

# MEETING MINUTES

## STATE OF WASHINGTON ~ BOARD OF PILOTAGE COMMISSIONERS

May 19, 2010

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Present:

Chairman: Harry Dudley

Commissioners: Chuck Adams, Ned Kiley, Pat Hannigan, Dick McCurdy, Craig Lee, Doug Coburn,  
Norm Davis and Elsie Hulsizer

Administration: Shawna Erickson, Peggy Larson

Andy Coe, Dave Sanders, Don Mayer, Dan Shaffer, Stuart Mork, David Brusco, Eric vonBrandenfels,  
Pat Kelly, Alec Newman, Verne Justice, Bill Bundren, Jonathan Ward, Larry Emerson, Walt Tabler:  
Puget Sound Pilots

Mike Moore, Jordan Royer, Polly Kirkpatrick, Vince Addington: Pacific Merchant Shipping Association

Jeff Shaw: Polar Tankers

David Moseley: Washington State Ferries

Mary Nelson: Port of Grays Harbor

Eric Johnson: Washington Public Ports Association

Sean Eagan: Port of Tacoma

Kathy Fletcher: People for Puget Sound

Bill Greig, Bruce Horton: San Francisco Bar Pilots

Charlotte Grist: Sussman Consulting

Ron Kinsey: USCG Sector Seattle

Loren Lee: Public

Del Kelly, Mike Gavin, Bill Bock, Mel Flavel: Retired Puget Sound Pilots

### PUBLIC HEARING

A public hearing of the Board of Pilotage Commissioners was convened at 9:00 a.m. by Chairman Harry Dudley at 2901 Third 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 pilotage tariffs. The proposed rule reflects a range of adjustments to be charged for pilotage services in the Puget Sound Pilotage District for the 2010-2011 tariff year. The filing was based on separate proposals presented by the Puget Sound Pilots and the Pacific Merchant Shipping Association which detailed their requests for rule amendments. The low end of the range was proposed by the Pacific Merchant Shipping Association and the high end of the range was proposed by the Puget Sound Pilots. The Puget Sound Pilot's initial request reflected either an increase of 10% in all categories except *Transportation* and *Training Surcharge* or an increase to just the *Boarding Charge* Category from the current \$47 to \$415. Subsequent to the filing of this proposed rule, PSP submitted their written proposal dated April 8, 2010, which reflected a revision for an increase of 7.3% in all categories except *Transportation* and *Training Surcharge* and an increase in the *Boarding Charge* Category from \$47 to \$297. The Pacific Merchant Shipping Association's initial request reflected a decrease of 10% in all categories except *Transportation* and *Training Surcharge*. Subsequently, PMSA submitted their written proposal dated April 13, 2010, which reflected a revised request for a decrease of 5% in all categories except *Transportation* and *Training Surcharge*.

All written documents submitted in accordance with the timetable established for tariff document submission were considered in today's tariff determination in addition to all other written and oral testimony from interested parties and members of the public.

Oral testimony on behalf of the Puget Sound Pilots was presented by Walt Tabler and Captains Andy Coe and Dave Sanders. Oral testimony on behalf of the Pacific Merchant Shipping Association was presented by Captain Mike Moore and Jordan Royer. Ms. Kathy Fletcher, People for Puget Sound and Mr. Eric Johnson, Washington Public Ports Association, also provided oral testimony. Rebuttals followed. The public hearing was closed by Chairman Dudley at 12:45 p.m. This hearing was recorded.

## **REGULAR MEETING**

The regular meeting of the Board was convened at 12:55 p.m. by Chairman Harry Dudley.

**Consideration of Preceding Hearing: WAC 363-116-300.** All written and oral testimony was reviewed and considered by the Board. Motion: Coburn/Lee – reduce the PSPD tariff across-the-board by 5% except the *Transportation* and *Training Surcharge* Categories – Failed, 2 in favor and 6 opposed. Motion: Hannigan/McCurdy – increase the PSPD tariff across-the-board by 5% except the *Transportation* and *Training Surcharge* Categories – Motion to amend: Lee/Coburn – amend the PSPD tariff by 0% across-the-board - Both Failed, 2 in favor and 6 opposed on the original motion and the motion to amend. Motion: Adams/Davis – amend the PSPD tariff by 0% except for an increase to the *Boarding Charge* Category from \$47 to \$200 – Motion to amend: increase the PSPD tariff by 4.6% (2.7% on the *Boarding Charge* Category and 1.9% on the remainder) except the *Transportation* and *Training Surcharge* Categories – Motion to amend Failed, 2 in favor and 6 opposed. The original motion Failed in a tie, Hulsizer, Lee, Adams, Davis in favor and Coburn, Kiley, McCurdy, Hannigan opposed. Motion: Kiley/Hannigan – increase the PSPD tariff across-the-board by 3% except the *Transportation* and *Training Surcharge* Categories – Carried - Hulsizer, Davis, Kiley, McCurdy, Hannigan in favor; Lee, Coburn opposed; Adams abstained.

The effective period of the new tariff is from 0001 hours on July 1, 2010 through 2400 hours on June 30, 2011. (2:05 p.m.) Ten minute break.

**Minutes.** There being no corrections or additions, the April 8, 2010 Minutes stand approved as written. The May 3, 2010 Minutes were approved with one editorial change.

## **OLD BUSINESS**

**Pilot's Letter Report: FURIA R, 11-5-09.** The full investigative report was received from Sussman Consulting and an overview of the findings and recommendations was presented to the Board by Ms. Charlotte Grist. A second incident is currently being investigated by Sussman Consulting involving Captain Stephen Cooke and it is the Board's desire to wait for that report until it considers action relative to either event. This item will remain on the agenda until the second investigative report is received.

## **NEW BUSINESS**

**Approval of Pilot Training Programs for Captain Jim Kearns and Captain Mike Anthony.** The TEC evaluated the experience of Captains Kearns and Anthony for purposes of developing customized pilot training programs. Motion: Hannigan/Lee – the Board accept the two training programs as drafted by the TEC – Carried. They have fifteen days to respond to the Board concerning the acceptance of their training programs.

**Issuance of Pilot Trainee License for Captain Jim Kearns.** Motion: Hannigan/Coburn - upon acceptance of his Pilot Training Program, the Board shall issue Captain Jim Kearns *Trainee License #25* intended for commencement of training on June 1, 2010 – Carried.

### **Consideration of Request for Vessel Exemption:**

**Motor Yacht SWEET HOPE** – 65', 73 gross tons, United Kingdom registry, Captain George T. Morgan-Harris. Motion: Lee/Davis – concur with Chair's granting of interim annual exemption – Carried.

**Motor Yacht GOLDEN BOY II** – 115', 236 gross tons, Marshall Islands registry, Captain Craig Foss Campbell. Motion: Lee/Davis – concur with Chair's granting of interim annual exemption – Carried.

**Motor Yacht C 1** – 96', 190 gross tons, Marshall Islands registry, Captain Brent Daw. Motion: Lee/Davis – concur with Chair's granting of interim annual exemption – Carried.

**Motor Yacht FERIA** – 65', 95 gross tons, Netherlands registry, Captain Felix Brenninkmeijer. Motion: Lee/Davis – concur with Chair's granting of interim three-month exemption – Carried.

**Motor Yacht LAST MANGO** – 55', 53 gross tons, British Virgin Islands registry, Captain David Lee. Motion: Lee/Davis – concur with Chair's granting of interim three-month exemption – Carried.

**Motor Yacht SHEAR FANTASEA** – 113', 221 gross tons, Marshall Islands registry, Captain Wayne Nolander. Motion: Lee/Davis – concur with Chair's granting of interim annual exemption – Carried.

**Motor Yacht *MEA CULPA*** – 130', 302 gross tons, Cayman Islands registry, Captain Mike Hein.  
Motion: Lee/Davis – grant an annual exemption – Carried.

**Motor Yacht *CRESCENDO*** – 112', 208 gross tons, Marshall Islands registry, Captain Chris Lane.  
Motion: Lee/Davis – concur with Chair's granting of interim three-month exemption – Carried.

**Motor Yacht *ACERO AZUL*** – 98', 136 gross tons, Marshall Islands registry, Captain Robert Petrina.  
Motion: Lee/Davis – concur with Chair's granting of interim three-month exemption – Carried.

**Pilot's Report of Marine Safety Occurrence: *STX DAISY, 4-14-10.*** A USCG inspection team boarded the vessel at Port Angeles where the master was investigated for apparent intoxication. The captain of the vessel was relieved of his commend and the pilot was requested to bring the vessel to anchor in Port Angeles. Motion: Lee/Coburn - File as a Marine Safety Occurrence - Carried.

**Pilot's Report of Marine Safety Occurrence: *HORIZON TACOMA, 5-5-10.*** After departing the Sitcum Waterway for Port Angeles the *HORIZON TACOMA* encountered the motor yacht *LESTRALAU* whose operator was not aware of her proximity to the ship's position in Tacoma Harbor and location with respect to the traffic separation scheme. VTS was contacted by the pilot which led to the boarding of two members of the Coast Guard Sector Seattle Marine Investigations Division onto the yacht. Several VTS regulations and navigation rules were violated and consequently the vessel was ordered by the Captain of the Port to not get underway until these were satisfactorily rectified. Motion: Hannigan/Lee - File as a Marine Safety Occurrence - Carried.

**2010 Annual Tariff Hearings Preparation: GHPD** – A 2010-2011 written tariff proposal from the Port of Grays Harbor has been submitted to the Board in addition to the 2009 unaudited Financial Statement in accordance with the timetable established for tariff document submission. A CR-102 has been filed setting a public hearing for June 10, 2010 at 9:30 a.m. PMSA's tariff proposal is due May 25<sup>th</sup> and the PGH's rebuttal on June 3<sup>rd</sup>, along with any other written public comments or proposals. Any member of the public will also have an opportunity to testify at the hearing.

**Procedures for Submittal of 2011 Agency Request Legislation.** The schedule for submission of agency-sponsored legislation has been released by the Governor's office. Proposed legislation for consideration during the 2011 Legislative Session is due by September 24, 2010 if no fiscal impact. At this time, the Board is not anticipating submittal of any Agency Request Legislation.

#### **Committee Reports.**

##### **Trainee Evaluation Committee:**

- The TEC met on May 4<sup>th</sup> and 18<sup>th</sup>.
- Training Program status was reviewed for trainees Caspers, Scragg and Bouma.
- Captain Scragg is nearing completion of his prescribed training program.
- Captain Anacker returned to his training program this month.
- Captain Jim Caspers has completed his training program extension. Discussion and review of his training status will occur in Closed Session later today.
- Captains Jim Kearns and Mike Anthony will participate in pilot trainee orientation on May 21<sup>st</sup> with members of the TEC.

**Legislative/WAC Committee:** There was no activity to report at this time.

**Activity Reports.** Mary Nelson, representing Port of Grays Harbor, reported there have been 25 arrivals year-to-date; traffic is showing 2-3 RO/RO ships per month and 1-2 log ships per month; and summer will bring a typical small decline in traffic.

Captain Andy Coe, representing Puget Sound Pilots, reported there were 582 jobs in April 2010; and comp days taken in April were 53 for a cumulative total of 3,308 days.

##### **Administrator's Report.**

- Captain Mel Flavel's pilot license expires today which brings the total number of state-licensed pilots to 55, one over the newly set number of 54 pilots.

- It was noted there is an open position on the Legislative/WAC Committee recently vacated by Commissioner Jeff Thompson. No new appointment has been made.

**Commissioner Comments.** Commissioner Elsie Hulsizer expressed her desire to conduct future tariff hearings with an approach towards a neutral analysis and without the emotional infusion.

**Confirmation of Next Regular Meeting Date.** The next regular meeting is scheduled for Thursday, June 10, 2010. The Grays Harbor 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 First Floor Agate Conference Room, at 2901 Third Avenue, Seattle.

**Review of Pilot Physical Examination Reports.** Motion: Lee/Davis - accept the physicians' reports for Captains V.O. Engstrom, D.W. Grobschmit, G.D. Hurt, J.E. Kalvoy, R.F. McCurdy, B.L. Michelson, S.E. Mork and S.D. Semler for annual pilot license renewal and Captain Jim Kearns for initial training licensure - Carried. Motion: Lee/Hulsizer – require Captain S.D. Semler to submit a follow-up in four months – Carried. The Board reaffirmed its directive to Chair Dudley to review the physical exam report requested from Captain Stephen Cooke if received prior to the next Board meeting and if the report is satisfactory, return him to active status.

**A CLOSED SESSION was called from 3:55 p.m. to 4:35 p.m. regarding a personnel evaluation of** Captain Jim Caspers and ongoing legal issues concerning Captains Surface, Toney and Webster. In attendance were Chairman Dudley, Commissioners Adams, Kiley, Hannigan, McCurdy, Lee, Coburn, Davis and Hulsizer; Shawna Erickson and Peggy Larson. Regular session was reconvened by the chairman immediately following closed session.

**REGULAR MEETING cont'd.**

Motion: Hannigan/Adams – issue a three-month training program extension to pilot trainee, Captain Jim Caspers, designed by the Trainee Evaluation Committee and approved by the Board – Carried.

After review and consideration of several mediation proposals offered by Captains Surface and Toney the Board gave Chairman Dudley authority to act on the proposals as discussed.

There being no further business to come before the Board, Chairman Dudley adjourned the regular session Board meeting at 4:40 p.m.

Respectfully submitted,

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Peggy Larson, Administrator

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Harry H. Dudley, Chairman

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Commissioner Charles F. Adams

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Commissioner Edmund I. Kiley

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Commissioner Patrick M. Hannigan

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Commissioner Richard F. McCurdy

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Commissioner Craig W. Lee

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Commissioner Douglas S. Coburn

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Norman W. Davis, Acting Vice Chairman

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Commissioner Elsie J. Hulsizer