

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
BOARD OF MARINE PILOTS

Minutes of Meeting
November 13 and 14, 1986

By authority of AS 08.01.070(2) and AS 08.40.040, and in compliance with the provisions of AS 44.61, Article 6 and AS 44.62.310, a scheduled meeting of the Board of Marine Pilots was held at the State Office Building, 333 Willoughby, 9th Floor Conference Room in Juneau, Alaska.

Present, and constituting a quorum of the board, were:

Laurie Cunningham (designated by Commissioner Lounsbury)
Judy Brady - arrived at 2:50 p.m. (weather problem)
Captain James Hodgman
Captain W. Ed Murphy
William Ruddy
William Barrington
Paul Taylor

Also present, from the Department of Commerce and Economic Development, Division of Occupational Licensing, were:

Nancy Ferguson, Licensing Examiner
Kevin Henderson, Regulations Specialist
Dick Long, Chief Investigator
Donna Kotyk, Licensing Supervisor
Kathy Marshall, Director
C. J. Rector, Investigator
Jenny Strickler, Management Analyst

Guests present were:

A. H. Clough - SEAPA
Dale O. Collins - SEAPA President
Steve Hunnicutt - SWAPA
Anthony J. Joslyn - SWAPA
A. D. Santos, Port Captain Sohio
Bill Sharp, S. E. Stevedoring Corp. - Ketchikan
Lawrence Walter

Captain Murphy, Captain Hodgman and Nancy Ferguson gave written examinations on November 12, 1986. Eleven people took the written exam: 7 people passed the written; 4 people failed the written; and 5 exam candidates did not show.

The board went into executive session on November 13, 1986 at 8:30 a.m. to give eight oral examinations. Bill Ruddy arrived at 9:05 a.m.; Paul Taylor arrived at 10:35 a.m. (weather problem), and Bill Barrington arrived later that morning (weather problem).

The meeting was called to order at 2:00 p.m. A delegation of authority from Commissioner Lounsbury dated November 7, 1985 was read into the record per AS 08.62.010 by the licensing examiner. Commissioner Lounsbury appointed Laurie Cunningham, Special Assistant to the Commissioner, as his designee to chair the meeting.

Examination Results: The following individuals passed the written and oral examinations:

The following motions were made by Captain Hodgman, seconded and approved unanimously, it was:

RESOLVED that Captain David Gray be issued a permanent channel pilot license upon the waters of southeast Alaska, Dixon Entrance to Cape Spencer, excluding the waters of the west coast of Prince of Wales Island, Nichols Passage, Snow Pass, Sitka Sound, Icy Strait, Cross Sound, and excluding the Ports of Klawock, Metlakatla and Sitka.

RESOLVED that Richard Gurry be issued a permanent channel pilot's license upon the waters of southeast Alaska, Dixon Entrance to Cape Spencer, excluding the west coast of Prince of Wales Island, Nichols Passage, Snow Pass, Gastineau Channel, Icy Strait, Cross Sound, Sitka Sound and excluding the Ports of Metlakatla, Klawock, Juneau and Sitka.

RESOLVED that Captain Donald Kutz be issued an unlimited pilot's license upon the waters of southeast Alaska, Dixon Entrance to Cape Spencer, excluding the waters of Sitka Sound and Port of Sitka.

RESOLVED that Captain Douglas MacPherson be issued a permanent channel pilot's license upon the waters of southeast Alaska, Dixon Entrance to Cape Spencer, excluding the waters of the west coast of Prince of Wales Island, Nichols Passage, Snow Pass, Sitka Sound, Gastineau Channel, Icy Strait, Cross Sound, Wrangell Narrows, and excluding the Ports of Metlakatla, Klawock, Juneau and Sitka.

RESOLVED that Captain William Petrich be issued a permanent channel pilot's license upon the waters of southeast Alaska, Dixon Entrance to Cape Spencer, excluding the waters of the west coast of Prince of Wales Island, Nichols Passage, Glacier Bay, Wrangell Narrows, Icy Strait, Cross Sound, Sitka Sound, and excluding the Ports of Klawock, Hoonah, Metlakatla and Sitka.

RESOLVED that Captain Werner Sund be issued a permanent channel pilot's license upon the waters of southeast Alaska, Dixon Entrance to Cape Spencer, excluding the waters of Sitka Sound, and the Ports of Sitka and Klawock.

On a motion duly made by Captain Murphy, seconded and approved unanimously, it was:

RESOLVED that Jeffrey D. Pierce be granted a license as a pilot on vessels of not more than 20,000 gross tons upon the southeast Alaska waters of the Aleutian Islands, except Adak, and the Alaska Peninsula except Port Moller and Herendeen Bay.

Extension of Routes: The following individuals passed the examination on November 12, 1986:

On a motion duly made by Captain Murphy, seconded and approved unanimously, it was:

RESOLVED that currently licensed pilot Harry Jacobsen be granted an extension of route on state license to include Captains Bay, Alaska.

On a motion duly made by Captain Hodgman, seconded and approved unanimously, it was:

RESOLVED that permanent channel pilot Captain Charles Bates be granted extension of route to take in the waters of Glacier Bay, and west coast of Prince of Wales Island excluding Klawock.

RESOLVED that unlimited pilot Roger Dunn be issued extension of route covering the waters of west coast of Prince of Wales Island including Klawock and Yakutat.

RESOLVED that unlimited pilot Leslie Taylor be granted extension of route covering the Ports of Klawock and Yakutat.

RESOLVED that unlimited pilot Arnt Antonsen be granted extension of route for Yakutat.

RESOLVED that channel pilot Captain Joe Bruneau be upgraded from channel to unlimited and be granted extension of route covering the waters of Snow Pass.

Captain Murphy reviewed the docking/undocking evidence before voting.

RESOLVED that unlimited pilot Captain James Randall be added extension of route for Yakutat.

RESOLVED that unlimited pilot Captain Bill Swan be added Yakutat and Port of Klawock.

The licensing examiner asked to go off the record at 2:23 p.m. to put the license files away. Back on the record at 2:26 p.m.

Minutes of July 29 and 30, 1986: The board reviewed the minutes.

On a motion duly made by Mr. Barrington, seconded, and approved unanimously, it was:

RESOLVED to adopt the minutes as printed.

Review of Goals and Objectives FY 87: The board reviewed the goals and objectives. It was noted that goals 7, 8, and 9 were not included in the handout.

The examiner will give the board page 2 of the goals on November 14, 1986.

Hearing Delays and Expert Testimony were discussed by Captain Hodgman. This item was one of the board's goals for FY 87. The first step the board took was to write Kathy Marshall, Director, Division of Occupational Licensing. The members referred to Ms. Marshall's memorandum, noting that the hearing officers' contracts have been amended to help speed up the time so that delays do not occur.

Captain Hodgman was uncertain if Mr. Delay or the Attorney General's office realize how upset the board is that the hearings are delayed because pilots don't choose to adjust their work schedule while preparing their defense. The lawyers' criminal cases took precedence over the hearing. It was noted that the hearing officer made the final decision on continuances.

Captain Murphy wanted the minutes to reflect the board's continuing concern over the inordinate delay in the hearing process that has put the board in a bad position.

The examiner advised that Kathy Marshall is prepared to speak to this item on November 14, 1986.

Captain Hodgman spoke to the subject of expert testimony. Pilots in an association live and work together. It is not reasonable to expect them to volunteer to testify against each other.

Captain Hodgman felt that there are other ways to obtain factual testimony that do not require a pilot: hire people who will testify on the subject of the way a ship handles; a tugboat captain or a mate on watch could testify to the speed, etc. There are experts who reconstruct an accident.

Judy Brady arrived at the meeting at 2:50 p.m.

The chairman felt that budget restraints would prohibit the use of expert witnesses by the Department of Law. The letter from Ms. Marshall outlines what the division can do.

Ms. Brady suggested that the board advise the Attorney General's office that, in issues involving marine pilots, the board wants witnesses, and expert testimony may be obtained by subpoena if necessary.

The board suggested subpoenaing expert witnesses and proposed hiring accident reconstruction specialists (available on the west coast). The chairman noted that there is no money available for expert witnesses. The chairman suggested that individual board members try to come up with some creative solutions.

On a motion duly made by Mrs. Brady, seconded, and approved unanimously, it was:

RESOLVED to table this discussion until tomorrow (November 14, 1986).

Accident/Incident Report Form: After the board makes amendments to the form, it will be sent to all licensees.

Mr. Long will be prepared to discuss this form when he meets with the board on November 14, 1986.

The board took a ten-minute break. Off the record at 3:00 p.m. Back on record at 3:16 p.m. All members were present.

Donna Kotyk, Licensing Supervisor, was present.

This form will go a long way to speed up the process. This form is the third step the board has taken to improve safety, accountability and protect the pilots all at the same time.

The chairman noted that Captain Murphy and Judy Brady prepared the form.

On a motion duly made by Captain Murphy, seconded, and approved unanimously, it was:

RESOLVED to table this until after Dick Long discusses it tomorrow (November 14, 1986).

Additional Agenda Items: Mrs. Brady requested that the following issues be incorporated into the agenda: self-funding board, and alcoholism as it pertains to marine pilots. Mrs. Brady asked that the agenda be revised for tomorrow by the licensing examiner. A copy is attached.

Proposed Regulations: Draft proposed regulations for ports that are no longer covered by the U.S. Coast Guard: Dillingham, Clarks Point, Kvichak Bay and West Coast of Prince of Wales Island.

The board referred to pages 14 and 15 of the existing statute and regulation booklet.

The board reviewed the following proposal to amend 12 AAC 56.070, EXAMINATIONS, by adding the wording:

(D) Applicants may be examined for ports for which no U.S. Coast Guard pilotage endorsement exists, as required in 12 AAC 56.050(2), when, in the judgement of the board, the difficulty of the route and the volume of shipping subject to state pilotage requires a test of local knowledge. In such cases, the applicant must submit documentary evidence of having completed at least four (4) round trips as pilot observer on vessels over the route applied for. At least one (1) round trip must be made within the eighteen (18) months preceding the date of application.

Captain Murphy noted that there are more ports involved than the four listed on the agenda. He is in the process of doing a cover letter that will tell applicants what ports will fall under section (d).

The board will give this proposal to Kevin Henderson for the legal wording.

Captain Murphy proposed that someone make a motion that we start a regulation project on this.

On a motion duly made by Mr. Barrington, seconded, and approved unanimously, it was:

RESOLVED to so move.

The chairman noted that the board just passed a motion that a regulation project be passed along to Kevin Henderson for examination in pilotage waters where the U.S. Coast Guard does not presently examine.

Proposed Working Definitions: Master and pilot time. Captain Hodgman advised that the new license qualifications have not been approved by the Department of Law as yet.

On a motion duly made, seconded, and approved unanimously, it was:

RESOLVED to table this issue until the next meeting.

Relocation of the Yakutat Pilot Station: The licensing examiner read Captain Dale Collins' letter dated October 29, 1986 (letter attached) into the record.

The current pilot station is very dangerous and there was a concern for pilot safety.

Captain Hodgman drew a diagram of Yakutat Bay on the black board. Sea pilots wish to move the pilot station into the bay approximately four or five miles from the existing pilot station. Captain Hodgman has the correct wording which parallels that of other pilot stations.

On a motion duly made by Mrs. Brady, seconded, and approved unanimously, it was:

RESOLVED to correct Scrivner's error.

The licensing examiner felt that a public notice will be required and public comment time period in order to make this amendment to the pilot station regulations.

The board will discuss this issue with Kevin Henderson on November 14, 1986.

Captain Hodgman's Letter of September 20, 1986 Regarding Master/Pilot Questions: Captain Hodgman gave the board his notes on "Pilot Duties/Conn." He reviewed the state laws of Washington, Oregon, California, Florida, and Pacific pilotage authority of Canada. A copy of his notes is attached.

On a motion duly made, seconded, and approved unanimously, it was:

RESOLVED to table the question of master/pilot relationships until tomorrow (November 14, 1986).

Revised Examinations and Examination Regulation: Captain Hodgman advised that the new examinations for southeast Alaska were used yesterday.

The board discussed amending the examination regulations and requested that this issue be scheduled for the spring meeting.

Election of Officers: The board referred to AS 08.01.020. The board wished to elect their own chairman. They noted that there is a high learning curve for this board and they were concerned with continuity. Ms. Cunningham may be gone by December 1, 1986 as she is a political appointee.

On a motion duly made by Mr. Barrington, seconded, and approved unanimously, it was:

RESOLVED to volunteer Judy Brady as vice chairman.

The board meeting adjourned at 4:10 p.m.

The board meeting reconvened at 8:40 a.m. on November 14, 1986. All members were present except Bill Ruddy. Mr. Ruddy arrived at 8:55 a.m.

Kathy Marshall, Director of the Division of Occupational Licensing, was present. Ms. Marshall discussed the FY 87 expenditures.

Mrs. Brady proposed that the license fees be raised. Captain Murphy was concerned that the biennial license fees have gone from \$300 to \$180.

Ms. Marshall suggested that the fee changes be done during the sunset process. Ms. Marshall advised that the division has not received the preliminary audit report but we may have it by mid-December.

The preliminary report is confidential and will be sent to the chairman only. Ms. Marshall will call a teleconference for the board so that they can discuss the report.

Mr. Ruddy will be the contact person for Ms. Marshall during the sunset process.

Ms. Marshall discussed the procedures manual for investigations and the case-tracking system is now computerized. Ms. Marshall noted that marine pilot litigation cases are rated as #2, based on safety and health. The Department of Law is taking fewer cases.

Ms. Marshall advised that the division will support the board's request for legislation and the amendments will be put in during the first committee of referral.

Ms. Marshall also discussed the Peer Review process.

Discuss Accident/Incident Report Form: Mr. Long, Chief Investigator, and Mr. Rector, Investigator, were present. The report form was reviewed by the investigators and suggestions were made.

Mr. Sharp, Captain Joslyn and Captain Collins expressed their concerns.

On a motion duly made by Captain Murphy, seconded, and approved unanimously, it was:

RESOLVED that the form be approved as submitted with the additions suggested by the investigators today.

The form asks for factual information. The board felt that the questions asked do not harm the pilot.

Mr. Ruddy proposed that the statutes be amended so that the accident/incident report form is not admissible as evidence in civil proceedings.

Ms. Marshall will work with Mr. Ruddy on the proposed wording for the statute amendment.

On a motion duly made by Mr. Ruddy, seconded, and approved unanimously, it was:

RESOLVED that the director be requested to propose amendatory language to our enabling statute which will provide that the accident report form not be permitted or be inadmissible in a civil proceeding.

The board took a break at 10:40 a.m. and was back on the record at 10:59 a.m.

Attached is a copy of the memo (dated November 14, 1986) from Dick Long, Chief Investigator, regarding marine pilots being relieved before ships are secured.

Mr. Long spoke to Assistant Attorney General Lawrence Delay regarding this issue. Mr. Delay has a marine law background.

The board referred to Captain Hodgman's letter dated September 20, 1986 and Captain Bradley's letter dated July 28, 1986.

Mr. Long noted that we need a legal answer. We will process and define questions into a legal opinion question.

Ms. Marshall proposed that the division draft a letter for Mr. Delay's opinion incorporating Captain Hodgman's letter of September 20, 1986.

A subcommittee was formed to clarify master/pilot relations, duties of pilot when relieved by the master and alcoholism as it pertains to marine pilots. The committee volunteers will consist of: Mr. Barrington, Mrs. Brady, Captain Hodgman, and Captain Murphy. They will talk to pilots and the industry informally.

Investigative Report: Mr. Long advised that there are no pending litigations and no new litigations open.

Captain Christy has appealed the board's decision. The matter is before the Anchorage Superior Court. We are the Respondents. Mr. Long cautioned the board not to speak about this matter.

On a motion duly made by Captain Murphy, seconded, and approved unanimously, it was:

RESOLVED to go into executive session per AS 44.62.310(c)(2) for the investigative report which involves personal information regarding people.

Off the record at 11:50 a.m. Back on record at 12:30 p.m.

On a motion duly made by Mr. Barrington, seconded, and approved by all members except Captain Hodgman (he was not present during the investigative report), it was:

RESOLVED to close MP 87-1456.

On a motion duly made by Captain Murphy, seconded, and approved unanimously, it was:

RESOLVED that the case be closed per the investigator's recommendation MP 87-1455.

On a motion duly made by Captain Murphy, seconded, and approved by all members except Mr. Taylor and Mr. Ruddy, who withdrew from this matter due to a conflict of interest, it was:

RESOLVED that the board accept the investigator's recommendation in this case (MP 87-1461).

On a motion duly made by Mr. Taylor, seconded, and approved unanimously, it was:

RESOLVED to close case MP 87-276.

On a motion duly made by Captain Murphy, seconded, and approved unanimously, it was:

RESOLVED that the case be closed per the investigator's recommendation (MP 87-277).

FURTHER RESOLVED that case be closed per the investigator's recommendation (MP87-280).

Cases remaining in open status: MP87-279, MP87-278, MP87-1462, MP87-1458, MP87-1457, MP87-1460, and MP87-1459.

Kevin Henderson/Regulations Specialist: Mr. Froehlich is editing the qualifications for licensure today. He expects to have this project filed either today or Monday, November 17, 1986.

The accident report regulation and S. W. Tariff regulations are still pending at the Department of Law.

They discussed the Yakutat pilot station amendment. This amendment must be public noticed for written comments before acceptance by the board.

On a motion duly made by Captain Hodgman, seconded, and approved unanimously, it was:

RESOLVED that section 12 AAC 56.120(a)(7) be changed to read (7) Yakutat - 1.0 miles 315° true from Yakutat Bay Lighted Whistle Buoy 4; approximate position 59°, 36.3' north latitude, 139°, 52.5' west longitude.

VLCC Committee Report: Captain Murphy is the chairman of this committee.

Alaska Board of Marine Pilots VLCC Committee:

Captain W. E. Murphy, Board of Marine Pilots, Chairman
Captain Andy Santos, Standard Oil Company
Captain William Bullard, Southeastern Alaska Pilots
Captain James Wright, Southwest Alaska Pilots

FIRST DRAFT OF A PROPOSED ADDITION TO MARINE PILOT REGULATIONS
REQUIRING SPECIAL VLCC ENDORSEMENT FOR PILOTS OF LARGE TANKERS

VLCC defined: A tank vessel of 60,000 gross tons or greater.

Only those pilots holding an unlimited license (no tonnage limitation) are eligible for the VLCC endorsement.

Due to the great mass, windage and shiphandling peculiarities of VLCC class vessels, pilots must demonstrate special training and/or experience to be licensed to pilot them, as follows:

1. 20 round trips on VLCC class vessels as pilot observer over a pilotage route. Each round trip must consist of two trip segments which either begin with an undocking or terminate with a docking;*

-or-

2. 10 round trips, as defined above, plus completion of a VLCC ship-handling course at an approved facility;

-or-

3. Previous documented experience as pilot of VLCC class vessels which includes not less than 15 dockings and 15 undockings actually performed by the applicant;

-or-

4. One year as master of VLCC class vessels plus completion of a VLCC shiphandling course at an approved facility.

*These dockings and undockings may be observed or actually performed by the applicant.

Captain Murphy requested that this issue be put on the agenda for the spring meeting. Look at it again once the regulations are in place for the license qualifications.

Discuss the FY 87 Goals and Objectives:

1. Powers and duties of the board item (1) "provide for the maintenance of efficient and competent pilot service on all waters covered by this chapter to assure protection of shipping and the safety of human life and property."

This goal is ongoing.

A subcommittee was formed to define "Duties of Pilots," master/pilot relations, and alcoholism as it pertains to marine pilots.

2. Develop methods to expedite investigations and hearings.

Congratulate the division on steps toward expediting hearings. Letter to Division of Occupational Licensing requesting assistance on the problem. The division has worked with the Attorney General's office. Hearing officer contracts have been changed to expedite initiation of proceedings and reporting of completions.

The board has submitted legislation to simplify handling of minor cases (see goal 4) and is requiring submission of accident reports on state forms (see goal 5).

The division is investigating peer review boards for minor cases.

3. Revision of pilots' exams and amendment of pilot regulations concerning examinations.

The exams are three-quarters amended. Captain Murphy is working on local knowledge for southwest Alaska. Captain Hodgman has rewritten all of his exams for southeast Alaska.

Regulation changes were tabled until the spring meeting.

4. Follow through on legislation to broaden the board's authority on disciplinary cases.

Sunset legislation proposed.

Peer Review/letter of reprimand.

5. Develop regulations to require pilots to submit accident reports on a form provided by the board and to revise the form now being used on a voluntary basis.

Completed. The regulation proposal is being edited by the Department of Law before it becomes effective.

The board approved the accident/incident form at this meeting.

6. Encourage more Alaskans to seek education toward the marine pilot profession.

The chairman wrote to 35 high schools on the marine coast of Alaska. No responses were received. Captains Murphy and Hodgman are working with local high schools and community colleges.

The following community colleges may be shut down due to lack of funding: Kenai, Ketchikan, and the Seward Skill Center. The board had hoped that they could develop courses in the marine profession.

7. Work with industry and pilots to develop qualifications for handling VLCC (very large crude carriers) vessels. Integrate these qualifications into the regulations.

Subcommittee members are Chairman Captain Murphy, Captain Andy Santos, Captain William Bullard, Captain James Wright.

Schedule for spring meeting once license qualifications are law.

8. Complete the pilotage tariff provisions regarding per diem expenses requested by the Southwest Alaska Pilots Association and approved by industry.

This item is completed and is being edited by the Department of Law.

9. Develop regulations which will require pilot observer trips as a prerequisite to taking the state examination for those ports the U.S. Coast Guard no longer tests for federal pilotage endorsement.

Proposed wording was given to Kevin Henderson for a regulation project at the meeting of November 14, 1986.

10. (New goal.) Clarify the duties of pilots with particular regard to master/pilot relations.

A subcommittee was established at the meeting of November 14, 1986 to address the problem.

Meeting Dates: The spring meeting will be held in Anchorage on April 29 and 30, 1987. Written exams will be held April 28, 1987.

Meeting Adjourned: There was no further business and the meeting adjourned at 1:25 p.m.

Submitted by,



Nancy Ferguson, Licensing Examiner

Approved by:

J. Anthony Smith, Commissioner