

STATE OF WASHINGTON
MARINE EMPLOYEES' COMMISSION
Evergreen Plaza Building
P.O. Box 40902
Olympia, Washington 98504-0902
(360) 586-6354
www.marineempcom.org

Friday, January 28, 2011 – 10:00 a.m.
2nd Floor Conference Room—Evergreen Plaza Building, Olympia

MINUTES

Present: Members and staff - John R. Swanson, Chairman
John M. Cox, Commissioner
Linda Hoverter, Special Assistant
Kathy Marshall, Administrator

Others - Jeff Duncan, Marine Engineers Beneficial Association
Glenn Frye, OFM Labor Relations Office
Jerry Holder, OFM Labor Relations Office
Leah Maurseth, WSF Labor Relations
Jeff Pelton, WSF Labor Relations
Mark Schutter, WSF Labor Relations
David Slown, WSF Assistant Attorney General
Jay Ubelhart, Inlandboatmen's Union of the Pacific

The meeting was called to order at 10:00 a.m.

Moved, seconded and carried: to adopt the agenda distributed at the meeting.

Moved, second and carried: to approve the minutes of the December 10, 2010 meeting.

STATUS OF CASES

MEC Case No. 16-08

MEBA v. WSF—At conclusion of the review hearing on 8/27/10, Judge McPhee affirmed MEC's decision. On 9/23/10, MEC was informed that WSF has filed an appeal with the Court of Appeals.

The State filed its brief on 12/23/10. MEBA filed its response brief on 1/20/11. AAG Daniels requested and received a 30-day extension (to 2/23/11) for filing MEC's brief.

On 1/22/10, Jeff Duncan reported that members have been paid the retro portion of the award through 8/31/09. As of 9/24/10, the parties continue discussions to resolve how the issue will be handled going forward. They met again the end of October. On 11/1/10, Glenn Frye notified MEC that the parties are at impasse regarding Watch Turnover and requested a mediator be appointed. Mediator Rick Oglesby was assigned. On 11/15/10, MEBA Counsel notified MEC that there are at least 2 issues to be bargained—WSF's proposed changes to watch turnover procedures and MEBA's request for progress payments. That information has been provided to the Mediator. On 12/15/10, the parties participated in mediation with Rick Oglesby. They are at impasse and moving the matter to interest arbitration. **By letter on 1/21/11, MEBA re-invoked jurisdiction pursuant to Decision 563-MEC, indicating the State has not paid for turnover duties since MEC's Award issued in 2009. During MEC's 1/28/11 meeting, AAG Slown stated the parties disagree on when additional watch turnover payments have to be made.**

MEC Case No. 21-08

IBU v. WSF—Unfair labor practice complaint filed 6/20/08 and amended 6/23/08 and again 6/26/08 in which IBU charges WSF with interference and refusal to bargain. Specifically IBU charges WSF with a unilateral change in the working conditions of unlicensed deck department employees (filling open assignments for Summer 2008). The parties reached agreement on issues 1, 2 and 3. On 1/7/09, WSF filed its Answer to the Amended Complaint. On 9/25/09, IBU requested that a hearing be scheduled on the issue of assignment of AB work. Chairman Swanson reminded the parties that their "Dispatch Rules" settlement provides for resolution of related disputes such as this one through private arbitration with Liz Ford. On 4/23/10, AAG Slown reported that counsel agree the expedited dispute process is appropriate for resolving the dispute, but have not scheduled with Arbitrator Liz Ford yet. On 7/23/10 the parties reported they have not yet found time to schedule an arbitration date with Ms. Ford. (IBU is not ready to withdraw Case 21-08 at this time.) **The parties are ready to schedule this issue for interest arbitration. On 1/28/11, Jay Ubelhart reported that he now has some possible dates for arbitration with Liz Ford.**

MEC Case No. 7-10

IBU v. WSF—Unfair labor practice complaint filed 11/5/09 in which IBU charges WSF with interference and refusal to bargain. Specifically IBU alleges that WSF has failed to abide by Rule 3.04/single day vacation hours. On 3/12/10, the parties participated in a settlement conference with Commissioner Cox. They were unable to reach agreement on the issue. Due to a scheduling conflict on 5/4/10, Hearing Examiner Warren cancelled the 6/9/10 hearing and 5/26/10 answer deadline. On 6/16/10, WSF filed its Answer to the Complaint. The 6/30/10 hearing was cancelled due to AAG Slown's illness. The hearing is rescheduled for 12/16/10. **On 12/10/10, IBU requested the 12/16 hearing be continued due to the unavailability of**

witnesses. WSF did not object to the request. Commissioner Warren cancelled the 12/16/10 hearing date. Chairman Swanson has been substituted as Hearing Examiner for Case 7-10 (Commissioner Warren's resignation was effective the end of 2010). The hearing has been continued to 3/7/11.

MEC Case No. 8-10

MM&P v. WSF—Unfair labor practice complaint filed 12/21/09 in which MM&P charges WSF with refusal to bargain. Specifically IBU alleges WSF failed to adhere to the terms of the memorandum of understanding which provided for an agreement to negotiate and arbitrate a replacement for the Dispatch By Seniority program if either party elected to terminate that agreement. On 12/10/10, Tim Saffle reported that MM&P is awaiting a response to its last proposal. **On 1/5/11, Jerry Holder, LRO, provided MEC with a copy of the parties' signed agreement resolving the issue. Case is to be closed. On 1/19/11, MEC entered Order Closing Settled Complaint, Dec. No. 597-MEC.**

MEC Case No. 9-10

IBU v. WSF (Keith Hunt)—Grievance filed 1/27/10 in which IBU alleges WSF failed to pay Keith Hunt travel time and mileage for days worked in Anacortes in the summer of 2009. On 3/12/10, the parties participated in a settlement conference with Commissioner Cox. On 5/21/10, Jay Ubelhart reported that he communicated with the grievant and IBU intends to proceed to hearing. **The parties gathered for a hearing on 1/6/11 before Arbitrator Swanson, but the hearing was not convened. Instead, IBU and WSF engaged in further settlement discussion. Their efforts resulted in the matter being resolved. WSF provided MEC with a final copy of the signed settlement agreement the same day. On 1/19/11, MEC entered Order Closing Settled Grievance, Dec. No. 599-MEC.**

MEC Case No. 11-10

Jonathan Pearson v. WSF—Unfair labor practice complaint filed 2/12/10 in which Mr. Pearson charges WSF with interference, domination, discouraging union membership, discrimination, and refusal to bargain related to Mr. Pearson's termination. Initially, the Commission decided to hold this matter in abeyance until Case 12-10 was resolved. However, the parties agreed to participate in a joint settlement conference for the two cases. On 9/28/10, the parties participated in a joint settlement conference for Cases 11-10 and 12-10 with Chairman Swanson. Mr. Pearson subsequently agreed to withdraw Case 12-10. MM&P is representing Mr. Pearson in Case 11-10. MEC is waiting for a response from MM&P Counsel regarding further scheduling. On 12/10/10, Tim Saffle reported that Mr. Pearson is considering a settlement proposal. **On 12/14/10, MEC received notice from MM&P Counsel R. Fenrich that her firm no longer represents Mr. Pearson. (MM&P has withdrawn from the case.) Mr. Pearson has indicated he wants to proceed to hearing on his own. On 1/24/11, WSF filed its Answer to the complaint. A hearing is scheduled for 2/7/11.**

MEC Case No. 13-10

OPEIU Local 8 v. WSF—Petition for Clarification of Existing Bargaining Unit, specifically vessel work order manager position. On 12/10/10, OPEIU Representative Valerie Peaphon indicated the parties may have reached an agreement on this issue. **On 12/16/10, Benita Hyder, OPEIU, withdrew the petition. On 1/19/11, MEC entered Order Closing Resolved Petition for Unit Clarification, Dec. No. 596-MEC.**

MEC Case No. 14-10

MEBA v. WSF—Unfair labor practice complaint filed 3/17/10 in which MEBA charges WSF with refusal to bargain. Specifically MEBA alleges WSF unilaterally implemented a Key Box System without notice to or bargaining with the Union. MEBA's complaint included notice to the Commission that it intends to file a motion for temporary relief. On 4/12/10, the parties requested that the 4/15/10 settlement conference be cancelled. WSF needs more time to provide information MEBA requested. The parties negotiated the key box issue on 4/23 with another matter. Mediator Swanson cancelled the 4/15/10 settlement conference for Case 14-10. On 10/22/10 Jeff Duncan reported MEBA and WSF are still negotiating this issue. On 11/10/10, MEBA Counsel notified MEC that negotiations have broken down and requested MEC schedule a hearing. **On 1/12/11, WSF filed its Answer to the Complaint. On 1/24/11, MEBA Counsel requested the 1/26 hearing be postponed. The Governor scheduled a meeting with the unions on that date; Jeff Duncan must attend and he is also chief witness for the Union in this case. WSF Counsel did not oppose the request. Examiner Swanson has cancelled the 1/26/11 hearing. MEC will reschedule with the parties.**

MEC Case 15-10

MEBA v. WSF—Unfair labor practice complaint filed 3/26/10 in which MEBA charges WSF with refusal to bargain. Specifically MEBA alleges WSF has decided that unlicensed engine room personnel—Oilers and Wipers—should not be allowed to have parking spaces at the Bainbridge Island Terminal. On 7/14/10, the parties participated in a settlement conference with Mediator Cox, but were unable to resolve the issue. They intend to continue discussing. During MEC's 7/23/10 public meeting, Karol Kingery, MEBA, requested the 9/2 hearing be converted to a settlement conference. AAG Slown did not object. Hearing Examiner Warren granted the request. The 9/2 hearing and 8/19 date for WSF to answer the complaint have been cancelled. On 9/2/10, the parties engaged in further settlement discussions with Mediator Cox. The matter is not yet resolved; however MEBA intends to communicate with IBU regarding a possible agreement for use of a parking space. **As of 1/28/11, MEBA and IBU are still discussing.**

MEC Case No. 16-10

IBU v. WSF (Pascual)—Grievance filed 4/19/10 in which IBU alleges WSF restricted Elmer Pascual's bumping/bidding on OS positions, in violation of the contract. On 4/26/10, MEC received a copy of a letter from Jerry Holder to IBU asserting that the request for arbitration is untimely. On 6/15/10, IBU responded to Mr. Holder's letter. On 9/15/10, the parties participated in a settlement conference with Mediator Cox; they made significant progress. They agreed to use the 10/14 hearing date for a settlement conference in Case 17-10. MEC will reschedule another settlement conference and hearing date for Case 16-10. On 10/13/10, the parties met again with Mediator Cox to continue settlement discussions. They are close to reaching agreement. The hearing remains scheduled for 12/13/10. During the 10/22 MEC meeting, Jay Ubelhart, IBU, noted the parties have exchanged some information and hope to get the issue resolved. On 10/22/10, MEC received a letter from AAG Anderson requesting MEC dismiss this grievance as untimely. IBU Counsel responded on 10/29; WSF replied to IBU's response on 11/2. On 11/2, MEC issued Order Denying WSF's Motion to Dismiss. On 12/9/10, the parties requested the 12/13 hearing be continued while they exchanged proposals that may settle the matter. Arbitrator Swanson granted the request. The 12/13/10 hearing has been cancelled. On 1/28/11, Jerry Holder stated he is waiting for a proposal from IBU. **The hearing has been continued to 3/1/11.**

MEC Case No. 19-10

Christopher Johnson v. MEBA & WSF—Unfair labor practice complaint filed 5/17/10 in which Mr. Johnson charges breach of duty of fair representation/discipline. Specifically Mr. Johnson alleges MEBA acted with restraint and coercion and WSF interfered. Some progress was made during the 9/30/10 settlement conference with Chairman Swanson. The parties intended to continue discussions thereafter. When contacted by MEC on 11/5/10, Counsel Rhodes indicated the parties were unable to resolve the matter. On 12/3/10, MEBA requested the 2/23/11 hearing be continued; Mr. Leahy has a schedule conflict. Opposing counsel did not object. Examiner Cox granted the request. The 2/23/11 hearing and 2/9/11 deadline for respondents to answer the complaint have been cancelled. MEC will coordinate with the parties to reschedule. **The hearing has been continued to 3/24/11. MEBA and WSF are to file answers to the Complaint on or before 3/10/11.**

MEC Case No. 2-11

IBU v. WSF—Grievance filed 9/14/10 in which IBU alleges WSF reduced OS relief positions. The parties participated in a settlement conference on 11/30/10 with Commissioner Warren. They were unable to resolve the issue. Commissioner Cox was substituted as Arbitrator on 12/16/10. On 1/6/11, IBU withdrew the grievance. (The hearing was cancelled.) **On 1/19/11, MEC entered Order Closing Withdrawn Grievance, Dec. No. 599-MEC.**

MEC Case No. 3-11

IBU v. WSF—Grievance filed 9/14/10 in which IBU alleges WSF violated the 9/09 elimination of touring watches MOU (limitation on flexing shifts). **On 1/18/11, IBU and WSF participated in a settlement conference with Mediator Cox, but were unable to resolve the issue. On 1/26/11, IBU Counsel requested the scheduled 2/2 hearing be continued. One of IBU's main witnesses is unavailable. WSF did not object. The 2/2/11 hearing has been cancelled. MEC will reschedule with the parties.**

MEC Case No. 4-11

IBU v. WSF—Unfair labor practice complaint filed 9/13/10 in which IBU charges WSF with interference, discouraging union membership, refusal to bargain. Specifically IBU charges WSF with violation of the Morvan agreement (voluntary lay-off for 2nd year hires). **On 1/27/11, IBU and WSF participated in a settlement conference with Commissioner Cox. The parties made significant progress and are still discussing the issue. At their request, MEC will convert the 2/17/11 hearing date to another settlement conference.**

MEC Case No. 5-11

IBU v. WSF—Grievance filed 11/5/10 in which IBU alleges WSF altered Terri Maulin's shift on 7/5/10. On 11/10/10 IBU notified MEC that the parties have settled this dispute. On 12/6/10, IBU provided MEC with a signed copy of the parties' settlement agreement, including IBU's withdrawal of the case. **On 12/10/10, MEC entered Order Closing Settled Grievance, Dec. No. 595-MEC.**

MEC Case No. 6-11

IBU v. WSF (Coleman)—Grievance filed 12/14/10 in which IBU alleges WSF denied overtime to Michael Coleman. **On 1/20/11, AAG Anderson requested the 2/9 settlement conference be continued. He was recently reassigned to this case and had a schedule conflict on 2/9. IBU did not object. Mediator Swanson has cancelled the 2/9 settlement**

conference. The settlement conference has been rescheduled for 2/22/11. The hearing remains scheduled for 3/28/11.

MEC Case No. 7-11

IBU v. WSF (DeBlasio)—Grievance filed 12/16/10 in which IBU alleges WSF terminated Brandanna DeBlasio without all of the appropriate progressive discipline steps. A settlement conference is scheduled for 2/22/11 and the hearing for 4/6/11.

MEC Case No. 8-11

IBU v. WSF (Ramsey)—Grievance filed 1/14/11 in which IBU alleges WSF violated Rule 1.01 and Rule 5 of the collective bargaining agreement when Robin Ramsey was terminated. By letter on 1/20/11, Jerry Holder, LRO, declared the grievance untimely and requested the Commission decline to exert jurisdiction over it. On 1/24/11, IBU provided MEC with a copy of a letter sent to J. Holder on 9/21/10, as explanation for the Union’s delay in filing. **The Commission will schedule a hearing on both the issue of timeliness and the merits of the case.**

STATUS OF COLLECTIVE BARGAINING 2011-2013

OFM (Office of Financial Management) declared the contracts fiscally unfeasible. As of January 2011, a coalition of ferry employee unions (all but FASPAA and SEIU) are back at the bargaining table with the State to renegotiate the contracts.

FASPAA..... Negotiations began in May. The parties were scheduled for interest arbitration on 8/11 and 8/12 before Arbitrator Sylvia Skratek. On 8/3/10, MEC received the lists of disputed issues/final proposals from the parties. On 8/6, MEC issued a Certification of Issues for Interest Arbitration. Apparently the parties reached agreement and cancelled arbitration.

IBU..... Negotiations began in February. IBU declared impasse on 6/9/10. On 6/15/10, Jerry Holder requested a mediator be appointed. MEC contacted the FMCS. The parties met with appointed mediator, Gary Hattal, on 7/7 and 7/9/10. On 7/12/10, IBU submitted its list of remaining disputed issues/final proposals to MEC. WSF filed its list/proposals on 7/16/10. On 7/22/10, the Commission issued a Certification of Issues for Interest Arbitration . The parties were in dispute over the impasse items. Interest arbitration was set for 8/2-8/6/10 before Arbitrator Sylvia Skratek. On 7/27, the MEC conducted a hearing on disputed final impasse issues for interest arbitration. On 7/29, MEC entered Decision Amending Final Impasse issues for 2011-2013 Interest Arbitration, Decision No. 586-MEC. **Arbitrator Skratek issued her award on 9/22/10.**

..... *On 8/20/10, WSF filed a Petition for Judicial Review of MEC Decision 586 (MEC IMP 2-10) in Thurston County Superior Court (#10-2-01898-8). Judge Paula Casey is assigned and a status conference is scheduled for 11/19/10. MEC delivered a certified copy of the record to the Court on 9/17/10. The status conference was cancelled; no hearing date set yet.*

MEBA..... Negotiations began in June. The parties have reached a tentative agreement on a few items. Arbitration was scheduled 8/17-8/20/10 before Arbitrator Elizabeth Ford. On 8/13/10, MEC issued a Certification of Issues for Interest Arbitration. **Arbitrator Ford issued her Award on 10/2/10.**

RCW 47.64.170 requires the contracts and awards to be submitted to the Office of Financial Management by 10/1/10. MEBA is waiting for formal notification of the State's position on this situation.

MM&P..... Negotiations began in April. As of 7/20/10, the parties were at impasse. On 7/30 and 8/2, MEC received the list of remaining disputed issues/final proposals from each of the parties. Interest arbitration was scheduled for 8/16-20/10 before Arbitrator Timothy Williams. On 8/5/10, MM&P objected to WSF's submittal of Rule 8.06 for certification for interest arbitration. On 8/5, WSF filed a response; MM&P replied to WSF's letter on 8/6. On 8/13, the Commission issued a Certification of Issues for Interest Arbitration with a "conditional certification" regarding the section in dispute. On 8/27/10, the Commission conducted a certification hearing. On 8/31/10, MEC entered Decision Denying Certification of Rule 8.06 for 2011-13 Interest Arbitration, Dec. 588-MEC. **Arbitrator Williams issued his Award on 9/23/10 (both deck officers' and watch supervisors' contracts).**

On 9/17/10, WSF filed a petition for Judicial Review of MEC Decision No. 588 (MEC IMP 3-11) in Thurston County Superior Court (No. 10-2-02109-1). Judge Paula Casey has been assigned and a status conference scheduled for 1/7/11. MEC delivered the certified copy of the record to the Court on 10/14/10.

The State filed an affidavit of prejudice against Judge Casey. The matter has been reassigned to Judge Christine Pomeroy; status conference is scheduled for 1/7/11.

Oper. Watch Superv's..... Negotiations began in February. On 8/2/10, MEC received the list of remaining disputed issues/final proposals from each of the parties. Interest arbitration was scheduled for 8/16-20/10 before Arbitrator Timothy Williams. On 8/11, MEC issued a

Certification of Issues for Interest Arbitration. **Arbitrator Williams issued his Award on 9/23/10.**

Metal Trades..... On 8/9/10, MEC received the list of remaining disputed issues/final proposals from each of the parties. Interest arbitration was scheduled for 8/25-26 before Arbitrator Jane Wilkinson. On 8/18/10, MEC issued a Certification of Issues for Interest Arbitration. **Arbitrator Wilkinson issued her Award on 9/16/10.**

OPEIU..... Negotiations began in May. On 8/23/10, MEC received the parties' outstanding disputed issues/final proposals. Interest arbitration was scheduled for 8/30-31. On 8/25/10, MEC issued a Certification of Issues for Interest Arbitration. **Arbitrator Lumbley issued his Award on 9/23/10.**

SEIU..... Negotiations began in June. The parties have a collective bargaining agreement TA'd. On 8/20/10, MEC received confirmation that the parties have no outstanding issues they are seeking to advance to interest arbitration.

OFM/LRO Negotiator Jerry Holder: IBU, MM&P, Operations Watch Supervisors, Metal Trades
OFM/LRO Negotiator Glenn Frye: FASPAA, MEBA, OPEIU, SEIU

Recognition of Assistant Attorney General David Slown

Chairman Swanson announced that WSF Assistant Attorney General Slown will be taking a new assignment with Corrections and wished him the best in his new position. He praised AAG Slown's professionalism and integrity and told him it had been a pleasure to do business with him.

ADMINISTRATIVE REPORT

ESSB 6503 – Furlough Bill

The MEC office was closed from 12noon-5pm on the afternoon of January 5, 2011 in compliance with the state furlough bill. The next furlough afternoon will be February 2, 2011.

Commissioner Vacancy

The MEC was notified that the Governor's Office now has a list of viable candidates for Commissioner Warren's position and will contact the agency next week.

Legislation Eliminating the MEC

On January 24, 2011, four bills were filed eliminating the MEC and transferring all duties and assets to the Public Employment Relations Commission (PERC). Those bills are: HB 1511, HB 1512, SB 5405 and SB 5408. The hearings for 1511 and 1512 are set for 2/1/11 at 10:30 am. The hearings for 5405 and 5408 are also set for 2/1/11, but at 3:30 pm.

Conversion to Paperless

Since 2005 the Marine Employees' Commission has converted to paperless operation wherever possible. Meeting notices and minutes are distributed by e-mail or fax and are posted on the agency website.

MEC's calendar and case list are posted on the website instead of being copied and mailed to interested parties, as was the case in the past. Quarterly GMAP updates are also posted on the agency's website instead of photocopying and mailing. Decisions are posted on the website after being issued to the parties, allowing access without MEC having to photocopy and mail decisions to interested parties. MEC's strategic plan, information handout "What You Should Know About the MEC", and past salary survey reports are all available electronically on the agency's website as part of the agency's paperless efforts.

Virtually all filed documents are now sent to the Commissioners electronically. Courtesy copies of settlement conferences and hearing notices are also now sent electronically to interested parties.

MEC's statute and rules currently don't allow for electronic filing, but electronic filing is the next logical step. Changing the statute will require the agency to submit a request for legislation; those requests have to be submitted to OFM in September. Executive Order 10-106 suspended non-critical rule development and adoption until January 1, 2012, so MEC will need to wait until fall to begin the legislation request process and until next January to revise its rules.

Performance Measure Results – 2nd Quarter

MEC's second quarter performance measure results have been posted on the agency website. MEC was able to raise resolution of labor issues from 14% last quarter to 40% this quarter; MEC's target is 75%.

MEC Budget

MEC met with its accountants on January 18. Expected expenditures through December should be 25%; MEC has spent only 23%.

Comments from Chairman Swanson

Chairman Swanson reported that Susannah Frame from KING 5 TV interviewed him for two hours. He told her it's a strange time in the United States for employees. In the past, Georgia-Pacific had plaques displayed throughout the building which said, "Our employees are our most important asset". He worked all over the U.S. doing bargaining and this attitude was widespread. Now the philosophy is that employees are a liability. There's an animosity about working people, that they are a problem, instead of an asset. He has bargained contracts for 60 years and has never seen a time when employees are considered a disadvantage, not an advantage. He hopes there won't be a return to the days when there were fights in the streets. It's terrible to think those we work with are not interested in making the organization work. Unfortunately it seems Susannah Frame, who also spoke with Robert Lavitt and Mike McCarthy, had already written her story. Rob and Mike talked about all the good things about WSF and the State. She told Mike at the end of their conversation that "he would hate her story"—she had already written it. It's unfortunate to have reporters who write a story and then look for ways to justify it, instead of writing the story people have related; it's too bad the truth is being distorted. AAG Slown reported that she did not contact him for comment.

Chairman Swanson concluded the meeting by saying, "It's a tough time for everyone; 2011 is a year to be kind to each other. "

The meeting was adjourned at 10:30 a.m.

***Next meeting: Friday, February 25, 2011, 10:00 a.m., 2nd Floor Conference Room,
Evergreen Plaza Building, 711 Capitol Way South, Olympia***

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Friday, February 25, 2011 – 10:00 a.m.
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MINUTES

- Present: Members and staff - John R. Swanson, Chairman
John M. Cox, Commissioner
Linda Hoverter, Special Assistant
Kathy Marshall, Administrator
- Others - Morgan Damerow, Attorney General's Office
Jerry Holder, OFM Labor Relations Office
Mark Schutter, WSF Labor Relations
Harry Thompson, Puget Sound Metal Trades

The meeting was called to order at 10:05 a.m.

Moved, seconded and carried: to adopt the agenda distributed at the meeting.

Moved, second and carried: to approve the minutes of the January 28, 2011 meeting.

STATUS OF CASES

MEC Case No. 16-08

***MEBA v. WSF*—At conclusion of the Superior Court review hearing on 8/27/10, Judge McPhee affirmed MEC's decision. On 9/23/10, MEC was informed that WSF has filed an appeal with the Court of Appeals.**

The State filed its brief on 12/23/10. MEBA filed its response brief on 1/20/11. MEC's brief was filed on 2/23/11.

On 1/22/10, Jeff Duncan reported that members have been paid the retro portion of the award through 8/31/09. As of 9/24/10, the parties continue discussions to resolve how the issue will be handled going forward. They met again the end of October. On 11/1/10, Glenn Frye notified MEC that the parties are at impasse regarding Watch Turnover and requested a mediator be appointed. Mediator Rick Oglesby was assigned. On 11/15/10, MEBA Counsel notified MEC that there are at least 2 issues to be bargained—WSF's proposed changes to watch turnover procedures and MEBA's request for progress payments. That information has been provided to the Mediator. On 12/15/10, the parties participated in mediation with Rick Oglesby. They are at impasse and moving the matter to interest arbitration. **By letter on 1/21/11, MEBA re-invoked jurisdiction pursuant to Decision 563-MEC, indicating the State has not paid for turnover duties since MEC's Award issued in 2009. During MEC's 1/28/11 meeting, AAG Slown stated the parties disagree on when additional watch turnover payments have to be made.**

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MEC Case No. 7-10

IBU v. WSF—Unfair labor practice complaint filed 11/5/09 in which IBU charges WSF with interference and refusal to bargain. Specifically IBU alleges that WSF has failed to abide by Rule 3.04/single day vacation hours. On 3/12/10, the parties participated in a settlement conference with Commissioner Cox. They were unable to reach agreement on the issue. Due to a scheduling conflict on 5/4/10, Hearing Examiner Warren cancelled the 6/9/10 hearing and 5/26/10 answer deadline. On 6/16/10, WSF filed its Answer to the Complaint. The 6/30/10 hearing was cancelled due to AAG Slown's illness. The hearing is rescheduled for 12/16/10. **On 12/10/10, IBU requested the 12/16 hearing be continued due to the unavailability of witnesses. WSF did not object to the request. Commissioner Warren cancelled the 12/16/10 hearing date. Chairman Swanson has been substituted as Hearing Examiner for Case 7-10 (Commissioner Warren's resignation was effective the end of 2010). The hearing has been continued to 3/7/11.**

MEC Case No. 11-10

Jonathan Pearson v. WSF—Unfair labor practice complaint filed 2/12/10 in which Mr. Pearson charges WSF with interference, domination, discouraging union membership, discrimination, and refusal to bargain related to Mr. Pearson's termination. Initially, the Commission decided to hold this matter in abeyance until Case 12-10 was resolved. However, the parties agreed to participate in a joint settlement conference for the two cases. On 9/28/10, the parties participated in a joint settlement conference for Cases 11-10 and 12-10 with Chairman Swanson. Mr. Pearson subsequently agreed to withdraw Case 12-10. MM&P is representing Mr. Pearson in Case 11-10. MEC is waiting for a response from MM&P Counsel regarding further scheduling. On 12/10/10, Tim Saffle reported that Mr. Pearson is considering a settlement proposal. On 12/14/10, MEC received notice from MM&P Counsel R. Fenrich that her firm no longer represents Mr. Pearson. (MM&P has withdrawn from the case. Mr. Pearson has indicated he wants to proceed to hearing on his own. On 1/24/11, WSF filed its Answer to the complaint. **On 2/7/11, Examiner Cox conducted a hearing on the issue of timeliness only. Transcript is due 2/28/11; briefs are to be filed 3/31/11.**

MEC Case No. 14-10

MEBA v. WSF —Unfair labor practice complaint filed 3/17/10 in which MEBA charges WSF with refusal to bargain. Specifically MEBA alleges WSF unilaterally implemented a Key Box System without notice to or bargaining with the Union. MEBA's complaint included notice to the Commission that it intends to file a motion for temporary relief. On 4/12/10, the parties requested that the 4/15/10 settlement conference be cancelled. WSF needs more time to provide information MEBA requested. The parties negotiated the key box issue on 4/23 with another matter. Mediator Swanson cancelled the 4/15/10 settlement conference for Case 14-10. On 10/22/10 Jeff Duncan reported MEBA and WSF are still negotiating this issue. On 11/10/10, MEBA Counsel notified MEC that negotiations have broken down and requested MEC schedule a hearing. **On 1/12/11, WSF filed its Answer to the Complaint. On 1/24/11, MEBA Counsel requested the 1/26 hearing be postponed. The Governor scheduled a meeting with the unions on that date; Jeff Duncan must attend and he is also chief witness for the Union in this case. WSF Counsel did not oppose the request. Examiner Swanson has cancelled the 1/26/11 hearing. MEC will reschedule with the parties.**

MEC Case 15-10

MEBA v. WSF—Unfair labor practice complaint filed 3/26/10 in which MEBA charges WSF with refusal to bargain. Specifically MEBA alleges WSF has decided that unlicensed engine room personnel—Oilers and Wipers—should not be allowed to have parking spaces at the Bainbridge Island Terminal. On 7/14/10, the parties participated in a settlement conference with Mediator Cox, but were unable to resolve the issue. They intend to continue discussing. During MEC's 7/23/10 public meeting, Karol Kingery, MEBA, requested the 9/2 hearing be converted to a settlement conference. AAG Slown did not object. Hearing Examiner Warren granted the request. The 9/2 hearing and 8/19 date for WSF to answer the complaint have been cancelled. On 9/2/10, the parties engaged in further settlement discussions with Mediator Cox. The matter is not yet resolved; however MEBA intends to communicate with IBU regarding a possible agreement for use of a parking space. **As of 1/28/11, MEBA and IBU are still discussing.**

MEC Case No. 16-10

IBU v. WSF (Pascual)—Grievance filed 4/19/10 in which IBU alleges WSF restricted Elmer Pascual's bumping/bidding on OS positions, in violation of the contract. On 4/26/10, MEC

received a copy of a letter from Jerry Holder to IBU asserting that the request for arbitration is untimely. On 6/15/10, IBU responded to Mr. Holder's letter. On 9/15/10, the parties participated in a settlement conference with Mediator Cox; they made significant progress. They agreed to use the 10/14 hearing date for a settlement conference in Case 17-10. MEC will reschedule another settlement conference and hearing date for Case 16-10. On 10/13/10, the parties met again with Mediator Cox to continue settlement discussions. They are close to reaching agreement. The hearing remains scheduled for 12/13/10. During the 10/22 MEC meeting, Jay Ubelhart, IBU, noted the parties have exchanged some information and hope to get the issue resolved. On 10/22/10, MEC received a letter from AAG Anderson requesting MEC dismiss this grievance as untimely. IBU Counsel responded on 10/29; WSF replied to IBU's response on 11/2. On 11/2, MEC issued Order Denying WSF's Motion to Dismiss. On 12/9/10, the parties requested the 12/13 hearing be continued while they exchanged proposals that may settle the matter. Arbitrator Swanson granted the request. The 12/13/10 hearing has been cancelled. On 1/28/11, Jerry Holder stated he is waiting for a proposal from IBU. **On 2/23/11, AAG Anderson requested the 3/1 hearing be continued to allow time for WSF to consider IBU's settlement proposal. The IBU had no objection. Arbitrator Swanson granted the request; MEC will reschedule the hearing.**

MEC Case No. 19-10

Christopher Johnson v. MEBA & WSF—Unfair labor practice complaint filed 5/17/10 in which Mr. Johnson charges breach of duty of fair representation/discipline. Specifically Mr. Johnson alleges MEBA acted with restraint and coercion and WSF interfered. Some progress was made during the 9/30/10 settlement conference with Chairman Swanson. The parties intended to continue discussions thereafter. When contacted by MEC on 11/5/10, Counsel Rhodes indicated the parties were unable to resolve the matter. On 12/3/10, MEBA requested the 2/23/11 hearing be continued; Mr. Leahy has a schedule conflict. Opposing counsel did not object. Examiner Cox granted the request. The 2/23/11 hearing and 2/9/11 deadline for respondents to answer the complaint have been cancelled. MEC will coordinate with the parties to reschedule. **The hearing has been continued to 3/24/11. MEBA and WSF are to file answers to the Complaint on or before 3/10/11. On 2/16/11, Complainant Counsel filed a request to conduct discovery. By letter on 2/18/11, MEBA Counsel filed objections. Examiner Cox denied the request.**

MEC Case No. 3-11

IBU v. WSF—Grievance filed 9/14/10 in which IBU alleges WSF violated the 9/09 elimination of touring watches MOU (limitation on flexing shifts). On 1/18/11, IBU and WSF participated in a settlement conference with Mediator Cox, but were unable to resolve the issue. On 1/26/11, IBU Counsel requested the scheduled 2/2 hearing be continued. One of IBU's main witnesses is unavailable. WSF did not object. Arbitrator Swanson granted IBU's request. The 2/2/11 hearing has been cancelled. **The hearing has been continued to 6/9/11.**

MEC Case No. 4-11

IBU v. WSF—Unfair labor practice complaint filed 9/13/10 in which IBU charges WSF with interference, discouraging union membership, refusal to bargain. Specifically IBU charges WSF with violation of the Morvan agreement (voluntary lay-off for 2nd year hires). On 1/27/11, IBU and WSF participated in a settlement conference with Commissioner Cox. The parties made significant progress and are still discussing the issue. At their request, MEC will convert the 2/17/11 hearing date to another settlement conference. On 2/14/11, Jerry Holder notified the Commission that the parties had reached an agreement. The 2/17 settlement

conference was cancelled. **On 2/23/11, MEC entered Order Closing Settled Complaint, Dec. No. 600-MEC.**
MEC Case No. 6-11

IBU v. WSF (Coleman)—Grievance filed 12/14/10 in which IBU alleges WSF denied overtime to Michael Coleman. On 1/20/11, AAG Anderson requested the 2/9 settlement conference be continued. He was recently reassigned to this case and had a schedule conflict on 2/9. IBU did not object. Mediator Swanson has cancelled the 2/9 settlement conference. **On 2/22/11, the parties participated in a settlement conference with Mediator Swanson. The matter was not resolved. IBU needs to gather more information. The hearing remains scheduled for 3/28/11.**

MEC Case No. 7-11

IBU v. WSF (DeBlasio)—Grievance filed 12/16/10 in which IBU alleges WSF terminated Brandanna DeBlasio without all of the appropriate progressive discipline steps. **On 2/22/11, the parties participated in a settlement conference with Mediator Swanson. The matter was not resolved. The hearing remains scheduled for 4/6/11.**

MEC Case No. 8-11

IBU v. WSF (Ramsey)—Grievance filed 1/14/11 in which IBU alleges WSF violated Rule 1.01 and Rule 5 of the collective bargaining agreement when Robin Ramsey was terminated. By letter on 1/20/11, Jerry Holder, LRO, declared the grievance untimely and requested the Commission decline to exert jurisdiction over it. On 1/24/11, IBU provided MEC with a copy of a letter sent to J. Holder on 9/21/10, as explanation for the Union's delay in filing. Mr. Holder stated he never received the letter. **A hearing will be conducted on both the issue of timeliness and the merits of the case. The hearing is scheduled for 6/16/11.**

MEC Case No. 9-11

MEBA v. WSF—Unfair labor practice complaint filed 1/28/11 in which MEBA charges WSF with refusal to bargain watch turnover compensation. Following review, the Commission determined that the facts alleged may constitute an unfair labor practice, if later found to be true and provable. A settlement conference was scheduled for 2/17/11; however, the parties notified MEC early that day that they had reached an agreement in principle and are in the process of finalizing it. They asked MEC to cancel the 2/17 settlement conference and schedule another in March, to be available if the parties need it. MEC is in the process of coordinating with the parties to schedule another settlement conference. **The hearing remains scheduled for 5/26/11. WSF's Answer to the Complaint is to be filed on or before 5/12/11.**

STATUS OF COLLECTIVE BARGAINING 2011-2013

OFM (Office of Financial Management) declared the contracts fiscally unfeasible. As of January 2011, a coalition of ferry employee unions (all but FASPAA and SEIU) are back at the bargaining table with the State to renegotiate the contracts.

FASPAA..... Negotiations began in May. The parties were scheduled for interest arbitration on 8/11 and 8/12 before Arbitrator Sylvia Skratek. On 8/3/10, MEC received the lists of disputed issues/final proposals from the parties. On 8/6, MEC issued a Certification of Issues for Interest Arbitration. Apparently the parties reached agreement and cancelled arbitration.

IBU..... Negotiations began in February. IBU declared impasse on 6/9/10. On 6/15/10, Jerry Holder requested a mediator be appointed. MEC contacted the FMCS. The parties met with appointed mediator, Gary Hattal, on 7/7 and 7/9/10. On 7/12/10, IBU submitted its list of remaining disputed issues/final proposals to MEC. WSF filed its list/proposals on 7/16/10. On 7/22/10, the Commission issued a Certification of Issues for Interest Arbitration . The parties were in dispute over the impasse items. Interest arbitration was set for 8/2-8/6/10 before Arbitrator Sylvia Skratek. On 7/27, the MEC conducted a hearing on disputed final impasse issues for interest arbitration. On 7/29, MEC entered Decision Amending Final Impasse issues for 2011-2013 Interest Arbitration, Decision No. 586-MEC. **Arbitrator Skratek issued her award on 9/22/10.**

..... *On 8/20/10, WSF filed a Petition for Judicial Review of MEC Decision 586 (MEC IMP 2-10) in Thurston County Superior Court (#10-2-01898-8). Judge Paula Casey is assigned and a status conference is scheduled for 11/19/10. MEC delivered a certified copy of the record to the Court on 9/17/10. The status conference was cancelled; no hearing date set yet.*

MEBA..... Negotiations began in June. The parties have reached a tentative agree-ment on a few items. Arbitration was scheduled 8/17-8/20/10 before Arbitrator Elizabeth Ford. On 8/13/10, MEC issued a Certification of Issues for Interest Arbitration. **Arbitrator Ford issued her Award on 10/2/10.**

RCW 47.64.170 requires the contracts and awards to be submitted to the Office of Financial Management by 10/1/10. MEBA is waiting for formal notification of the State’s position on this situation.

MM&P..... Negotiations began in April. As of 7/20/10, the parties were at impasse. On 7/30 and 8/2, MEC received the list of remaining disputed issues/final proposals from each of the parties. Interest arbitration was scheduled for 8/16-20/10 before Arbitrator Timothy Williams. On 8/5/10, MM&P objected to WSF’s submittal of Rule 8.06 for certification for interest arbitration. On 8/5, WSF filed a response; MM&P replied to WSF’s letter on 8/6. On 8/13, the Commission issued a Certification of Issues for Interest Arbitration with a “conditional certification”

regarding the section in dispute. On 8/27/10, the Commission conducted a certification hearing. On 8/31/10, MEC entered Decision Denying Certification of Rule 8.06 for 2011-13 Interest Arbitration, Dec. 588-MEC. **Arbitrator Williams issued his Award on 9/23/10 (both deck officers' and watch supervisors' contracts).**

On 9/17/10, WSF filed a petition for Judicial Review of MEC Decision No. 588 (MEC IMP 3-11) in Thurston County Superior Court (No. 10-2-02109-1). Judge Paula Casey has been assigned and a status conference scheduled for 1/7/11. MEC delivered the certified copy of the record to the Court on 10/14/10.

The State filed an affidavit of prejudice against Judge Casey. The matter has been reassigned to Judge Christine Pomeroy; status conference is scheduled for 1/7/11.

Oper. Watch Superv's..... Negotiations began in February. On 8/2/10, MEC received the list of remaining disputed issues/final proposals from each of the parties. Interest arbitration was scheduled for 8/16-20/10 before Arbitrator Timothy Williams. On 8/11, MEC issued a Certification of Issues for Interest Arbitration. **Arbitrator Williams issued his Award on 9/23/10.**

Metal Trades..... On 8/9/10, MEC received the list of remaining disputed issues/final proposals from each of the parties. Interest arbitration was scheduled for 8/25-26 before Arbitrator Jane Wilkinson. On 8/18/10, MEC issued a Certification of Issues for Interest Arbitration. **Arbitrator Wilkinson issued her Award on 9/16/10.**

OPEIU..... Negotiations began in May. On 8/23/10, MEC received the parties' outstanding disputed issues/final proposals. Interest arbitration was scheduled for 8/30-31. On 8/25/10, MEC issued a Certification of Issues for Interest Arbitration. **Arbitrator Lumbley issued his Award on 9/23/10.**

SEIU..... Negotiations began in June. The parties have a collective bargaining agreement TA'd. On 8/20/10, MEC received confirmation that the parties have no outstanding issues they are seeking to advance to interest arbitration.

OFM/LRO Negotiator Jerry Holder: IBU, MM&P, Operations Watch Supervisors, Metal Trades
OFM/LRO Negotiator Glenn Frye: FASPAA, MEBA, OPEIU, SEIU

ADMINISTRATIVE REPORT

ESSB 6503 – Furlough Bill

The MEC office was closed from 12noon-5pm on the afternoon of February 2, 2011 in compliance with the state furlough bill. MEC's furlough target has been reached so no more furlough days will be taken this fiscal year.

Commissioner Vacancy

The Governor's Office has a list of viable candidates for Commissioner Warren's position, but has put refilling this vacancy on hold due to the proposed bills eliminating the MEC.

Legislation Eliminating the MEC

Hearings were held on February 1 on the four bills filed to eliminate the MEC and transfer all duties and assets to PERC: HB 1511, HB 1512, SB 5405, and SB 5408. Both executive sessions and work sessions have been held on the bills and fiscal notes have been finalized for all four bills.

Announcement from Linda Hoverter

Ms. Hoverter presented meeting information concerning two labor law conferences coming up in Seattle.

Comments from Chairman Swanson

Chairman Swanson reported he had been contacted by professors at University of Wisconsin and Indiana regarding public employment and pension plans. He explained to them that these plans weren't bargained when they were originally established, they were established by the legislature. In the state of Washington no one has ever bargained PERS. Twenty years ago Oregon agreed they would make the employee and employer contributions because they didn't have any other money. He advised them to get an expert about public employment retirement plans because he has never bargained a public one. This attack on unions putting states out of business because of retirement plans and health benefits— it's unique because all these plans were legislated, not bargained.

Jerry Holder stated part of the problem for pension plans is that so many of them are now underfunded due to recent markets; the liability is to the employer to maintain those being funded. Those are huge sums of money and they are legally obligated through ERISA to make sure they are funded.

The meeting was adjourned at 10:30 a.m.

***Next meeting: Friday, March 25, 2011, 10:00 a.m., 2nd Floor Conference Room,
Evergreen Plaza Building, 711 Capitol Way South, Olympia***

STATE OF WASHINGTON
MARINE EMPLOYEES' COMMISSION
Evergreen Plaza Building
P.O. Box 40902
Olympia, Washington 98504-0902
(360) 586-6354
www.marineempcom.org

Friday, March 25, 2011 – 10:00 a.m.
2nd Floor Conference Room—Evergreen Plaza Building, Olympia

MINUTES

Present: Members and staff - John R. Swanson, Chairman
John M. Cox, Commissioner
Linda Hoverter, Special Assistant
Kathy Marshall, Administrator

Others - Gordon Baxter, Master Mates & Pilots
Jerry Holder, OFM Labor Relations Office
Leah Maurseth, WSF Labor Relations
Mark Schutter, WSF Labor Relations

The meeting was called to order at 10:10 a.m.

Moved, seconded and carried: to adopt the agenda distributed at the meeting.

Moved, second and carried: to approve the minutes of the February 25, 2011 meeting.

STATUS OF CASES

MEC Case No. 16-08

***MEBA v. WSF*—At conclusion of the Superior Court review hearing on 8/27/10, Judge McPhee affirmed MEC's decision. On 9/23/10, MEC was informed that WSF has filed an appeal with the Court of Appeals.**

The State filed its brief on 12/23/10. MEBA filed its response brief on 1/20/11. MEC's brief was filed on 2/23/11.

On 1/22/10, Jeff Duncan reported that members have been paid the retro portion of the award through 8/31/09. As of 9/24/10, the parties continue discussions to resolve how the issue will be handled going forward. They met again the end of October. On 11/1/10, Glenn Frye notified MEC that the parties are at impasse regarding Watch Turnover and requested a mediator be appointed. Mediator Rick Oglesby was assigned. On 11/15/10, MEBA Counsel notified MEC that there are at least 2 issues to be bargained—WSF's proposed changes to watch turnover procedures and MEBA's request for progress payments. That information has been provided to the Mediator. On 12/15/10, the parties participated in mediation with Rick Oglesby. They are at impasse and moving the matter to interest arbitration. **By letter on 1/21/11, MEBA re-invoked jurisdiction pursuant to Decision 563-MEC, indicating the State has not paid for turnover duties since MEC's Award issued in 2009. During MEC's 1/28/11 meeting, AAG Slown stated the parties disagree on when additional watch turnover payments have to be made.**

MEC Case No. 21-08

IBU v. WSF—Unfair labor practice complaint filed 6/20/08 and amended 6/23/08 and again 6/26/08 in which IBU charges WSF with interference and refusal to bargain. Specifically IBU charges WSF with a unilateral change in the working conditions of unlicensed deck department employees (filling open assignments for Summer 2008). The parties reached agreement on issues 1, 2 and 3. On 1/7/09, WSF filed its Answer to the Amended Complaint. On 9/25/09, IBU requested that a hearing be scheduled on the issue of assignment of AB work. Chairman Swanson reminded the parties that their "Dispatch Rules" settlement provides for resolution of related disputes such as this one through private arbitration with Liz Ford. On 4/23/10, AAG Slown reported that counsel agree the expedited dispute process is appropriate for resolving the dispute, but have not scheduled with Arbitrator Liz Ford yet. On 7/23/10 the parties reported they have not yet found time to schedule an arbitration date with Ms. Ford. (IBU is not ready to withdraw Case 21-08 at this time.) **The parties are ready to schedule this issue for interest arbitration. On 1/28/11, Jay Ubelhart reported that he now has some possible dates for arbitration with Liz Ford.**

MEC Case No. 7-10

IBU v. WSF—Unfair labor practice complaint filed 11/5/09 in which IBU charges WSF with interference and refusal to bargain. Specifically IBU alleges that WSF has failed to abide by Rule 3.04/single day vacation hours. On 3/12/10, the parties participated in a settlement conference with Commissioner Cox. They were unable to reach agreement on the issue. Due to a scheduling conflict on 5/4/10, Hearing Examiner Warren cancelled the 6/9/10 hearing and 5/26/10 answer deadline. On 6/16/10, WSF filed its Answer to the Complaint. The 6/30/10 hearing was cancelled due to AAG Slown's illness. The hearing is rescheduled for 12/16/10. On 12/10/10, IBU requested the 12/16 hearing be continued due to the unavailability of witnesses. WSF did not object to the request. Commissioner Warren cancelled the 12/16/10 hearing date. Chairman Swanson has been substituted as Hearing Examiner for Case 7-10 (Commissioner Warren's resignation was effective the end of 2010). **On 3/2/11, IBU requested the 3/7 hearing be continued because the Union and WSF/OFM officials are scheduled for urgent 2011-2013 contract negotiations on that date. WSF did not object.**

Examiner Swanson granted the request. The 3/7/11 hearing has been cancelled. MEC will reschedule. On 3/9/11, IBU informed MEC that it is engaged in settlement discussions with WSF.

MEC Case No. 11-10

Jonathan Pearson v. WSF—Unfair labor practice complaint filed 2/12/10 in which Mr. Pearson charges WSF with interference, domination, discouraging union membership, discrimination, and refusal to bargain related to Mr. Pearson's termination. On 12/14/10, MEC received notice from MM&P Counsel R. Fenrich that her firm no longer represents Mr. Pearson. (MM&P has withdrawn from the case.) Mr. Pearson has indicated he wants to proceed to hearing on his own. On 1/24/11, WSF filed its Answer to the complaint. **On 2/7/11, Examiner Cox conducted a hearing on the issue of timeliness only. MEC received the transcript on 3/3/11; briefs are to be simultaneously filed on 4/1/11.**

MEC Case No. 14-10

MEBA v. WSF—Unfair labor practice complaint filed 3/17/10 in which MEBA charges WSF with refusal to bargain. Specifically MEBA alleges WSF unilaterally implemented a Key Box System without notice to or bargaining with the Union. MEBA's complaint included notice to the Commission that it intends to file a motion for temporary relief. On 4/12/10, the parties requested that the 4/15/10 settlement conference be cancelled. WSF needs more time to provide information MEBA requested. The parties negotiated the key box issue on 4/23 with another matter. Mediator Swanson cancelled the 4/15/10 settlement conference for Case 14-10. On 10/22/10 Jeff Duncan reported MEBA and WSF are still negotiating this issue. On 11/10/10, MEBA Counsel notified MEC that negotiations have broken down and requested MEC schedule a hearing. On 1/12/11, WSF filed its Answer to the Complaint. On 1/24/11, MEBA Counsel requested the 1/26 hearing be postponed. The Governor scheduled a meeting with the unions on that date; Jeff Duncan must attend and he is also chief witness for the Union in this case. WSF Counsel did not oppose the request. Examiner Swanson has cancelled the 1/26/11 hearing. **The hearing has been continued to 9/21/11.**

MEC Case 15-10

MEBA v. WSF—Unfair labor practice complaint filed 3/26/10 in which MEBA charges WSF with refusal to bargain. Specifically MEBA alleges WSF has decided that unlicensed engine room personnel—Oilers and Wipers—should not be allowed to have parking spaces at the Bainbridge Island Terminal. On 7/14/10, the parties participated in a settlement conference with Mediator Cox, but were unable to resolve the issue. They intend to continue discussing. During MEC's 7/23/10 public meeting, Karol Kingery, MEBA, requested the 9/2 hearing be converted to a settlement conference. AAG Slown did not object. Hearing Examiner Warren granted the request. The 9/2 hearing and 8/19 date for WSF to answer the complaint have been cancelled. On 9/2/10, the parties engaged in further settlement discussions with Mediator Cox. The matter is not yet resolved; however MEBA intends to communicate with IBU regarding a possible agreement for use of a parking space. **As of 1/28/11, MEBA and IBU are still discussing.**

MEC Case No. 16-10

IBU v. WSF (Pascual)—Grievance filed 4/19/10 in which IBU alleges WSF restricted Elmer Pascual's bumping/bidding on OS positions, in violation of the contract. On 4/26/10, MEC received a copy of a letter from Jerry Holder to IBU asserting that the request for arbitration is untimely. On 6/15/10, IBU responded to Mr. Holder's letter. On 9/15/10, the parties

participated in a settlement conference with Mediator Cox; they made significant progress. They agreed to use the 10/14 hearing date for a settlement conference in Case 17-10. MEC will reschedule another settlement conference and hearing date for Case 16-10. On 10/13/10, the parties met again with Mediator Cox to continue settlement discussions. They are close to reaching agreement. The hearing remains scheduled for 12/13/10. During the 10/22 MEC meeting, Jay Ubelhart, IBU, noted the parties have exchanged some information and hope to get the issue resolved. On 10/22/10, MEC received a letter from AAG Anderson requesting MEC dismiss this grievance as untimely. IBU Counsel responded on 10/29; WSF replied to IBU's response on 11/2. On 11/2, MEC issued Order Denying WSF's Motion to Dismiss. On 12/9/10, the parties requested the 12/13 hearing be continued while they exchanged proposals that may settle the matter. Arbitrator Swanson granted the request. The 12/13/10 hearing has been cancelled. On 1/28/11, Jerry Holder stated he is waiting for a proposal from IBU. On 2/23/11, AAG Anderson requested the 3/1 hearing be continued to allow time for WSF to consider IBU's settlement proposal. The IBU had no objection. Arbitrator Swanson granted the request. **The hearing has been continued to 6/22/11.**

MEC Case No. 19-10

Christopher Johnson v. MEBA & WSF—Unfair labor practice complaint filed 5/17/10 in which Mr. Johnson charges breach of duty of fair representation/discipline. Specifically Mr. Johnson alleges MEBA acted with restraint and coercion and WSF interfered. **On 3/7/11, MEBA filed its Answer to the Complaint. WSF filed its Answer on 3/10/11. On 3/23/11, MEBA Counsel filed a Pre-Hearing Memorandum, requesting that MEC dismiss the complaint. On 3/24/11, the parties gathered for a hearing; however, it was not convened. They chose to discuss settlement options further. At the MEC meeting 3/25 WSF provided MEC with a copy of the parties' agreement.**

MEC Case No. 3-11

IBU v. WSF—Grievance filed 9/14/10 in which IBU alleges WSF violated the 9/09 elimination of touring watches MOU (limitation on flexing shifts). On 1/18/11, IBU and WSF participated in a settlement conference with Mediator Cox, but were unable to resolve the issue. On 1/26/11, IBU Counsel requested the scheduled 2/2 hearing be continued. One of IBU's main witnesses is unavailable. WSF did not object. Arbitrator Swanson granted IBU's request. The 2/2/11 hearing has been cancelled. **The hearing has been continued to 6/9/11.**

MEC Case No. 6-11

IBU v. WSF (Coleman)—Grievance filed 12/14/10 in which IBU alleges WSF denied overtime to Michael Coleman. On 1/20/11, AAG Anderson requested the 2/9 settlement conference be continued. He was recently reassigned to this case and had a schedule conflict on 2/9. IBU did not object. Mediator Swanson has cancelled the 2/9 settlement conference. On 2/22/11, the parties participated in a settlement conference with Mediator Swanson. The matter was not resolved. IBU needs to gather more information. **Due to a schedule conflict for Arbitrator Cox, the 3/28/11 hearing has been cancelled.**

MEC Case No. 7-11

IBU v. WSF (DeBlasio)—Grievance filed 12/16/10 in which IBU alleges WSF terminated Brandanna DeBlasio without all of the appropriate progressive discipline steps. **On 2/22/11, the parties participated in a settlement conference with Mediator Swanson. The matter was not resolved. The hearing remains scheduled for 4/6/11.**

MEC Case No. 8-11

IBU v. WSF (Ramsey)—Grievance filed 1/14/11 in which IBU alleges WSF violated Rule 1.01 and Rule 5 of the collective bargaining agreement when Robin Ramsey was terminated. By letter on 1/20/11, Jerry Holder, LRO, declared the grievance untimely and requested the Commission decline to exert jurisdiction over it. On 1/24/11, IBU provided MEC with a copy of a letter sent to J. Holder on 9/21/10, as explanation for the Union’s delay in filing. Mr. Holder stated he never received the letter. **On 3/9/11, IBU informed MEC that the parties are engaged in settlement discussions. A hearing will be conducted on both the issue of timeliness and the merits of the case. The hearing is scheduled for 6/16/11.**

MEC Case No. 9-11

MEBA v. WSF—Unfair labor practice complaint filed 1/28/11 in which MEBA charges WSF with refusal to bargain watch turnover compensation. A settlement conference was scheduled for 2/17/11; however, the parties notified MEC early that day that they had reached an agreement in principle and are in the process of finalizing it. They asked MEC to cancel the 2/17 settlement conference and schedule another in March, to be available if the parties need it. **MEC has scheduled another settlement conference for the parties on 5/9/11 (the earliest workable date). The hearing remains scheduled for 5/26/11. WSF’s Answer to the Complaint is to be filed on or before 5/12/11.**

STATUS OF COLLECTIVE BARGAINING 2011-2013

OFM (Office of Financial Management) declared the contracts fiscally unfeasible. As of January 2011, a coalition of ferry employee unions (all but FASPAA and SEIU) is back at the bargaining table with the State to renegotiate the contracts.

On 2/23/11, Jerry Holder reported the parties have made some progress and are scheduled for further negotiations on 2/28 and 3/1. By 3/7/11, ferry employee unions had reached a tentative agreement with the State. Ratification votes are to be conducted shortly.

As of 3/25/11, Gordon Baxter reported that OPEIU has ratified its contract; MM&P counts ballots on 3/25; IBU, MEBA and Metal Trades count ballots on 3/30 or 3/31.

FASPAA.....Negotiations began in May. The parties were scheduled for interest arbitration on 8/11 and 8/12 before Arbitrator Sylvia Skratek. On 8/3/10, MEC received the lists of disputed issues/final proposals from the parties. On 8/6, MEC issued a Certification of Issues for Interest Arbitration. Apparently the parties reached agreement and cancelled arbitration.

IBU.....Negotiations began in February. IBU declared impasse on 6/9/10. On 6/15/10, Jerry Holder requested a mediator be appointed. MEC contacted the FMCS. The parties met with appointed mediator, Gary Hattal, on 7/7 and 7/9/10. On 7/12/10, IBU submitted its list of remaining disputed issues/final proposals to MEC. WSF

filed its list/proposals on 7/16/10. On 7/22/10, the Commission issued a Certification of Issues for Interest Arbitration . The parties were in dispute over the impasse items. Interest arbitration was set for 8/2-8/6/10 before Arbitrator Sylvia Skratek. On 7/27, the MEC conducted a hearing on disputed final impasse issues for interest arbitration. On 7/29, MEC entered Decision Amending Final Impasse issues for 2011-2013 Interest Arbitration, Decision No. 586-MEC. **Arbitrator Skratek issued her award on 9/22/10.**

.....On 8/20/10, WSF filed a Petition for Judicial Review of MEC Decision 586 (MEC IMP 2-10) in Thurston County Superior Court (#10-2-01898-8). Judge Paula Casey is assigned and a status conference is scheduled for 11/19/10. MEC delivered a certified copy of the record to the Court on 9/17/10. The status conference was cancelled; no hearing date set yet.

MEBA.....Negotiations began in June. The parties reached a tentative agreement on a few items. MEC received the parties' issues/final proposals for interest arbitration (licensed and unlicensed contracts.) Arbitration was scheduled 8/17-8/20/10 before Arbitrator Elizabeth Ford. On 8/13/10, MEC issued a Certification of Issues for Interest Arbitration. **Arbitrator Ford issued her Award on 10/2/10.**

RCW 47.64.170 requires the contracts and awards to be submitted to the Office of Financial Management by 10/1/10. MEBA is waiting for formal notification of the State's position on this situation.

MM&P.....Negotiations began in April. As of 7/20/10, the parties were at impasse. On 7/30 and 8/2, MEC received the list of remaining disputed issues/final proposals from each of the parties. Interest arbitration was scheduled for 8/16-20/10 before Arbitrator Timothy Williams. On 8/5/10, MM&P objected to WSF's submittal of Rule 8.06 for certification for interest arbitration. On 8/5, WSF filed a response; MM&P replied to WSF's letter on 8/6. On 8/13, the Commission issued a Certification of Issues for Interest Arbitration with a "conditional certification" regarding the section in dispute. On 8/27/10, the Commission conducted a certification hearing. On 8/31/10, MEC entered Decision Denying Certification of Rule 8.06 for 2011-13 Interest Arbitration, Dec. 588-MEC. **Arbitrator Williams issued his Award on 9/23/10 (both deck officers' and watch supervisors' contracts).**

On 9/17/10, WSF filed a petition for Judicial Review of MEC Decision No. 588 (MEC IMP 3-11) in Thurston County Superior Court (No. 10-2-02109-1). Judge Paula Casey has been assigned and a status conference scheduled for 1/7/11. MEC

delivered the certified copy of the record to the Court on 10/14/10.

The State filed an affidavit of prejudice against Judge Casey. The matter was reassigned to Judge Christine Pomeroy. The 1/7/11 status conference was cancelled. Judge Pomeroy has recused herself from the case. The matter has been reassigned to Judge Murphy and the hearing set for May 27, 2011.

Oper. Watch Superv's.....Negotiations began in February. On 8/2/10, MEC received the list of remaining disputed issues/final proposals from each of the parties. Interest arbitration was scheduled for 8/16-20/10 before Arbitrator Timothy Williams. On 8/11, MEC issued a Certification of Issues for Interest Arbitration. **Arbitrator Williams issued his Award on 9/23/10.**

Metal Trades.....On 8/9/10, MEC received the list of remaining disputed issues/final proposals from each of the parties. Interest arbitration was scheduled for 8/25-26 before Arbitrator Jane Wilkinson. On 8/18/10, MEC issued a Certification of Issues for Interest Arbitration. **Arbitrator Wilkinson issued her Award on 9/16/10.**

OPEIU..... Negotiations began in May. On 8/23/10, MEC received the parties' outstanding disputed issues/final proposals. Interest arbitration was scheduled for 8/30-31. On 8/25/10, MEC issued a Certification of Issues for Interest Arbitration. **Arbitrator Lumbley issued his Award on 9/23/10.**

SEIU..... Negotiations began in June. The parties have a collective bargaining agreement TA'd. On 8/20/10, MEC received confirmation that the parties have no outstanding issues they are seeking to advance to interest arbitration.

OFM/LRO Negotiator Jerry Holder: IBU, MM&P, Operations Watch Supervisors, Metal Trades
OFM/LRO Negotiator Glenn Frye: FASPAA, MEBA, OPEIU, SEIU

Update from Gordon Baxter on Collective Bargaining

All unions have come to tentative agreement with OFM concerning collective bargaining. OPEIU ratified their agreement two weeks ago. The week of March 21-25 had meetings all week. Some unions require mail ballots and others use drop boxes or mail. Masters, Mates & Pilots count is to be finished by noon today (3/25/11). Inlandboatmen's Union will be counting on the 30th and Metal Trades and Marine Engineers Beneficial Association will be counting on the 31st. Many members are turning out for the votes and the meetings have had good attendance.

ADMINISTRATIVE REPORT

Legislation Eliminating the MEC

Six bills have been filed which eliminate the MEC and transfer all duties and assets to PERC: House Bills 1511 and 1512 and Senate Bills 5405, 5406, 5408 and 5742. Both executive sessions and work sessions have been held on the bills and fiscal notes have been finalized for all six bills. House Bill 1511 was amended on 3/23/11 to incorporate MEC as a division of the Public Employment Relations Commission (PERC). Senate Bills 5405, 5406, and 5742 have been passed to Rules Committee for second reading and placed on second reading.

Transportation Budget Bills Affecting the MEC

Hearings on both 2011-13 transportation budget bills were held this week. For House Bill 1175 the original bill submitted at the request of the Governor included MEC at \$398,000 (a 12% reduction from 09-11); the proposed Substitute House Bill 1175 presented at hearing on March 21, 2011 eliminates funding of MEC with the statement “per House Bill 1512 and House Bill 1511, the MEC is eliminated and the responsibilities of the MEC are transferred to the Public Employee’s Relations Committee.” For Senate Bill 5176 the original bill submitted at the request of the Governor also included MEC at \$398,000; the proposed Substitute Senate Bill 5176 presented at hearing on March 23, 2011 has no listing or mention of the MEC for 2011-13.

Travel Expense Review

MEC’s travel policy requires the Commissioners to review all travel expenses for all employees in the agency every 6 months. All the Commissioners have reviewed July 1, 2010 to December 31, 2010. Commissioner Cox moved for approval of the July 1, 2010 to December 31, 2010 travel expenses and Commissioner Swanson seconded the motion. The “ayes” were unanimous and the travel expenses were approved.

The meeting adjourned at 10:30 a.m.

Next meeting:

*Friday, April 22, 2010, 10:00 a.m., Evergreen Plaza Building 2nd Floor 711
Capitol Way South, Olympia*

STATE OF WASHINGTON
MARINE EMPLOYEES' COMMISSION
Evergreen Plaza Building
P.O. Box 40902
Olympia, Washington 98504-0902
(360) 586-6354
www.marineempcom.org

Friday, April 22, 2011 – 10:00 a.m.
2nd Floor Conference Room—Evergreen Plaza Building, Olympia

MINUTES

Present: Members and staff - John R. Swanson, Chairman
John M. Cox, Commissioner
Linda Hoverter, Special Assistant
Kathy Marshall, Administrator

Others - Jeff Duncan, Marine Engineers' Beneficial Association
Bill Knowlton, Marine Engineers' Beneficial Association
Mark Schutter, WSF Labor Relations
Jay Ubelhart, Inlandboatmen's Union of the Pacific

The meeting was called to order at 10:04 a.m.

Moved, seconded and carried: to adopt the agenda distributed at the meeting.

Moved, second and carried: to approve the minutes of the March 25, 2011 meeting.

STATUS OF CASES

MEC Case No. 16-08

MEBA v. WSF—At conclusion of the Superior Court review hearing on 8/27/10, Judge McPhee affirmed MEC’s decision. On 9/23/10, MEC was informed that WSF has filed an appeal with the Court of Appeals. The State filed its brief on 12/23/10. MEBA filed its response brief on 1/20/11. MEC’s brief was filed on 2/23/11.

On 1/22/10, Jeff Duncan reported that members have been paid the retro portion of the award through 8/31/09. As of 9/24/10, the parties continue discussions to resolve how the issue will be handled going forward. They met again the end of October. On 11/1/10, Glenn Frye notified MEC that the parties are at impasse regarding Watch Turnover and requested a mediator be appointed. Mediator Rick Oglesby was assigned. On 11/15/10, MEBA Counsel notified MEC that there are at least 2 issues to be bargained—WSF’s proposed changes to watch turnover procedures and MEBA’s request for progress payments. That information has been provided to the Mediator. On 12/15/10, the parties participated in mediation with Rick Oglesby. They are at impasse and moving the matter to interest arbitration. **By letter on 1/21/11, MEBA re-invoked jurisdiction pursuant to Decision 563-MEC, indicating the State has not paid for turnover duties since MEC’s Award issued in 2009. During MEC’s 1/28/11 meeting, AAG Slown stated the parties disagree on when additional watch turnover payments have to be made.**

MEC Case No. 21-08

IBU v. WSF—Unfair labor practice complaint filed 6/20/08 and amended 6/23/08 and again 6/26/08 in which IBU charges WSF with interference and refusal to bargain. Specifically IBU charges WSF with a unilateral change in the working conditions of unlicensed deck department employees (filling open assignments for Summer 2008). The parties reached agreement on issues 1, 2 and 3. On 1/7/09, WSF filed its Answer to the Amended Complaint. On 9/25/09, IBU requested that a hearing be scheduled on the issue of assignment of AB work. Chairman Swanson reminded the parties that their “Dispatch Rules” settlement provides for resolution of related disputes such as this one through private arbitration with Liz Ford. On 4/23/10, AAG Slown reported that counsel agree the expedited dispute process is appropriate for resolving the dispute, but have not scheduled with Arbitrator Liz Ford yet. On 7/23/10 the parties reported they have not yet found time to schedule an arbitration date with Ms. Ford. (IBU is not ready to withdraw Case 21-08 at this time.) **On 4/22/11, Jay Ubelhart reported that the parties should be able to get back to scheduling this issue in the near future.**

MEC Case No. 7-10

IBU v. WSF—Unfair labor practice complaint filed 11/5/09 in which IBU charges WSF with interference and refusal to bargain. Specifically IBU alleges that WSF has failed to abide by Rule 3.04/single day vacation hours. On 3/12/10, the parties participated in a settlement conference with Commissioner Cox. They were unable to reach agreement on the issue. Due to a scheduling conflict on 5/4/10, Hearing Examiner Warren cancelled the 6/9/10 hearing and 5/26/10 answer deadline. On 6/16/10, WSF filed its Answer to the Complaint. The 6/30/10 hearing was cancelled due to AAG Slown’s illness. The hearing is rescheduled for 12/16/10. On 12/10/10, IBU requested the 12/16 hearing be continued due to the unavailability of witnesses. WSF did not object to the request. Commissioner Warren cancelled the 12/16/10 hearing date. Chairman Swanson has been substituted as Hearing Examiner for Case 7-10 (Commissioner Warren’s resignation was effective the end of 2010). On 3/2/11, IBU requested the 3/7 hearing be continued because the Union and WSF/OFM officials are scheduled for

urgent 2011-2013 contract negotiations on that date. WSF did not object. Examiner Swanson granted the request. The 3/7/11 hearing has been cancelled. MEC will reschedule. **On 3/9/11, IBU informed MEC that it is engaged in settlement discussions with WSF.**

MEC Case No. 11-10

Jonathan Pearson v. WSF—Unfair labor practice complaint filed 2/12/10 in which Mr. Pearson charges WSF with interference, domination, discouraging union membership, discrimination, and refusal to bargain related to Mr. Pearson's termination. On 12/14/10, MEC received notice from MM&P Counsel R. Fenrich that her firm no longer represents Mr. Pearson. (MM&P has withdrawn from the case.) Mr. Pearson has indicated he wants to proceed to hearing on his own. On 1/24/11, WSF filed its Answer to the complaint. On 2/7/11, Examiner Cox conducted a hearing on the issue of timeliness only. MEC received the transcript on 3/3/11. **Due to a back injury, on 3/31/11 AAG Anderson requested the 4/1 brief filing date be extended to 4/8. Examiner Cox granted the request. Briefs were timely filed. Decision pending.**

MEC Case No. 14-10

MEBA v. WSF —Unfair labor practice complaint filed 3/17/10 in which MEBA charges WSF with refusal to bargain. Specifically MEBA alleges WSF unilaterally implemented a Key Box System without notice to or bargaining with the Union. MEBA's complaint included notice to the Commission that it intends to file a motion for temporary relief. On 4/12/10, the parties requested that the 4/15/10 settlement conference be cancelled. WSF needs more time to provide information MEBA requested. The parties negotiated the key box issue on 4/23 with another matter. Mediator Swanson cancelled the 4/15/10 settlement conference for Case 14-10. On 10/22/10 Jeff Duncan reported MEBA and WSF are still negotiating this issue. On 11/10/10, MEBA Counsel notified MEC that negotiations have broken down and requested MEC schedule a hearing. On 1/12/11, WSF filed its Answer to the Complaint. On 1/24/11, MEBA Counsel requested the 1/26 hearing be postponed. The Governor scheduled a meeting with the unions on that date; Jeff Duncan must attend and he is also chief witness for the Union in this case. WSF Counsel did not oppose the request. Examiner Swanson has cancelled the 1/26/11 hearing. **The hearing has been continued to 9/21/11.**

MEC Case 15-10

MEBA v. WSF—Unfair labor practice complaint filed 3/26/10 in which MEBA charges WSF with refusal to bargain. Specifically MEBA alleges WSF has decided that unlicensed engine room personnel—Oilers and Wipers—should not be allowed to have parking spaces at the Bainbridge Island Terminal. On 7/14/10, the parties participated in a settlement conference with Mediator Cox, but were unable to resolve the issue. They intend to continue discussing. During MEC's 7/23/10 public meeting, Karol Kingery, MEBA, requested the 9/2 hearing be converted to a settlement conference. AAG Slown did not object. Hearing Examiner Warren granted the request. The 9/2 hearing and 8/19 date for WSF to answer the complaint have been cancelled. On 9/2/10, the parties engaged in further settlement discussions with Mediator Cox. The matter is not yet resolved; however MEBA intends to communicate with IBU regarding a possible agreement for use of a parking space. **Due to other pressing issues, MEBA and IBU have not fully discussed this matter. During the 4/22/11 MEC meeting, they indicated they expect to find time for it now.**

MEC Case No. 16-10

IBU v. WSF (Pascual)—Grievance filed 4/19/10 in which IBU alleges WSF restricted Elmer Pascual's bumping/bidding on OS positions, in violation of the contract. On 10/13/10, the parties met again with Mediator Cox to continue settlement discussions. They are close to reaching agreement. The hearing remains scheduled for 12/13/10. During the 10/22 MEC meeting, Jay Ubelhart, IBU, noted the parties have exchanged some information and hope to get the issue resolved. On 10/22/10, MEC received a letter from AAG Anderson requesting MEC dismiss this grievance as untimely. IBU Counsel responded on 10/29; WSF replied to IBU's response on 11/2. On 11/2, MEC issued Order Denying WSF's Motion to Dismiss. On 12/9/10, the parties requested the 12/13 hearing be continued while they exchanged proposals that may settle the matter. Arbitrator Swanson granted the request. The 12/13/10 hearing has been cancelled. On 1/28/11, Jerry Holder stated he is waiting for a proposal from IBU. On 2/23/11, AAG Anderson requested the 3/1 hearing be continued to allow time for WSF to consider IBU's settlement proposal. The IBU had no objection. Arbitrator Swanson granted the request. **As of 4/22/11, IBU has not received WSF's response to its proposal. The hearing has been continued to 6/22/11.**

MEC Case No. 19-10

Christopher Johnson v. MEBA & WSF—Unfair labor practice complaint filed 5/17/10 in which Mr. Johnson charges breach of duty of fair representation/discipline. Specifically Mr. Johnson alleges MEBA acted with restraint and coercion and WSF interfered. On 3/7/11, MEBA filed its Answer to the Complaint. WSF filed its Answer on 3/10/11. On 3/23/11, MEBA Counsel filed a Pre-Hearing Memorandum, requesting that MEC dismiss the complaint. On 3/24/11, the parties gathered for a hearing; however, it was not convened. They chose to discuss settlement options further. At the MEC meeting 3/25 WSF provided MEC with a copy of the parties' agreement. **By letter from Counsel G. Rhodes on 3/31, Mr. Johnson withdrew the complaint. On 4/13/11, MEC entered Order Closing Settled Complaint, Dec. No. 601-MEC.**

MEC Case No. 3-11

IBU v. WSF—Grievance filed 9/14/10 in which IBU alleges WSF violated the 9/09 elimination of touring watches MOU (limitation on flexing shifts). On 1/18/11, IBU and WSF participated in a settlement conference with Mediator Cox, but were unable to resolve the issue. On 1/26/11, IBU Counsel requested and was granted a continuance of the 2/2 hearing. The hearing was rescheduled for 6/9/11. On 4/18/11, IBU withdrew its grievance arbitration request. The 6/9/11 hearing was cancelled. **On 4/20/11, MEC entered Order Closing Withdrawn Grievance, Dec. No. 603-MEC.**

MEC Case No. 6-11

IBU v. WSF (Coleman)—Grievance filed 12/14/10 in which IBU alleges WSF denied overtime to Michael Coleman. On 1/20/11, AAG Anderson requested the 2/9 settlement conference be continued. He was recently reassigned to this case and had a schedule conflict on 2/9. IBU did not object. Mediator Swanson has cancelled the 2/9 settlement conference. On 2/22/11, the parties participated in a settlement conference with Mediator Swanson. The matter was not resolved. IBU needs to gather more information. **Due to a schedule conflict for Arbitrator Cox, the 3/28/11 hearing was cancelled. IBU requested MEC hold off rescheduling for the time being.**

MEC Case No. 7-11

IBU v. WSF (DeBlasio)—Grievance filed 12/16/10 in which IBU alleges WSF terminated Brandanna DeBlasio without all of the appropriate progressive discipline steps. On 2/22/11, the parties participated in a settlement conference with Mediator Swanson. The matter was not resolved. On 3/31/11, IBU withdrew Case 7-11; the 4/6/11 hearing was cancelled. **On 4/13/11, MEC entered Order Closing Withdrawn Grievance, Dec. No. 602-MEC.**

MEC Case No. 8-11

IBU v. WSF (Ramsey)—Grievance filed 1/14/11 in which IBU alleges WSF violated Rule 1.01 and Rule 5 of the collective bargaining agreement when Robin Ramsey was terminated. By letter on 1/20/11, Jerry Holder, LRO, declared the grievance untimely and requested the Commission decline to exert jurisdiction over it. On 1/24/11, IBU provided MEC with a copy of a letter sent to J. Holder on 9/21/10, as explanation for the Union’s delay in filing. Mr. Holder stated he never received the letter. A hearing will be conducted on both the issue of timeliness and the merits of the case. **On 3/9/11, IBU informed MEC that the parties are engaged in settlement discussions. The hearing is scheduled for 6/16/11.**

MEC Case No. 9-11

MEBA v. WSF—Unfair labor practice complaint filed 1/28/11 in which MEBA charges WSF with refusal to bargain watch turnover compensation. A settlement conference was scheduled for 2/17/11; however, the parties notified MEC early that day that they had reached an agreement in principle and are in the process of finalizing it. They asked MEC to cancel the 2/17 settlement conference and schedule another in March, to be available if the parties need it. During the 4/22/11 MEC meeting, Jeff Duncan reported that engineers are to receive watch turnover payment from WSF on 4/25, which is meant to bring their compensation up-to-date. **MEC has scheduled another settlement conference for the parties on 5/9/11 (the earliest workable date). The hearing remains scheduled for 5/26/11. WSF’s Answer to the Complaint is to be filed on or before 5/12/11.**

STATUS OF COLLECTIVE BARGAINING 2011-2013

OFM (Office of Financial Management) declared the contracts fiscally unfeasible. As of January 2011, a coalition of ferry employee unions (all but FASPAA and SEIU) returned to the bargaining table with the State to renegotiate the contracts.

As of 3/25/11, Gordon Baxter reported that OPEIU had ratified its contract. By the end of March, the remaining contracts were ratified.

FASPAA.....Negotiations began in May. The parties were scheduled for interest arbitration on 8/11 and 8/12 before Arbitrator Sylvia Skratek. On 8/3/10, MEC received the lists of disputed issues/final proposals from the parties. On 8/6, MEC issued a Certification of Issues for Interest Arbitration. Apparently the parties reached agreement and cancelled arbitration.

IBU.....Negotiations began in February. IBU declared impasse on 6/9/10. On 6/15/10, Jerry Holder requested a mediator be appointed.

MEC contacted the FMCS. The parties met with appointed mediator, Gary Hattal, on 7/7 and 7/9/10. On 7/12/10, IBU submitted its list of remaining disputed issues/final proposals to MEC. WSF filed its list/proposals on 7/16/10. On 7/22/10, the Commission issued a Certification of Issues for Interest Arbitration . The parties were in dispute over the impasse items. Interest arbitration was set for 8/2-8/6/10 before Arbitrator Sylvia Skratek. On 7/27, the MEC conducted a hearing on disputed final impasse issues for interest arbitration. On 7/29, MEC entered Decision Amending Final Impasse issues for 2011-2013 Interest Arbitration, Decision No. 586-MEC. **Arbitrator Skratek issued her award on 9/22/10.**

.....On 8/20/10, WSF filed a Petition for Judicial Review of MEC Decision 586 (MEC IMP 2-10) in Thurston County Superior Court (#10-2-01898-8). Judge Paula Casey is assigned and a status conference is scheduled for 11/19/10. MEC delivered a certified copy of the record to the Court on 9/17/10.

.....The case was reassigned to Judge Carol Murphy and a hearing scheduled for 5/27/11. WSF filed its brief on 4/12/11. The case has been reassigned to Judge Lisa Sutton. Respondents' briefs (MEC and IBU) are due 5/2/11.

MEBA.....Negotiations began in June. The parties reached a tentative agreement on a few items. MEC received the parties' issues/final proposals for interest arbitration (licensed and unlicensed contracts.) Arbitration was scheduled 8/17-8/20/10 before Arbitrator Elizabeth Ford. On 8/13/10, MEC issued a Certification of Issues for Interest Arbitration. **Arbitrator Ford issued her Award on 10/2/10.**

RCW 47.64.170 requires the contracts and awards to be submitted to the Office of Financial Management by 10/1/10. MEBA is waiting for formal notification of the State's position on this situation.

MM&P.....Negotiations began in April. As of 7/20/10, the parties were at impasse. On 7/30 and 8/2, MEC received the list of remaining disputed issues/final proposals from each of the parties. Interest arbitration was scheduled for 8/16-20/10 before Arbitrator Timothy Williams. On 8/5/10, MM&P objected to WSF's submittal of Rule 8.06 for certification for interest arbitration. On 8/5, WSF filed a response; MM&P replied to WSF's letter on 8/6. On 8/13, the Commission issued a Certification of Issues for Interest Arbitration with a "conditional certification" regarding the section in dispute. On 8/27/10, the Commission conducted a certification hearing. On 8/31/10, MEC entered Decision Denying Certification of Rule 8.06 for 2011-13 Interest

Arbitration, Dec. 588-MEC. **Arbitrator Williams issued his Award on 9/23/10 (both deck officers' and watch supervisors' contracts).**

On 9/17/10, WSF filed a petition for Judicial Review of MEC Decision No. 588 (MEC IMP 3-11) in Thurston County Superior Court (No. 10-2-02109-1). Judge Paula Casey has been assigned and a status conference scheduled for 1/7/11. MEC delivered the certified copy of the record to the Court on 10/14/10.

The State filed an affidavit of prejudice against Judge Casey. The matter was reassigned to Judge Christine Pomeroy. The 1/7/11 status conference was cancelled. Judge Pomeroy has recused herself from the case.

The matter has been reassigned to Judge Carol Murphy and the hearing set for 5/27/11. WSF filed its brief on 4/12/11. The case has been reassigned to Judge Lisa Sutton. Respondents' briefs (MEC and MM&P) are due 5/2/11.

Oper. Watch Superv's.....Negotiations began in February. On 8/2/10, MEC received the list of remaining disputed issues/final proposals from each of the parties. Interest arbitration was scheduled for 8/16-20/10 before Arbitrator Timothy Williams. On 8/11, MEC issued a Certification of Issues for Interest Arbitration. **Arbitrator Williams issued his Award on 9/23/10.**

Metal Trades.....On 8/9/10, MEC received the list of remaining disputed issues/final proposals from each of the parties. Interest arbitration was scheduled for 8/25-26 before Arbitrator Jane Wilkinson. On 8/18/10, MEC issued a Certification of Issues for Interest Arbitration. **Arbitrator Wilkinson issued her Award on 9/16/10.**

OPEIU.....Negotiations began in May. On 8/23/10, MEC received the parties' outstanding disputed issues/final proposals. Interest arbitration was scheduled for 8/30-31. On 8/25/10, MEC issued a Certification of Issues for Interest Arbitration. **Arbitrator Lumbley issued his Award on 9/23/10.**

SEIU.....Negotiations began in June. The parties have a collective bargaining agreement TA'd. On 8/20/10, MEC received confirmation that the parties have no outstanding issues they are seeking to advance to interest arbitration.

ADMINISTRATIVE REPORT

Legislation Eliminating the MEC

Bill activity has been conducted at a rapid pace. Only two of the six bills filed eliminating the MEC and transferring all duties and assets to PERC are active: House Bill 1516 and Senate Bill 5742. On 4/14/11, the House refused to concur with the Senate amendments to HB 1516 and asked the Senate to recede from the amendments. On 4/19/11, the Senate refused to recede and requested a conference. On 4/21/11, the House refused to concur in Senate amendments and asked the Senate to recede from the amendments. Senate Bill 5742 was amended and now makes the MEC a separate division in PERC. It passed out of the House on 4/14/11 and was referred to Ways and Means on 4/19/11. A public hearing was held 4/21/11 in Ways and Means, passed with amendments, and placed on second reading.

2011-13 Transportation Budget Bills Affecting the MEC

The original House Bill 1175 submitted at the request of the Governor included MEC at \$398,000 (a 12% reduction from 09-11) and also included MEC's 2009-11 supplemental request for attorney general funding for \$30,000; ESHB 1175 eliminates funding of the MEC but retains the \$30,000 supplemental. Original Senate Bill 5176 submitted at the request of the Governor also included MEC at \$398,000 but did not include MEC's supplemental request. SSB 5176 does not include funding for MEC for 2011-13 but cuts MEC's current 2009-11 budget by \$66,000 and doesn't include the supplemental request. When MEC's OFM Transportation budget analyst was contacted about this cut, he responded that Transportation Budget staff indicated the cut of \$66,000 to this year's budget was a mistake based on a miscommunication with OFM. He said OFM is talking with legislative staff to correct this item in the budget. MEC has not yet received verification of that correction.

State Shared Services

All state agencies are being moved to the new Shared Services e-mail. In addition to e-mail, e-mail filtering and e-mail storage are part of this new service. MEC's e-mail address will change when MEC is migrated over. Information will be provided when that change is about to occur.

The meeting adjourned at 10:27 a.m.

Next meeting:

*Friday, May 20, 2011, 10:00 a.m., Rainier Conference Room, 4th Floor,
Washington State Ferries Building 2901 3rd Avenue, Seattle*

STATE OF WASHINGTON
MARINE EMPLOYEES' COMMISSION
Evergreen Plaza Building
P.O. Box 40902
Olympia, Washington 98504-0902
(360) 586-6354
www.marineempcom.org

Friday, May 20, 2011 – 10:00 a.m.

Rainier Conference Room—Washington State Ferries, Seattle

MINUTES

Present: Members and staff - John R. Swanson, Chairman
John M. Cox, Commissioner
Linda Hoverter, Special Assistant
Kathy Marshall, Administrator

Others - Bill Knowlton, Marine Engineers' Beneficial Association
Leah Maurseth, WSF Labor Relations
John Ross, Inlandboatmen's Union of the Pacific
Harry Thompson, International Brotherhood of Electrical Workers

The meeting was called to order at 10:03 a.m.

Moved, seconded and carried: to adopt the agenda distributed at the meeting.

Moved, second and carried: to approve the minutes of the April 22, 2011 meeting.

STATUS OF CASES

MEC Case No. 16-08

MEBA v. WSF—At conclusion of the Superior Court review hearing on 8/27/10, Judge McPhee affirmed MEC's decision. On 9/23/10, MEC was informed that WSF has filed an appeal with the Court of Appeals. The State filed its brief on 12/23/10. MEBA filed its response brief on 1/20/11. MEC's brief was filed on 2/23/11.

On 1/22/10, Jeff Duncan reported that members have been paid the retro portion of the award through 8/31/09. The parties continued discussions to resolve how the issue will be handled going forward. On 12/15/10, the parties participated in mediation with Rick Oglesby. They reached impasse and moved the matter to interest arbitration. By letter on 1/21/11, MEBA re-invoked jurisdiction pursuant to Decision 563-MEC, indicating the State has not paid for turnover duties since MEC's Award issued in 2009. MEC responded by letter on 2/8. Sometime in April, MEBA and WSF reached an agreement in related Case 9-11; MEBA withdrew that complaint, as well as its re-invocation of Arbitrator Cox's jurisdiction under Decision 563-MEC. **Engineers received payment for watch turnover duties on 4/25/11, which covers the period 9/1/09 through 1/31/11. The parties have scheduled 7/19 and 7/20 for interest arbitration with Arbitrator Howell Lankford on the issue of revisions to watch turnover practices.**

MEC Case No. 21-08

IBU v. WSF—Unfair labor practice complaint filed 6/20/08 and amended 6/23/08 and again 6/26/08 in which IBU charges WSF with interference and refusal to bargain. Specifically IBU charges WSF with a unilateral change in the working conditions of unlicensed deck department employees (filling open assignments for Summer 2008). The parties reached agreement on issues 1, 2 and 3. On 9/25/09, IBU requested that a hearing be scheduled on the issue of assignment of AB work. Chairman Swanson reminded the parties that their "Dispatch Rules" settlement provides for resolution of related disputes such as this one through private arbitration with Liz Ford. On 4/23/10, AAG Slown reported that counsel agree the expedited dispute process is appropriate for resolving the dispute, but have not scheduled with Arbitrator Liz Ford yet. On 7/23/10 the parties reported they have not yet found time to schedule an arbitration date with Ms. Ford. (IBU is not ready to withdraw Case 21-08 at this time.) **On 4/22/11, Jay Ubelhart reported that the parties should be able to get back to scheduling this issue in the near future.**

MEC Case No. 7-10

IBU v. WSF—Unfair labor practice complaint filed 11/5/09 in which IBU charges WSF with interference and refusal to bargain. Specifically IBU alleges that WSF has failed to abide by Rule 3.04/single day vacation hours. On 3/12/10, the parties participated in a settlement conference with Commissioner Cox. They were unable to reach agreement on the issue. Due to a scheduling conflict on 5/4/10, Hearing Examiner Warren cancelled the 6/9/10 hearing and 5/26/10 answer deadline. On 6/16/10, WSF filed its Answer to the Complaint. The 6/30/10 hearing was cancelled due to AAG Slown's illness. On 12/10/10, IBU requested the 12/16 hearing be continued due to the unavailability of witnesses. WSF did not object to the request. Commissioner Warren cancelled the 12/16/10 hearing date. Chairman Swanson has been substituted as Hearing Examiner for Case 7-10 (Commissioner Warren's resignation was effective the end of 2010). On 3/2/11, IBU requested the 3/7 hearing be continued because the Union and WSF/OFM officials are scheduled for urgent 2011-2013 contract negotiations on that date. WSF did not object. Examiner Swanson granted the request. The 3/7/11 hearing has been cancelled. MEC will reschedule. **On 3/9/11, IBU informed MEC that it is engaged in settlement discussions with WSF and there is no need to reschedule a hearing at this time.**

MEC Case No. 11-10

Jonathan Pearson v. WSF—Unfair labor practice complaint filed 2/12/10 in which Mr. Pearson charges WSF with interference, domination, discouraging union membership, discrimination, and refusal to bargain related to Mr. Pearson's termination. On 12/14/10, MEC received notice from MM&P Counsel R. Fenrich that her firm no longer represents Mr. Pearson. (MM&P has withdrawn from the case.) Mr. Pearson has indicated he wants to proceed to hearing on his own. On 1/24/11, WSF filed its Answer to the complaint. On 2/7/11, Examiner Cox conducted a hearing on the issue of timeliness only. MEC received the transcript on 3/3/11. Due to a back injury, on 3/31/11 AAG Anderson requested the 4/1 brief filing date be extended to 4/8. Examiner Cox granted the request. Briefs were timely filed. **On 5/12/11, Examiner Cox entered Decision Denying WSF's Motion to Dismiss for Lack of Timeliness, Dec. No. 604-MEC. A hearing is to be scheduled on the merits of the case.**

MEC Case No. 14-10

MEBA v. WSF—Unfair labor practice complaint filed 3/17/10 in which MEBA charges WSF with refusal to bargain. Specifically MEBA alleges WSF unilaterally implemented a Key Box System without notice to or bargaining with the Union. MEBA's complaint included notice to the Commission that it intends to file a motion for temporary relief. On 4/12/10, the parties requested that the 4/15/10 settlement conference be cancelled. WSF needs more time to provide information MEBA requested. The parties negotiated the key box issue on 4/23 with another matter. Mediator Swanson cancelled the 4/15/10 settlement conference for Case 14-10. On 10/22/10 Jeff Duncan reported MEBA and WSF are still negotiating this issue. On 11/10/10, MEBA Counsel notified MEC that negotiations have broken down and requested MEC schedule a hearing. On 1/12/11, WSF filed its Answer to the Complaint. On 1/24/11, MEBA Counsel requested the 1/26 hearing be postponed. The Governor scheduled a meeting with the unions on that date; Jeff Duncan must attend and he is also chief witness for the Union in this case. WSF Counsel did not oppose the request. Examiner Swanson has cancelled the 1/26/11 hearing. **The hearing has been continued to 9/21/11.**

MEC Case 15-10

MEBA v. WSF—Unfair labor practice complaint filed 3/26/10 in which MEBA charges WSF with refusal to bargain. Specifically MEBA alleges WSF has decided that unlicensed engine room personnel—Oilers and Wipers—should not be allowed to have parking spaces at the Bainbridge Island Terminal. On 7/14/10, the parties participated in a settlement conference with Mediator Cox, but were unable to resolve the issue. They intend to continue discussing. During MEC's 7/23/10 public meeting, Karol Kingery, MEBA, requested the 9/2 hearing be converted to a settlement conference. AAG Slown did not object. Hearing Examiner Warren granted the request. The 9/2 hearing and 8/19 date for WSF to answer the complaint have been cancelled. On 9/2/10, the parties engaged in further settlement discussions with Mediator Cox. The matter is not yet resolved; however MEBA intends to communicate with IBU regarding a possible agreement for use of a parking space. **Due to other pressing issues, MEBA and IBU have not fully discussed this matter. During the 4/22/11 MEC meeting, they indicated they expect to find time for it now.**

MEC Case No. 16-10

IBU v. WSF (Pascual)—Grievance filed 4/19/10 in which IBU alleges WSF restricted Elmer Pascual's bumping/bidding on OS positions, in violation of the contract. On 10/13/10, the parties met again with Mediator Cox to continue settlement discussions. They are close to reaching agreement. The hearing remains scheduled for 12/13/10. During the 10/22 MEC meeting, Jay Ubelhart, IBU, noted the parties have exchanged some information and hope to get the issue resolved. On 10/22/10, MEC received a letter from AAG Anderson requesting MEC dismiss this grievance as untimely. IBU Counsel responded on 10/29; WSF replied to IBU's response on 11/2. On 11/2, MEC issued Order Denying WSF's Motion to Dismiss. On 12/9/10, the parties requested the 12/13 hearing be continued while they exchanged proposals that may settle the matter. Arbitrator Swanson granted the request. The 12/13/10 hearing has been cancelled. On 1/28/11, Jerry Holder stated he is waiting for a proposal from IBU. On 2/23/11, AAG Anderson requested the 3/1 hearing be continued to allow time for WSF to consider IBU's settlement proposal. The IBU had no objection. Arbitrator Swanson granted the request. **On 5/20/11, Leah Maurseth reported that the parties are in the process of exchanging proposals. The hearing has been continued to 6/22/11.**

MEC Case No. 6-11

IBU v. WSF (Coleman)—Grievance filed 12/14/10 in which IBU alleges WSF denied overtime to Michael Coleman. On 1/20/11, AAG Anderson requested the 2/9 settlement conference be continued. He was recently reassigned to this case and had a schedule conflict on 2/9. IBU did not object. Mediator Swanson has cancelled the 2/9 settlement conference. On 2/22/11, the parties participated in a settlement conference with Mediator Swanson. The matter was not resolved. IBU needs to gather more information. **Due to a schedule conflict for Arbitrator Cox, the 3/28/11 hearing was cancelled. IBU requested MEC hold off rescheduling for the time being.**

MEC Case No. 8-11

IBU v. WSF (Ramsey)—Grievance filed 1/14/11 in which IBU alleges WSF violated Rule 1.01 and Rule 5 of the collective bargaining agreement when Robin Ramsey was terminated. By letter on 1/20/11, Jerry Holder, LRO, declared the grievance untimely and requested the Commission decline to exert jurisdiction over it. On 1/24/11, IBU provided MEC with a copy of a letter sent to J. Holder on 9/21/10, as explanation for the Union's delay in filing. Mr. Holder stated he never received the letter. A hearing will be conducted on both the issue of timeliness and the merits of the case. **On 3/9/11, IBU informed MEC that the parties are engaged in settlement discussions. The hearing is scheduled for 6/16/11.**

MEC Case No. 9-11

MEBA v. WSF—Unfair labor practice complaint filed 1/28/11 in which MEBA charges WSF with refusal to bargain watch turnover compensation. A settlement conference was scheduled for 2/17/11; however, the parties notified MEC early that day that they had reached an agreement in principle and are in the process of finalizing it. They asked MEC to cancel the 2/17 settlement conference and schedule another in

March, to be available if the parties need it. During the 4/22/11 MEC meeting, Jeff Duncan reported that engineers are to receive watch turnover payment from WSF on 4/25, which compensates them for 9/1/09-1/31/11, pursuant to their signed agreement. **On 5/5/11, MEBA Counsel withdrew the complaint, providing MEC with a signed copy of the parties' settlement agreement. The 5/9/11 settlement and 5/26/ hearing (as well as the 5/12 answer filing date) have been cancelled. On 5/12/11, MEC entered Order Closing Settled Complaint, Dec. No. 605-MEC.**

STATUS OF COLLECTIVE BARGAINING 2011-2013

OFM (Office of Financial Management) declared the contracts fiscally unfeasible. As of January 2011, a coalition of ferry employee unions (all but FASPAA and SEIU) returned to the bargaining table with the State to renegotiate the contracts.

As of 3/25/11, Gordon Baxter reported that OPEIU had ratified its contract. By the end of March, the remaining contracts were ratified.

FASPAA..... Negotiations began in May. The parties were scheduled for interest arbitration on 8/11 and 8/12 before Arbitrator Sylvia Skratek. On 8/3/10, MEC received the lists of disputed issues/final proposals from the parties. On 8/6, MEC issued a Certification of Issues for Interest Arbitration. Apparently the parties reached agreement and cancelled arbitration.

IBU..... Negotiations began in February. IBU declared impasse on 6/9/10. On 6/15/10, Jerry Holder requested a mediator be appointed. MEC contacted the FMCS. The parties met with appointed mediator, Gary Hattal, on 7/7 and 7/9/10. On 7/12/10, IBU submitted its list of remaining disputed issues/final proposals to MEC. WSF filed its list/proposals on 7/16/10. On 7/22/10, the Commission issued a Certification of Issues for Interest Arbitration . The parties were in dispute over the impasse items. Interest arbitration was set for 8/2-8/6/10 before Arbitrator Sylvia Skratek. On 7/27, the MEC conducted a hearing on disputed final impasse issues for interest arbitration. On 7/29, MEC entered Decision Amending Final Impasse issues for 2011-2013 Interest Arbitration, Decision No. 586-MEC. **Arbitrator Skratek issued her award on 9/22/10.**

..... *On 8/20/10, WSF filed a Petition for Judicial Review of MEC Decision 586 (MEC IMP 2-10) in Thurston County Superior Court (#10-2-01898-8). Judge Paula Casey is assigned and a status conference is scheduled for 11/19/10. MEC delivered a certified copy of the record to the Court on 9/17/10.*

..... *The case was reassigned to Judge Carol Murphy and a hearing scheduled for 5/27/11. WSF filed its brief on 4/12/11. The case has been reassigned to Judge Lisa Sutton. Respondents' briefs (MEC and IBU) were filed on 5/2/11. WSF filed a Reply Brief on 5/12/11.*

MEBA..... Negotiations began in June. The parties reached a tentative agreement on a few items. MEC received the parties' issues/final proposals for interest arbitration (licensed and unlicensed contracts.) Arbitration was scheduled 8/17-8/20/10 before Arbitrator Elizabeth Ford. On 8/13/10, MEC issued a Certification of Issues for Interest Arbitration. **Arbitrator Ford issued her Award on 10/2/10.**

RCW 47.64.170 requires the contracts and awards to be submitted to the Office of Financial Management by 10/1/10. MEBA is waiting for formal notification of the State's position on this situation.

MM&P..... Negotiations began in April. As of 7/20/10, the parties were at impasse. On 7/30 and 8/2, MEC received the list of remaining disputed issues/final proposals from each of the parties. Interest arbitration was scheduled for 8/16-20/10 before Arbitrator Timothy Williams. On 8/5/10, MM&P objected to WSF's submittal of Rule 8.06 for certification for interest arbitration. On 8/5, WSF filed a response; MM&P replied to WSF's letter on 8/6. On 8/13, the Commission issued a Certification of Issues for Interest Arbitration with a "conditional certification" regarding the section in dispute. On 8/27/10, the Commission conducted a certification hearing. On 8/31/10, MEC entered Decision Denying Certification of Rule 8.06 for 2011-13 Interest Arbitration, Dec. 588-MEC. **Arbitrator Williams issued his Award on 9/23/10 (both deck officers' and watch supervisors' contracts).**

On 9/17/10, WSF filed a petition for Judicial Review of MEC Decision No. 588 (MEC IMP 3-11) in Thurston County Superior Court (No. 10-2-02109-1). Judge Paula Casey has been assigned and a status conference scheduled for 1/7/11. MEC delivered the certified copy of the record to the Court on 10/14/10.

The State filed an affidavit of prejudice against Judge Casey. The matter was reassigned to Judge Christine Pomeroy. The 1/7/11 status conference was cancelled. Judge Pomeroy has recused herself from the case.

The matter has been reassigned to Judge Carol Murphy and the hearing set for 5/27/11. WSF filed its brief on 4/12/11. The case has been reassigned to Judge Lisa Sutton. Respondents' briefs (MEC and MM&P) were filed on 5/2/11. WSF filed a Reply Brief on 5/12/11.

Oper. Watch Superv's..... Negotiations began in February. On 8/2/10, MEC received the list of remaining disputed issues/final proposals from each of the parties. Interest arbitration was scheduled for 8/16-20/10 before Arbitrator Timothy Williams. On 8/11, MEC issued a Certification of Issues for Interest Arbitration. **Arbitrator Williams issued his Award on 9/23/10.**

Metal Trades..... On 8/9/10, MEC received the list of remaining disputed issues/final proposals from each of the parties. Interest arbitration was scheduled for 8/25-26 before Arbitrator Jane Wilkinson. On 8/18/10, MEC issued a Certification

of Issues for Interest Arbitration. **Arbitrator Wilkinson issued her Award on 9/16/10.**

OPEIU..... Negotiations began in May. On 8/23/10, MEC received the parties' outstanding disputed issues/final proposals. Interest arbitration was scheduled for 8/30-31. On 8/25/10, MEC issued a Certification of Issues for Interest Arbitration. **Arbitrator Lumbley issued his Award on 9/23/10.**

SEIU..... Negotiations began in June. The parties have a collective bargaining agreement TA'd. On 8/20/10, MEC received confirmation that the parties have no outstanding issues they are seeking to advance to interest arbitration.

OFM/LRO Negotiator Jerry Holder: IBU, MM&P, Operations Watch Supervisors, Metal Trades
OFM/LRO Negotiator Glenn Frye: FASPAA, MEBA, OPEIU, SEIU

ADMINISTRATIVE REPORT

In Recognition of Linda Hoverter

Kathy Marshall announced that on May 12 Linda Hoverter celebrated her 24th anniversary as an employee of the Marine Employees' Commission. A round of applause followed.

Legislation Eliminating the MEC

When the special session began April 26, all 6 bills eliminating the MEC were by resolution re-introduced and retained in present status. Senate Bill 5742 is the only one currently active and has been amended several times; it now makes the MEC a separate division in PERC. On May 13 the House passed the bill with amendments. On May 17, the Senate refused to concur in the House amendments and asked the House for conference and appointed a conference committee. The House granted the conference committee request and a conference committee was appointed.

2011-13 Transportation Budget Bill

The Governor signed House Bill 1175 on Monday, May 16. She vetoed the section concerning the MEC saying,

Section 714 amends this statute to provide that MEC shall not perform its duties as identified in this section if funding is not provided. Because funding for MEC has not been provided, this section would prohibit it from performing its statutory duties. Among its duties, MEC adjudicates complaints, grievances, and disputes between labor and management arising out of the operation of the ferry system. A provision in a budget bill cannot extinguish the rights of employees and labor organizations to access MEC to resolve disputes. Changing or eliminating MEC duties should be the subject of a policy bill, not a provision in a two-year budget bill. For these reasons, I have vetoed Section 714.

MEC's 2009-11 Budget

Linda Hoverter and Kathy Marshall met with MEC's accountants on May 3 for the quarterly budget meeting. The MEC is still solvent, but things could get really grim with May's legal expenses. MEC's Attorney General (AG) budget for the biennium is \$11,838. As of April 30, MEC has spent \$36,623 and the deficit so far is **-\$24,785**. MEC has a full day of court hearings on May 27 which require AG preparation and appearance costs; we are anticipating at least \$6,000 for May, bringing MEC's total AG costs to \$42,623 with a deficit of **-\$30,785**. MEC has been able to pay the bills so far by cutting spending in other areas. On May 3 Kathy sent an e-mail to MEC's OFM Transportation Budget analyst, Erik Hansen, and the OFM Senior Budget Analyst, Robin Rettew, alerting them to this serious budget problem and asking them what MEC's options are since the transportation budget bill did NOT include MEC's supplemental request for \$30,000. After waiting two weeks for a response, Kathy called Erik on May 17 and was told they didn't have an answer.

Report from John Ross, Inlandboatmen's Union of the Pacific

John Ross reported on the May 19, 2011 Edmonds Police Department Awards Ceremony in which WSF employees Master John Tullis, along with Richard Kennedy, Seth Hamlin and Marjorie Ess (all members of the Inlandboatmen's Union of the Pacific) received the Citizen Service Citation for their rescue of a swimmer in distress at Edmonds Dive Park. A copy of the program is attached.

The meeting adjourned at 10:28 a.m.

Next meeting:

Friday, June 24, 2011, 10:00 a.m., Rainier Conference Room, 4th Floor, Washington State Ferries Building, 2901 3rd Avenue, Seattle

STATE OF WASHINGTON
MARINE EMPLOYEES' COMMISSION
Evergreen Plaza Building
P.O. Box 40902
Olympia, Washington 98504-0902
(360) 586-6354
www.marineempcom.org

Friday, June 24, 2011 – 10:00 a.m.
Rainier Conference Room—Washington State Ferries, Seattle

MINUTES

Present: Members and staff - John R. Swanson, Chairman
Mark Brennan, Commissioner
John M. Cox, Commissioner
Linda Hoverter, Special Assistant
Kathy Marshall, Administrator

Others - Dennis Conklin, Inlandboatmen's Union of the Pacific
Jeff Duncan, Marine Engineers' Beneficial Association
Glenn Frye, OFM Labor Relations
Bill Knowlton, Marine Engineers' Beneficial Association
Leah Maurseth, WSF Labor Relations
Mike Murray, Masters Mates & Pilots
Jeff Pelton, WSDOT
Tim Saffle, Masters Mates & Pilots
Robert Scott, Puget Sound Metal Trades Council
Harry Thompson, International Brotherhood of Electrical
Workers
Jay Ubelhart, Inlandboatmen's Union of the Pacific

The meeting was called to order at 10:03 a.m.

Moved, seconded and carried: to adopt the agenda distributed at the meeting.

Moved, second and carried: to approve the minutes of the May 20, 2011 meeting.

STATUS OF CASES

MEC Case No. 16-08

MEBA v. WSF—At conclusion of the Superior Court review hearing on 8/27/10, Judge McPhee affirmed MEC's decision. On 9/23/10, MEC was informed that WSF has filed an appeal with the Court of Appeals. The State filed its brief on 12/23/10. MEBA filed its response brief on 1/20/11. MEC's brief was filed on 2/23/11. The State filed a reply brief on 3/25/11. **Hearing is not expected to be scheduled until the fall of 2011.**

On 1/22/10, Jeff Duncan reported that members have been paid the retro portion of the award through 8/31/09. The parties continued discussions to resolve how the issue will be handled going forward. On 12/15/10, the parties participated in mediation with Rick Oglesby. They reached impasse and moved the matter to interest arbitration. By letter on 1/21/11, MEBA re-invoked jurisdiction pursuant to Decision 563-MEC, indicating the State has not paid for turnover duties since MEC's Award issued in 2009. MEC responded by letter on 2/8. Sometime in April, MEBA and WSF reached an agreement in related Case 9-11; MEBA withdrew that complaint, as well as its re-invocation of Arbitrator Cox's jurisdiction under Decision 563-MEC. **Engineers received payment for watch turnover duties on 4/25/11, which covers the period 9/1/09 through 1/31/11. The parties have scheduled 7/19 and 7/20 for interest arbitration with Arbitrator Howell Lankford on the issue of revisions to watch turnover practices.**

MEC Case No. 21-08

IBU v. WSF—Unfair labor practice complaint filed 6/20/08 and amended 6/23/08 and again 6/26/08 in which IBU charges WSF with interference and refusal to bargain. Specifically IBU charges WSF with a unilateral change in the working conditions of unlicensed deck department employees (filling open assignments for Summer 2008). The parties reached agreement on issues 1, 2 and 3. On 9/25/09, IBU requested that a hearing be scheduled on the issue of assignment of AB work. Chairman Swanson reminded the parties that their "Dispatch Rules" settlement provides for resolution of related disputes such as this one through private arbitration with Liz Ford. On 4/23/10, AAG Slown reported that counsel agree the expedited dispute process is appropriate for resolving the dispute, but have not scheduled with Arbitrator Liz Ford yet. On 7/23/10 the parties reported they have not yet found time to schedule an arbitration date with Ms. Ford. (IBU is not ready to withdraw Case 21-08 at this time.) On 4/22/11, Jay Ubelhart reported that the parties should be able to get back to scheduling this issue in the near future. **On 6/24/11, Jay Ubelhart, IBU, reported the parties hope to schedule arbitration with Ms. Ford sometime this summer.**

MEC Case No. 7-10

IBU v. WSF—Unfair labor practice complaint filed 11/5/09 in which IBU charges WSF with interference and refusal to bargain. Specifically IBU alleges that WSF has failed to abide by Rule 3.04/single day vacation hours. On 3/12/10, the parties participated in a settlement conference with Commissioner Cox. They were unable to reach agreement on the issue. Due to a scheduling conflict on 5/4/10, Hearing Examiner Warren cancelled the 6/9/10 hearing and 5/26/10 answer deadline. On 6/16/10, WSF filed its Answer to the Complaint. The 6/30/10 hearing was cancelled due to AAG Slown's illness. On 12/10/10, IBU requested the 12/16 hearing be continued due to the unavailability of witnesses. WSF did not object to the request.

Commissioner Warren cancelled the 12/16/10 hearing date. Chairman Swanson has been substituted as Hearing Examiner for Case 7-10 (Commissioner Warren's resignation was effective the end of 2010). On 3/2/11, IBU requested the 3/7 hearing be continued because the Union and WSF/OFM officials are scheduled for urgent 2011-2013 contract +negotiations on that date. WSF did not object. Examiner Swanson granted the request. The 3/7/11 hearing has been cancelled. MEC will reschedule. On 3/9/11, IBU informed MEC that it is engaged in settlement discussions with WSF and there is no need to reschedule a hearing at this time. **On 6/10/11, IBU requested that MEC set another hearing date—PERC will schedule.**

MEC Case No. 11-10

Jonathan Pearson v. WSF—Unfair labor practice complaint filed 2/12/10 in which Mr. Pearson charges WSF with interference, domination, discouraging union membership, discrimination, and refusal to bargain related to Mr. Pearson's termination. On 12/14/10, MEC received notice from MM&P Counsel R. Fenrich that her firm no longer represents Mr. Pearson. (MM&P has withdrawn from the case.) Mr. Pearson has indicated he wants to proceed to hearing on his own. On 1/24/11, WSF filed its Answer to the complaint. On 2/7/11, Examiner Cox conducted a hearing on the issue of timeliness only. MEC received the transcript on 3/3/11. Due to a back injury, on 3/31/11 AAG Anderson requested the 4/1 brief filing date be extended to 4/8. Examiner Cox granted the request. Briefs were timely filed. On 5/12/11, Examiner Cox entered Decision Denying WSF's Motion to Dismiss for Lack of Timeliness, Dec. No. 604-MEC. **A hearing on the merits of the case is scheduled for 9/12/11.**

MEC Case No. 14-10

MEBA v. WSF —Unfair labor practice complaint filed 3/17/10 in which MEBA charges WSF with refusal to bargain. Specifically MEBA alleges WSF unilaterally implemented a Key Box System without notice to or bargaining with the Union. MEBA's complaint included notice to the Commission that it intends to file a motion for temporary relief. On 4/12/10, the parties requested that the 4/15/10 settlement conference be cancelled. WSF needs more time to provide information MEBA requested. The parties negotiated the key box issue on 4/23 with another matter. Mediator Swanson cancelled the 4/15/10 settlement conference for Case 14-10. On 10/22/10 Jeff Duncan reported MEBA and WSF are still negotiating this issue. On 11/10/10, MEBA Counsel notified MEC that negotiations have broken down and requested MEC schedule a hearing. On 1/12/11, WSF filed its Answer to the Complaint. On 1/24/11, MEBA Counsel requested the 1/26 hearing be postponed. The Governor scheduled a meeting with the unions on that date; Jeff Duncan must attend and he is also chief witness for the Union in this case. WSF Counsel did not oppose the request. Examiner Swanson has cancelled the 1/26/11 hearing. **The hearing has been continued to 9/21/11.**

MEC Case 15-10

MEBA v. WSF—Unfair labor practice complaint filed 3/26/10 in which MEBA charges WSF with refusal to bargain. Specifically MEBA alleges WSF has decided that unlicensed engine room personnel—Oilers and Wipers—should not be allowed to have parking spaces at the Bainbridge Island Terminal. On 7/14/10, the parties participated in a settlement conference with Mediator Cox, but were unable to resolve the issue. They intend to continue discussing. During MEC's 7/23/10 public meeting, Karol Kingery, MEBA, requested the 9/2 hearing be converted to a settlement conference. AAG Slown did not object. Hearing Examiner Warren granted the request. The 9/2 hearing and 8/19 date for WSF to answer the complaint have been

cancelled. On 9/2/10, the parties engaged in further settlement discussions with Mediator Cox. The matter is not yet resolved; however MEBA intends to communicate with IBU regarding a possible agreement for use of a parking space. **Due to other pressing issues, MEBA and IBU have not fully discussed this matter. During the 4/22/11 MEC meeting, they indicated they expect to find time for it now.**

MEC Case No. 16-10

IBU v. WSF (Pascual)—Grievance filed 4/19/10 in which IBU alleges WSF restricted Elmer Pascual's bumping/bidding on OS positions, in violation of the contract. On 10/13/10, the parties met again with Mediator Cox to continue settlement discussions. They are close to reaching agreement. The hearing remains scheduled for 12/13/10. During the 10/22 MEC meeting, Jay Ubelhart, IBU, noted the parties have exchanged some information and hope to get the issue resolved. On 10/22/10, MEC received a letter from AAG Anderson requesting MEC dismiss this grievance as untimely. IBU Counsel responded on 10/29; WSF replied to IBU's response on 11/2. On 11/2, MEC issued Order Denying WSF's Motion to Dismiss. On 12/9/10, the parties requested the 12/13 hearing be continued while they exchanged proposals that may settle the matter. Arbitrator Swanson granted the request. The 12/13/10 hearing has been cancelled. On 1/28/11, Jerry Holder stated he is waiting for a proposal from IBU. On 2/23/11, AAG Anderson requested the 3/1 hearing be continued to allow time for WSF to consider IBU's settlement proposal. The IBU had no objection. Arbitrator Swanson granted the request. On 5/20/11, Leah Maurseth reported that the parties are in the process of exchanging proposals. **On 6/15/11, Commissioner Mark Brennan was substituted as Arbitrator. On 6/21/11, WSF Counsel notified MEC that the parties have settled the grievance. The 6/22 hearing was cancelled. Case is to be closed.**

MEC Case No. 6-11

IBU v. WSF (Coleman)—Grievance filed 12/14/10 in which IBU alleges WSF denied overtime to Michael Coleman. On 1/20/11, AAG Anderson requested the 2/9 settlement conference be continued. He was recently reassigned to this case and had a schedule conflict on 2/9. IBU did not object. Mediator Swanson has cancelled the 2/9 settlement conference. On 2/22/11, the parties participated in a settlement conference with Mediator Swanson. The matter was not resolved. IBU needs to gather more information. Due to a schedule conflict for Arbitrator Cox, the 3/28/11 hearing was cancelled. IBU requested MEC hold off rescheduling for the time being. **On 6/24/11, IBU Business Agent Jay Ubelhart withdrew this grievance request. Case is to be closed.**

MEC Case No. 8-11

IBU v. WSF (Ramsey)—Grievance filed 1/14/11 in which IBU alleges WSF violated Rule 1.01 and Rule 5 of the collective bargaining agreement when Robin Ramsey was terminated. By letter on 1/20/11, Jerry Holder, LRO, declared the grievance untimely and requested the Commission decline to exert jurisdiction over it. On 1/24/11, IBU provided MEC with a copy of a letter sent to J. Holder on 9/21/10, as explanation for the Union's delay in filing. Mr. Holder stated he never received the letter. A hearing will be conducted on both the issue of timeliness and the merits of the case. **On 3/9/11, IBU informed MEC that the parties are engaged in settlement discussions. On 5/31/11, both Jerry Holder and Jay Ubelhart informed the Commission that Case 8-11 had been resolved and requested the hearing date be cancelled. Mr. Holder provided MEC with a copy of the parties' signed settlement agreement. Arbitrator Swanson cancelled the 6/16/11 hearing. On 6/7/11, MEC entered Order Closing settled Grievance, Dec. No. 606-MEC.**

MEC Case No. 10-11

IBU v. WSF (Holdal)—Grievance filed 6/15/11 in which IBU requests this grievance be moved by MEC to grievance arbitration. **PERC will schedule.**

MEC Case No. 11-11

IBU v. WSF (Tenneson)— Grievance filed 6/15/11 in which IBU requests this grievance be moved by MEC to grievance arbitration. **PERC will schedule.**

STATUS OF COLLECTIVE BARGAINING 2011-2013

OFM (Office of Financial Management) declared the contracts fiscally unfeasible. As of January 2011, a coalition of ferry employee unions (all but FASPAA and SEIU) returned to the bargaining table with the State to renegotiate the contracts.

As of 3/25/11, Gordon Baxter reported that OPEIU had ratified its contract. By the end of March, the remaining contracts were ratified.

FASPAA..... Negotiations began in May. The parties were scheduled for interest arbitration on 8/11 and 8/12 before Arbitrator Sylvia Skratek. On 8/3/10, MEC received the lists of disputed issues/final proposals from the parties. On 8/6, MEC issued a Certification of Issues for Interest Arbitration. Apparently the parties reached agreement and cancelled arbitration.

IBU..... Negotiations began in February. IBU declared impasse on 6/9/10. On 6/15/10, Jerry Holder requested a mediator be appointed. MEC contacted the FMCS. The parties met with appointed mediator, Gary Hattal, on 7/7 and 7/9/10. On 7/12/10, IBU submitted its list of remaining disputed issues/final proposals to MEC. WSF filed its list/proposals on 7/16/10. On 7/22/10, the Commission issued a Certification of Issues for Interest Arbitration . The parties were in dispute over the impasse items. Interest arbitration was set for 8/2-8/6/10 before Arbitrator Sylvia Skratek. On 7/27, the MEC conducted a hearing on disputed final impasse issues for interest arbitration. On 7/29, MEC entered Decision Amending Final Impasse issues for 2011-2013 Interest Arbitration, Decision No. 586-MEC. **Arbitrator Skratek issued her award on 9/22/10.**

..... *On 8/20/10, WSF filed a Petition for Judicial Review of MEC Decision 586 (MEC IMP 2-10) in Thurston County Superior Court (#10-2-01898-8). Judge Paula Casey is assigned and a status conference is scheduled for 11/19/10. MEC delivered a certified copy of the record to the Court on 9/17/10.*

..... *The case was reassigned to Judge Carol Murphy and a hearing scheduled for 5/27/11. WSF filed its brief on 4/12/11. The case has been reassigned to Judge Lisa Sutton. Respondents’ briefs*

(MEC and IBU) were filed on 5/2/11. WSF filed a Reply Brief on 5/12/11. The 5/27 hearing was cancelled, to await the outcome of Legislative action on the MEC. A status conference is scheduled for 7/29/11.

MEBA..... Negotiations began in June. The parties reached a tentative agreement on a few items. MEC received the parties' issues/final proposals for interest arbitration (licensed and unlicensed contracts.) Arbitration was scheduled 8/17-8/20/10 before Arbitrator Elizabeth Ford. On 8/13/10, MEC issued a Certification of Issues for Interest Arbitration. **Arbitrator Ford issued her Award on 10/2/10.**

RCW 47.64.170 requires the contracts and awards to be submitted to the Office of Financial Management by 10/1/10. MEBA is waiting for formal notification of the State's position on this situation.

MM&P..... Negotiations began in April. As of 7/20/10, the parties were at impasse. On 7/30 and 8/2, MEC received the list of remaining disputed issues/final proposals from each of the parties. Interest arbitration was scheduled for 8/16-20/10 before Arbitrator Timothy Williams. On 8/5/10, MM&P objected to WSF's submittal of Rule 8.06 for certification for interest arbitration. On 8/5, WSF filed a response; MM&P replied to WSF's letter on 8/6. On 8/13, the Commission issued a Certification of Issues for Interest Arbitration with a "conditional certification" regarding the section in dispute. On 8/27/10, the Commission conducted a certification hearing. On 8/31/10, MEC entered Decision Denying Certification of Rule 8.06 for 2011-13 Interest Arbitration, Dec. 588-MEC. **Arbitrator Williams issued his Award on 9/23/10 (both deck officers' and watch supervisors' contracts).**

On 9/17/10, WSF filed a petition for Judicial Review of MEC Decision No. 588 (MEC IMP 3-11) in Thurston County Superior Court (No. 10-2-02109-1). Judge Paula Casey has been assigned and a status conference scheduled for 1/7/11. MEC delivered the certified copy of the record to the Court on 10/14/10.

The State filed an affidavit of prejudice against Judge Casey. The matter was reassigned to Judge Christine Pomeroy. The 1/7/11 status conference was cancelled. Judge Pomeroy has recused herself from the case.

The matter has been reassigned to Judge Carol Murphy and the hearing set for 5/27/11. WSF filed its brief on 4/12/11. The case has been reassigned to Judge Lisa Sutton. Respondents' briefs (MEC and MM&P) were filed on 5/2/11. WSF filed a Reply Brief

on 5/12/11. The 5/27 hearing has been cancelled, to await the outcome of Legislative action on the MEC. A status conference is scheduled for 7/29/11.

Oper. Watch Superv's..... Negotiations began in February. On 8/2/10, MEC received the list of remaining disputed issues/final proposals from each of the parties. Interest arbitration was scheduled for 8/16-20/10 before Arbitrator Timothy Williams. On 8/11, MEC issued a Certification of Issues for Interest Arbitration. **Arbitrator Williams issued his Award on 9/23/10.**

Metal Trades..... On 8/9/10, MEC received the list of remaining disputed issues/final proposals from each of the parties. Interest arbitration was scheduled for 8/25-26 before Arbitrator Jane Wilkinson. On 8/18/10, MEC issued a Certification of Issues for Interest Arbitration. **Arbitrator Wilkinson issued her Award on 9/16/10.**

OPEIU..... Negotiations began in May. On 8/23/10, MEC received the parties' outstanding disputed issues/final proposals. Interest arbitration was scheduled for 8/30-31. On 8/25/10, MEC issued a Certification of Issues for Interest Arbitration. **Arbitrator Lumbley issued his Award on 9/23/10.**

SEIU..... Negotiations began in June. The parties have a collective bargaining agreement TA'd. On 8/20/10, MEC received confirmation that the parties have no outstanding issues they are seeking to advance to interest arbitration.

OFM/LRO Negotiator Jerry Holder: IBU, MM&P, Operations Watch Supervisors, Metal Trades

OFM/LRO Negotiator Glenn Frye: FASPAA, MEBA, OPEIU, SEIU

ADMINISTRATIVE REPORT

In Recognition of Outgoing Chairman John Swanson

Kathy Marshall, on behalf of the Commission, presented Outgoing Chairman John Swanson with a plaque in appreciation of his nine years of outstanding service as Chairman of the Marine Employees' Commission. Mike Murray and Tim Saffle of Masters, Mates & Pilots also presented John Swanson with a plaque in appreciation of his outstanding efforts on behalf of labor relations.

In Recognition of MEC Staff

Mike Murray and Tim Saffle of Masters, Mates & Pilots presented Linda Hoverter and Kathy Marshall with bouquets of flowers in appreciation of their many years of effort on behalf of labor relations.

Travel Expense Review

One last order of business prior to closing the Marine Employees' Commission was to have the Commissioners review all travel expenses for all employees for January 1, 2011 to June 30, 2011. A motion was made and seconded. Travel expenses were approved.

Closing the MEC

Kathy Marshall announced the MEC will be permanently closing its office at 711 Capitol Way in Olympia on June 30 and the MEC web site will also cease at that time. The MEC program is becoming the marine division of PERC and the Commissioners will be continuing in their roles, but Linda Hoverter and Kathy Marshall have been laid off effective June 30.

The meeting adjourned at 10:28 a.m.



STATE OF WASHINGTON

PUBLIC EMPLOYMENT RELATIONS COMMISSION

CATHLEEN CALLAHAN, EXECUTIVE DIRECTOR

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MARINE EMPLOYEES' COMMISSION

Friday, September 30, 2011 – 10:00 a.m.
Rainier Conference Room – Washington State Ferries
Seattle, Washington

MINUTES

Present: Members and staff - Mark Brennan, Acting Chairperson
John M. Cox, Commissioner
Cathleen Callahan, Executive Director
Majel C. Boudia, Confidential Secretary

Others: Tim Saffle, Masters, Mates & Pilots
Leah Maurseth, Washington State Ferries Labor Relations
Harry Thompson, Puget Sound Metal Trades Council
Bill Knowlton, Marine Engineers' Beneficial Association

APPROVAL OF AGENDA/MINUTES

The meeting was called to order at 10:05 a.m.

Moved, seconded and carried to adopt the agenda distributed at the meeting.

Moved, seconded and carried to approve the minutes of the June 24, 2011 meeting.

STATUS OF CASES

Executive Director Callahan reported on all open cases. Following the transition on July 1, 2011, Ms. Callahan reviewed all cases, sent messages to the parties and docketed them as PERC cases. The election for captains was processed, the ballots were tallied, and the Certification was issued on August 19, 2011, certifying the International Organization of Masters, Mates & Pilots as the exclusive bargaining representative effective July 1, 2013.



Ms. Callahan explained the docketing process along with the agency computer defaults for service on the employer and the unions. All appeals and arbitrations will be forwarded to the Marine Employees' Commission (MEC) for decision as the appellate body. All formal case documents will be provided to the Commissioners for review prior to decision. Commissioner Brennan asked if oral arguments could be requested. Ms. Callahan replied that requests for oral argument can be entertained.

Regarding grievance arbitrations, the Executive Director noted there is no appeal process. Parties can sue to set aside in Court; however, it is very rare for arbitration awards to be overturned. There is an old case pending where the MEC awarded attorney's fees. This case has been appealed to Court. It will be argued by the union's counsel.

The following updates were provided for all open cases:

IBU v. WSF, Case 24107-U-11-6167 (MEC Case 21-08)

Unfair labor practice complaint filed June 20, 2008. The parties reached a partial settlement. A hearing is scheduled for December 16, 2011, before Examiner Steve Irvin.

MEBA v. WSF, Case 24113-U-11-6171 (MEC Case 14-10)

Unfair labor practice complaint filed March 17, 2010. A second day of hearing is scheduled for October 12, 2011, before Examiner Kenneth Latsch.

IBU v. WSF, Case 24121-U-11-6173 (MEC Case 7-10)

Unfair labor practice complaint filed November 15, 2009. A hearing is scheduled for October 11, 2011, before Examiner Lisa Hartrich.

IBU v. WSF (Pascual), Case 24124-G-11-583 (MEC Case 16-10), filed April 19, 2011

Grievance filed April 19, 2010. A hearing is scheduled for October 11, 2011. This case has settled, but no final paperwork has been received.

Jonathan Pearson v. WSF, Case 24126-U-11-6174 (MEC Case 11-10), filed June 15, 2011

Unfair labor practice complaint filed February 12, 2010. Settlement mediation did not resolve the case. A hearing is scheduled for October 4, 2011, before Examiner Emily Martin.

IBU v. WSF (Holdal), Case 24130-G-11-586 (MEC Case 10-11)

Grievance filed June 15, 2011. Awaiting word from the union prior to scheduling mediation.

IBU v. WSF (Tennessee), Case 24131-G-11-587 (MEC Case 11-11)

Grievance filed June 15, 2011. Awaiting word from the union prior to scheduling mediation.

MEBA v. WSF, Case 24132-U-11-6176 (MEC Case 12-11)

Unfair labor practice complaint filed June 24, 2011. Examiner Robin Romeo has contacted the parties to schedule a prehearing conference call.

Jonathan Pearson v. WSF, Case 24196-S-11-237 (MEC Case 11-10)

This is the settlement mediation case filed in conjunction with Case 24126-U-11-6174. Settlement discussions were not successful in resolving the case.

The following two cases were filed after July 1, 2011:

IBU v. WSF (Nichols), Case 24214-U-11-6201

Unfair labor practice complaint filed August 30, 2011. A preliminary ruling letter with a deferral to arbitration inquiry was mailed to the parties on September 7, 2011.

Emelita Reyes Moniz v. WSF, Case 24245-U-11-6212

Unfair labor practice complaint filed September 14, 2011. A deficiency notice was mailed on September 22, 2011.

ADMINISTRATIVE REPORT

Budget update: Executive Director Callahan reported that the Public Employment Relations Commission (PERC) was not given any funding for the MEC. She and PERC's Administrative Services Manager Diane Tucker have prepared and submitted a supplemental budget to cover the MEC office lease (which ends in 2013). The office was vacated on July 1, 2011. It is unfortunate that PERC must pay for an empty office. This budget request will also cover Commissioner expenses. PERC has also prepared 5% and 10% budget cuts, as requested by the Governor.

Meeting dates: The Commission reviewed a list of meeting dates for 2012. One change was made. The list meeting dates and locations will now be sent to the Code Reviser to publish and will then be placed on the agency website.

The meeting was adjourned at 10:35 a.m.