piloted this past summer. A request for a vessel exemption was received today from Pirelli High Voltage Systems who will be installing submarine cables. The vessel does not meet the criteria for exemption and the request was denied.

Confirmation of Next Regular Meeting Date. The next regular meeting is October 20, 2005, in the Fourth Floor Conference Room, at 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 Hannigan that the annual physical examination reports for Captains P.A. Giese, D.W. Mayer, W.E. Thorsen and J.E. Ward be accepted for license renewal. The motion carried. It was moved by Commissioner Hannigan and seconded by Commissioner Mackey that Chair Dudley be authorized to reinstate Captain W.A. Bock's license upon satisfactory review and acceptance of his physician's report in order for him to return to duty prior to the next Board meeting. The motion carried. Captain Stensager remains on inactive status. Dr. Hang Kim has informed the Board that Captain M.R. Flavel is fit for duty after being on medical leave from June 29 through August 23, 2005. Captain Flavel's medical condition was never initially reported to the Board. No action was taken.

The Chairman adjourned the regular session Board meeting at 1:35 p.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

Absent
Commissioner Craig W. Lee

Absent
Commissioner Andrew C. Palmer

Commissioner Norman W. Davis

MEETING MINUTES

STATE OF WASHINGTON BOARD OF PILOTAGE COMMISSIONERS

March 9, 2006

Present:

Vice Chairman: Charles Davis

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

Assistant Attorney General: Susan Cruise

Administrator: Peggy Larson and Administrative Assistant: Judy Bell

Dick McCurdy, Mel Flavel, Andy Coe, Cal Hunziker, Walt Tabler: Puget Sound Pilots

Mike Moore: Pacific Merchant Shipping Association

Jeff Shaw: Polar Tankers

Scott Craig: Crowley Marine

Pat Kelly: pilot trainee

Katharine Sweeney: pilot applicant

Del Kelly: public

REGULAR MEETING

The regular meeting of the Board of Pilotage Commissioners was convened at 9:40 a.m. by Vice Chairman Charles Davis at 2901 Third Avenue, Seattle, Washington.

Minutes. There being no corrections or additions, the January 12, 2006 and January 31, 2006 Minutes stand approved as written. Susan Cruise recommended that the February 9, 2006 Minutes be amended to reflect discussion on that day regarding the Board's Statement of Policy on Payment of Stipends. The discussion reflected that she noted that the Statement of Policy indicated the Board's intentions with regard to paying stipends during the period identified in the policy, but it was not certain to her if a policy statement was the correct legal format in which the Board could accomplish its goals. She stated then that she would provide a legal analysis and legal review of the Statement of Policy. It was moved by Commissioner Hannigan and seconded by Commissioner Lee that the February 9, 2006 Minutes be approved as amended. The motion carried.

OLD BUSINESS

2005 Pilot Examination. The final ranking of the sixteen successful applicants has been established and published. The informal exam review period closed on February 7, 2006, the Board completed its final review on February 9, and on February 13 each applicant was sent official notice of his/her standing along with the Board's responses to all exam reviews that were considered.

2006 Legislative Activity Report: ESSB 6870 "An act relating to the Board of Pilotage Commissioners' Training Program". The bill has passed through both houses of the legislature and is on Governor Gregoire's desk for signature. Upon the signing of the bill, stipend payments may be paid retroactively to December 1, 2005, to those trainees who qualify. It was moved by Commissioner Niederhauser and seconded by Commissioner Mackey to extend authority to Vice Chairman C. Davis that, in the case of Chairman Dudley's absence, he be empowered to approve payment of certain stipend amounts established by the Trainee Evaluation Committee and approved by the Board. The motion carried.

NEW BUSINESS

Pilot's Report of Marine Safety Occurrence: 1-29-06. While approaching Pier 5, Seattle, to dock the *MOL CONFIDENCE*, the vessel experienced a total power failure. Using two attending tugs the vessel was safely maneuvered alongside the dock. According to the ship's master, the power failure was due to a failed gasket on a fuel filter system which was repaired in less than one-half hour. Not feeling comfortable that this would not happen again, the pilot informed the COTP of this safety issue. It was moved by Commissioner Lee and seconded by Commissioner Addington that this report of a navigational safety concern be filed as a Marine Safety Occurrence. The motion

carried. Commissioner N. Davis stated he would invite a USCG official to come to the next Board meeting to discuss safety issues of this sort with regard to the Safety Management System and Standard of Care Improvements.

Pilot's Report of Marine Safety Occurrence: 2-4-06. While anchoring the grain ship *MARINA* in Smith Cove West Anchorage, Seattle, an anchor chain ran out which resulted in a lost anchor. A second anchoring attempt was made without incident. The pilot's choice of report to file was questioned since the matter involved damage, however; it was moved by Commissioner Niederhauser and seconded by Commissioner N. Davis that this report of a navigational safety concern be filed as a Marine Safety Occurrence. The motion carried with Commissioner Palmer opposed and Commissioners Lee and Addington abstaining.

Commissioners Hannigan and Niederhauser will report back to the Board in April concerning statistics involving deep-water-anchoring and lost anchors. This safety concern will be discussed further.

Concern was voiced by Jeff Shaw, Polar Tankers, that the Marine Safety Occurrence Reports are not being sent to the appropriate shipping agent or representative prior to a meeting where an MSO is being considered by the Board. He was asked to submit a formal request asking the Board to revisit its procedures regarding MSO Reports.

Consideration of Petition for Vessel Exemption: Motor Yacht *LUCKY SEVEN*. This request was withdrawn since it concerned the Grays Harbor Pilotage District, for which there are no exemption privileges.

2006 Annual Tariff Hearings Preparation. PSPD – Walt Tabler presented a brief overview of the Puget Sound Pilots' 5-Year Capital Spending Plan and fielded various questions from the Board.

For the past ten years the Puget Sound Pilots (PSP), Pacific Merchant Shipping Association (PMSA) and Polar Tankers (PTI) have been parties to a Memorandum of Understanding wherein tariff adjustment recommendations were unanimously established for presentation to the Board. This MOU has not been successfully re-negotiated at this time. Consequently each party submitted written and oral requests for rule amendments. After lengthy presentations of the new tariff proposals it was moved by Commissioner Hannigan and seconded by Commissioner Addington that the Board file a proposed tariff that reflects a range of increases to be charged for pilotage services in the Puget Sound Pilotage District for the 2006-2007 tariff year that will result in no less than 1.59% and no greater than 28.3% with the exception of certain itemized charges as detailed in the March 2, 2006 letter from PSP to the Board. The motion carried. The low end of the range of increases proposed by PMSA and PTI was applied across-the-board except for the *Transportation* and *Training Surcharge* categories to which no change was applied. The high end of the range of increases proposed by PSP was applied across-the-board except for the following categories: *Boarding Fee*, *Trial Trips*, *Docking Delay-after anchoring*, *Sailing Delay*, *Slowdown*, and *Delayed Arrival-Port Angeles* to which a 100% increase was applied; and *Training Surcharge* to which no change was applied. PSP proposes a modification to the cancellation portion only of the *Transportation* category as well the creation of a new category called *Draft Charges* for purposes of charging each vessel \$10 per foot of draft. PMSA and PTI do not support the addition of *Draft Charges* or the amendment to the *Transportation – Cancellation* category; nor do they support the 100% increase to the categories for which PSP proposes be increased by as much.

It was moved by Commissioner Palmer and seconded by Commissioner N. Davis that the Board accept the proposal as described above and file the proposed rule amendments with the Code Reviser for a public hearing to be held May 11, 2006. The motion carried.

Committee Reports:

Pilot Examination Committee. Peggy Larson reported that all applicants have received his/her certified letter containing the 2005 pilot examination results and responses to all review requests.

The 30-day window in which an applicant may appeal to the Board for a formal review will run until mid-March according to the certified mail receipts and pursuant to WAC 363-116-083(4).

Trainee Evaluation Committee.

- Trainee status report: Approximate trips completed to date ~ Kelly 45, Blake 45, Bujacich 30, Carlson 30, Sliker 40 and Ward 10. Pat Kelly and Bill Sliker have completed their initial evaluation programs. It was moved by Commissioner Niederhauser and seconded by Commissioner Hannigan that the TEC recommends to the Board that Captains Kelly and Sliker be approved to advance in the training program pursuant to WAC 363-116-078(5)(c). The motion carried.
- Captain Carlson has resumed training after being out on a brief medical leave.
- Based upon the Board's Policy Statement adopted at the February 9, 2006 Board meeting, the Training Program agreements for each trainee, and the log sheets submitted by each trainee, the TEC determined the prorated stipend payment amounts for each of the previous training months and for each trainee. In anticipation of the signing of the legislation each trainee will receive a retroactive payment based upon the calculations made by the TEC. There was some confusion regarding the method of calculation as to whether it was based on availability during a training month being defined as 20 days or as 30 days. Susan Cruise will review the Policy Statement as she previously indicated which may result in amending the Policy or implementing clarifying WAC language. It was moved by Commissioner Niederhauser and seconded by Commissioner Lee that the Board approve the calculations for retroactive stipend pay as prepared by the TEC (based on a 30/31-day training month) with the understanding that the stipend amounts may be re-visited next month. The motion carried. It was moved by Commissioner Niederhauser and seconded by Commissioner Hannigan that the TEC determine the like stipend payment for Jack Bujacich upon receipt of additional data subject to approval by the Chair or Vice Chair. The motion carried.

At the February 9, 2006 Board meeting, the TEC was tasked with making recommendations to the Board relating to the issues listed below. Commissioner Niederhauser presented an overview of each issue as well as various spreadsheet statistics. The following were intended for discussion purposes only at this time but will be taken up in the future for Board consideration:

- **Future trainees should be selected based on the need to maintain a licensed pilot roster of 55 pilots until such time as the Board has established the number of pilots in the Puget Sound District as required in WAC 363-116-065;**
- **Future trainees should be selected so that ideally there will be no more than 6 trainees per 10 month period in the training program (per this recommendation, the "Projection of Future Trainees and Pilots – 2006 to 2012" indicates that trainees #7, #8, and #9 would start in October 2006);**
- **The Board should consider methods of adjusting the number of training trips, simulator, manned model or other training experiences, and the tonnage thresholds in the first three years of license restrictions to achieve a relatively balanced number of assignments for each year;**
- **RCW 88.16.090 and relevant WACs may need to be amended to remove the requirement for a federal pilotage endorsement at the time of application, and accommodate an examination as early as the fall of 2007; and**
- **It is not practical to make a recommendation relative to the need for the Board to establish a federal ridership program until such time as the Board determines the time schedule and conditions for the next examination.**

Legal Update. Susan called for an Executive Session to discuss potential litigation. (This will be at the end of today's meeting.)

Administrator's Report. Dennis McLennan, CEO and Chairman of the Board of the Pacific Pilotage Authority in Vancouver, British Columbia, Canada will be retiring at the end of this month. Well wishes will be conveyed on behalf of the Board.

Pilots' Activity Reports. Captain Richard McCurdy, President, Puget Sound Pilots, reported that there were 661 jobs in February compared to a 604 average for the past 3 Februarys; B-Watch pilots are attending a BRM class at PMI for 2 days; there were 35 hours of ship-delays recently; a request for state-issued ID Cards was made; the long-standing By-Law requiring a 2/3 majority vote to become a Puget Sound Pilot was recently rescinded; and Capt. Fosse remains on medical leave.

A Port of Grays Harbor representative was not present. However, Ole Mackey reported that the maintenance dredging is now complete in Grays Harbor; and a grain ship measuring 44,000 tons (probably the largest load on record) recently left the Harbor.

Confirmation of Next Regular Meeting Date. The next regular meeting is scheduled for April 13, 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 physicians' reports it was moved by Commissioner Addington and seconded by Commissioner Lee that the annual physical examination reports for Captains V.K. Justice, S.A. Robichaux, J.T. Scoggins and M.D. Wood be accepted for license renewal. The motion carried. Captain Fosse remains on medical leave.

It was moved by Commissioner Addington and seconded by Commissioner Lee that the Board concur with Chairman Dudley's previous interim acceptance of the pilot trainee physical examination report for Captain John Ward on February 17, 2006, and the fit-for-duty physical examination report for pilot trainee Ivan Carlson on February 13, 2006. The motion carried.

An EXECUTIVE SESSION was called from 5:00 p.m. to 5:20 p.m. for purposes of discussing potential litigation. In attendance were Vice Chairman C. Davis, Commissioners Mackey, Niederhauser, Hannigan, Addington, Lee, Palmer and N. Davis; Susan Cruise, Judy Bell and Peggy Larson. Regular session was reconvened by the chairperson immediately following executive session.

The Vice Chairman adjourned the regular session Board meeting at 5:20 p.m.

Respectfully submitted,

Peggy Larson, Administrator

Absent

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

MEETING MINUTES

STATE OF WASHINGTON BOARD OF PILOTAGE COMMISSIONERS

April 13, 2006

Present:

Chairman: 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, Rob Kromann, Walt Tabler: Puget Sound Pilots

Mary Nelson: Port of Grays Harbor

Mike Moore, Luis Kohls: Pacific Merchant Shipping Association

Jeff Shaw: Polar Tankers

Scott Craig: Crowley Marine

Pat Kelly, John Ward: pilot trainees

Katharine Sweeney, Eric Klapperich: pilot applicants

Bruce Eckfeldt: Clipper Navigation

Ron Kinsey, Ken Alger: USCG Sector Seattle

Tom Paul: public

REGULAR MEETING

The regular meeting of the Board of Pilotage Commissioners was convened at 9:30 a.m. by Chairman Harry Dudley at 2901 Third Avenue, Seattle, Washington.

Minutes. There being no corrections or additions, the March 9, 2006 Minutes stand approved as written.

OLD BUSINESS

2006 Legislative Activity Report: ESSB 6870 “An act relating to the Board of Pilotage Commissioners’ Training Program”. Governor Gregoire signed the bill into law on March 14, 2006 under emergency provisions, making it effective immediately. The bill provides a funding appropriation to the Board for trainee stipends and other related agency expenses, as well as the authority to pay the stipends retroactively to December 1, 2005, using funds collected through the Puget Sound Pilotage District tariff designated specifically for training stipends.

NEW BUSINESS

Annual Review of Vessel Exemption: VICTORIA CLIPPER. The annual review of the vessel exemption for the *VICTORIA CLIPPER* shows the vessel and the operational status of Clipper Navigation, Inc. to be in compliance with the state statutory and regulatory requirements of RCW 88.16.070 and WAC 363-116-360. It was moved by Commissioner Lee and seconded by Commissioner Addington to continue the exemption for the *VICTORIA CLIPPER* for another year beginning May 1, 2006 through April 30, 2007, and remove Captains Michael Heys, Karen Arnold and David Fulton as approved masters as referenced in correspondence from Clipper Navigation dated March 30 and April 12, 2006. The motion carried. All licenses, endorsements and certificates that show an expiration date during this next exemption period shall be renewed as a matter of course and copies of such must be submitted to the Board’s office in order to retain good standing as an approved master.

Consideration of Petition for Vessel Exemption: Motor Yacht VANGO. A petition for vessel exemption was received regarding the foreign flagged 163’, 490 gross ton Motor Yacht *VANGO*. 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 April 3, 2006, subject to final Board approval at today’s meeting. It was moved by Commissioner C. Davis and

seconded by Commissioner Addington that the Board concur with his action and issue the exemption for the *VANGO* for one year so long as it remains in the charge of Captain David Hagerman. The motion carried.

Consideration of Petition for Vessel Exemption: *TAMEME MARINO*. A petition for vessel exemption was received regarding the foreign flagged 122', 210 gross ton small passenger vessel (crew boat) *TAMEME MARINO*. 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 April 3, 2006, subject to final Board approval at today's meeting. It was moved by Commissioner Hannigan and seconded by Commissioner Addington that the Board concur with his action and issue the exemption for the *TAMEME MARINO* for three months so long as it remains in the charge of Captain Richard Stabbert. The motion carried.

2006 Annual Tariff Hearings Preparation. PSPD – A 2006-2007 tariff proposal from Puget Sound Pilots has been submitted to the Board in addition to their 2005 audited Financial Statement in accordance with the timetable established for tariff document submission. Walt Tabler fielded several questions from Commissioner Addington concerning the Financial Statement. Chair Dudley urged the parties to address any remaining unclear issues prior to the tariff hearing. The written tariff proposal submitted today contains an amended request for a 25.94% tariff increase, which is different from the original request for a 28.3% increase that was filed with the Code Reviser. A public hearing has been filed for May 11, 2006 at 9:30 a.m. It was determined that a second day, May 12, may be required in the case of a continuation of either the public hearing or meeting.

GHPD – Mary Nelson briefly described the Grays Harbor Pilots' 5-Year Capital Spending Plan and request for proposed rule amendments which were received by the Board in accordance with the timetable established for tariff document submission. The tariff proposal reflects approximately a 2.5% increase to the Draft and Tonnage portion of the tariff, a \$9 decrease in the Pension Charge Category, and some language modifications concerning Terminal No. 2 as specified in the written request for adjustment from the Port of Grays Harbor dated April 11, 2006. It was moved by Commissioner Addington and seconded by Commissioner Mackey that the Board accept the Port of Grays Harbor's request as described above and as approved by the Grays Harbor Port Commissioners at their monthly meeting on April 11. The motion carried. The proposed rule amendments will be filed with the Code Reviser for a public hearing to be held June 8, 2006.

Trainee Stipend & Training Program Review. Following the last meeting when the Board approved the retroactive stipend payments, it was understood that this matter would be re-visited if requested. In a memo to the Board some trainees raised questions concerning the calculation of the stipend amounts, the criteria used to determine the stipend eligibility, and the definition of "full-time availability". Discussion followed regarding the need to clearly define the Board's intent regarding the February 9, 2006 Policy Statement, the Training Program Agreement and WAC 363-116-078(10), all of which address the trainee stipend requirements; and whether the trainees have a clear understanding of the Board's intent. It was determined that a more reasonable application of the requirements for receiving a stipend must be reached. It was moved by Commissioner Hannigan and seconded by Commissioner C. Davis that the memo referenced above be referred to the TEC for resolution. The motion carried. It was moved by Commissioner Hannigan and seconded by Commissioner Mackey that the TEC's recommended stipend payment amounts that were approved by the Chair and paid to the trainees stand. The motion carried with Commissioner Addington opposed. Chair Dudley added that this motion does not preclude a trainee from asking the Board (not the TEC) for reconsideration of their retro stipend payment amount.

Going forward, the TEC will determine the eligibility of trainees to receive a stipend based on their detailed training reports submitted each month. The stipends will no longer be pro-rated as they were for the first three months but instead will be either \$6000 or \$0. The criteria will be formally described by the TEC and shared with the trainees.

Pilot's Report of Marine Safety Occurrence: HYUNDAI ADMIRAL, 4-9-06. While departing Pier 5 South in the West Waterway, Seattle, the bow thruster failed causing a near allision with a crane. A tug was used to bring the ship back alongside the dock while the thruster was shut off and restarted. A second attempt to depart was successfully made and the vessel proceeded without incident. The Port was notified and requested to inspect the crane nonetheless. It was moved by Commissioner Lee and seconded by Commissioner Addington that this report of a navigational safety concern be filed as a Marine Safety Occurrence. The motion carried. Chairman Dudley asked Captain McCurdy to track the frequency of these types of bow thruster failures and inform the Board if it becomes an increasing problem.

A letter was received today from Jeff Shaw of Polar Tankers, Inc. requesting that the Board send copies of all near miss and safety occurrence reports to the pertinent vessel master and vessel owner. Since it is not required that the pilot inform the master of his filing of a report, Jeff feels that in the interest of bridge team management and teamwork it is imperative that the reports be shared. Chair Dudley suggested deferring this discussion to a time when a bigger scope of review can be considered, perhaps by a committee, to look into the entire process of reporting such events.

Pilot's Report of Incident: ALASKAN FRONTIER, 4-6-06. Commissioner Hannigan gave a slide presentation and a very detailed narration concerning this report. Commissioner Lee reported on the information he gathered from Alaska Tanker Company with respect to a survey and a damage estimate of \$34,000. This vessel is one of the largest to call in Puget Sound with an LOA of 943', a beam of 164' and a gross tonnage of 110,693. The pilot reported that the docking at the Port Angeles Port Dock appeared to be uneventful with no damage observed or reported to him. He later received a phone call from a dock official advising him of some dock damage. The pilot's report included pictures of the damage allegedly caused by this incident. Based upon the crunching noise reported by the line handlers that was reported by Commissioner Hannigan to be the asphalt breaking up, it was moved by Commissioner C. Davis and seconded by Commissioner Palmer that this matter be declared an "Incident with damage and without pilot error". The motion carried.

Follow-up Regarding:

Deep-Water Anchoring ~ Commissioner Niederhauser has a draft Safety Bulletin almost ready for the Board to review but asked for direction on whether the Board wants to consider it as an agency bulletin or let the Harbor Safety Committee incorporate it into the Harbor Safety Plan. He will discuss it further with Captain Mike Moore and present the draft at the next Board meeting.

Vessel Safety re Standard of Care ~ Commissioner Norm Davis recently met with two Coast Guard officials to discuss our common concern for reducing propulsion losses. Due to their unavailability they were unable to attend today's meeting.

Vessel Exemptions ~ Commissioner Palmer presented and briefed the Board on a matrix of various pilotage authorities' regulations regarding vessel exemptions that he and Captain Hannigan had researched and prepared. Chair Dudley asked all Board members to study it during the next couple of months and prepare to discuss potential amendments to our particular state laws.

Committee Reports:

Pilot Examination Committee. Six applicants have made requests for a formal review of their pilot examinations. A letter has been sent from Chairman Dudley to the Chief Administrative Law Judge asking that he appoint an ALJ to hear the cases.

Trainee Evaluation Committee.

- Trainee status report: Approximate trips completed to date ~ Kelly 70, Blake 85, Bujacich 50, Carlson 45, Sliker 58 and Ward 22. Jack Bujacich has completed his initial evaluation program. It was moved by Commissioner Hannigan and seconded by Commissioner C.

Davis that the TEC recommends to the Board that Captain Bujacich be approved to advance in the training program pursuant to WAC 363-116-078(5)(c). The motion carried.

- Commissioner Niederhauser stated that the TEC has resolved certain issues regarding the “sharing of hard-to-get-trips”.
- The TEC will meet later today.

Miscellaneous Correspondence Review. In a letter dated April 11, 2006 from Captain Stephen Cooke, Grays Harbor Pilot, he is requesting the Board to grant him permission to complete his first-year mandatory simulator training course one week after his first license year anniversary date. It was moved by Commissioner Mackey and seconded by Commissioner Addington to approve the request made in Captain Cooke’s letter to extend the dates to allow him to take the specified training course while meeting the requirements for his license upgrade. The motion carried.

The Board was copied on a letter from PSP to the Port of Olympia supporting the US Corps of Engineers Olympia Harbor Navigation Project. Commissioner Mackey volunteered to draft a letter for Board consideration that voices the Board’s support of the project as well. It was suggested that perhaps a letter of support regarding the navigation channel dredging project in Grays Harbor also be drafted for Board consideration.

On March 17, 2006 several letters were sent to vessel operators, owners and agents from the Puget Sound Pilots announcing its decision to suspend direct pilotage service between Puget Sound ports and lower British Columbia. Discussion covered jurisdictional issues involving pilot operations and earnings related to Canadian assignments as well as safety issues that could result from requiring more Canadian bound vessels to now depart through Port Angeles.

Casey McConville has contacted the Board once again for consideration of his extension of sea time related to sitting for the next pilot exam. A response at this time is premature until the Board has determined whether the next exam will fall before or after July 1, 2008, when qualification criteria to take the exam will change.

Administrator’s Report. It was brought to the attention of the Board that Captain D’Angelo’s upgrade reports submitted on behalf of Captain Cooke for a license upgrade are incomplete. The TEC was assigned to work out a resolution.

Pilots’ Activity Reports. Captain Richard McCurdy, President, Puget Sound Pilots, reported that there were 664 jobs in March compared to a 629 average for the past 3 Marches; a work spike is expected beginning May 11 due to the summer cruise ship traffic; the dispatching system is being revamped with respect to re-pos and compressing rest periods; Captain Fosse remains on medical leave and should return to work in June; Captains Carl Engstrom and John Harris were recently sent to Port ASH (Australia Ship Handling) for purposes of exploring the possibility of using the facility in the winter months for manned model training; four cranes arrived at Pier 18 recently ~ three will stay in Puget Sound and one will be moved to Portland; three pilots (Johannes, Lichty and Robichaux) have submitted their requisite letters of intent to retire; and during the month of April there were 33 hours of delays with only a few related to inbound ships through Port Angeles.

Mary Nelson, Director of Finance and Administration of the Port of Grays Harbor, reported that vessel arrivals are running slightly under projections (90%) ~ Bay City is slightly up and the bulk facility is a little down; both pilots are currently in the district working; the one-millionth ton going through the bulk facility in just two years was recently celebrated; and a navigational channel deepening project that was approved in the 1980’s is currently being resumed ~ approval for 38’ was granted but deepening only went to 36’ back then ~ funding to complete the remaining two feet is being sought.

Public Comments. Katharine Sweeney, pilot applicant, questioned the Board regarding insurance coverage for pilot trainees who are receiving a stipend. It was made clear that trainees receiving stipends are similar to pilots in that they are independent contractors, not employees, and that the stipends are not wages. All types of insurance coverage are the responsibility of the trainee.

Confirmation of Next Regular Meeting Date. The next regular meeting is scheduled for May 11 and could get continued to May 12, 2006, if necessary. The Puget Sound Pilotage District tariff hearing will begin at 9:30 a.m. followed by the regular Board meeting. The hearing and meeting will be held in the Fourth Floor Rainier Conference Room, at 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 Addington that the annual physical examination reports for Captains W.A. Bock, R.L. D'Angelo, C.C. Hunziker, B.S. Knowles, R.N. Kromann, E.C. Lichty, M.G. Mendenhall, D.A. Sanders and M.J. Shuler be accepted for license renewal. The motion carried. Captain Fosse remains on medical leave.

The Chairman adjourned the regular session Board meeting at 3:15 p.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