

**STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
BOARD OF MARINE PILOTS
Juneau, Alaska**

**SUMMARY OF MOTIONS
February 7-8, 1994**

By authority of AS 08.01.070(2) and AS 08.62.030, and in compliance with the provisions of AS 44.62, Article 6, a scheduled meeting of the Board of Marine Pilots was held on February 7-8, 1994.

Monday, February 7, 1994

0800 Examinations:

Board members present and constituting a quorum under 12 AAC 56.930 were:

Bob Watt (Chairman)
Captain Mike O'Hara
Mark Springer

Also present was Captain Dan Twohig, Marine Pilot Coordinator

The following examinations were administered:

- | | | | |
|----|-------------------|---|--|
| a. | Captain Rathgeber | - | Core exam (Rules of the Road) |
| b. | Captain Kellogg | - | West Coast of Prince of Wales, Yakutat |
| c. | Captain McPherson | - | West Coast of Prince of Wales |
| d. | Captain Charles | - | Sitka Sound, Port of Sitka |
| e. | Captain Petrich | - | Yakutat |
| f. | Captain Cochinos | - | Port of Cordova |

Call to Order/Roll Call

The meeting was called to order at 1:00 p.m. by Mr. Bob Watt, Chairman. Those present and constituting a quorum of the board were:

Mr. Bob Watt
Captain Dale Collins
Captain John Klepper

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Ms. Donna Bumgardner
Captain Mike O'Hara
Mr. Glenn Reed
Mr. Mark Springer

Also present were:

Gayle Horetski, Assistant Attorney General
Captain Dan Twohig, Marine Pilot Coordinator
Joanne Cummings, Regulations Specialist

Agenda Item 1 Approve Minutes of Previous Meeting - December 6-8, 1993

On a motion made by Mr. Reed, seconded by Mr. Springer and carried unanimously, it was

RESOLVED to adopt the minutes as amended.

Agenda Item 2 Review/Set Agenda

The agenda was amended by deleting item 17, and agreeing to keep the order and times of remaining items fluid to allow for input from ongoing meetings and hearings.

On a motion made by Mr. Springer, seconded by Captain O'Hara and carried unanimously, it was

RESOLVED to adopt the agenda as amended.

Agenda Item 2A Appointment of Representative to the Human Factors in Shipping Control Group

Ken Castner (RCAC) requested that Captain O'Hara be appointed to represent the Board of Marine Pilots on the Human Factors in Shipping Control Group. Hearing no objection from the board, Mr. Watt appointed Captain O'Hara to the position.

Agenda Item 3 Election/New Chairman

Mr. Watt discussed the ethics burden of the Chairman and the need for coverage of board members by Officer's and Director's insurance. Mr. Watt discussed the man hours required to chair this board. Mr. Watt then resigned as chairman of the Board of Marine Pilots.

Mr. Reed nominated Captain Klepper to the Chair.

Captain Collins nominated Mr. Springer to the Chair.

A vote of the board was held by a show of hands.
Captain Klepper was elected to the Chair by a vote of 5 to 2.

Ms. Bumgardner nominated Mr. Springer to the position of
Vice Chairman.

Captain Klepper nominated Mr. Reed to the position of Vice
Chairman.

A vote of the board was held by a show of hands. Mr. Reed
was elected to the Vice Chair by a vote of 4 to 3.

Agenda Item 4 Correspondence to the Board

The board reviewed all correspondence that was included in the
meeting packet. No correspondence required action.

Agenda Item 5 Budget Discussion

Captain Luck discussed the results of his request for funding at
the meeting of the Legislative Budget and Audit Committee.
He stressed the need for continued funding for investigations.

Agenda Item 6 Investigative Report

The board went into executive session at 1617 to hear the
CONFIDENTIAL investigative report.

The board returned to public session at 1647.

Agenda Item 7 Litigation Report

Captain Luck discussed the status of the following cases:

- a. 1900-91-09
- b. 1950-93-03
- c. 1950-93-07

Agenda Item 8 Steps to a Deputy Marine Pilot License

The Marine Pilot Coordinator was directed to draft a regulation
for public comment outlining the steps to a Deputy Marine
Pilot license.

Agenda Item 9 License Tonnage Upgrades

On a motion made by Mr. Springer, seconded by Captain O'Hara and carried unanimously, it was

RESOLVED to grant Captain Kellogg a 40,000gt endorsement to his Deputy Marine Pilot License on his anniversary date.

On a motion made by Ms. Bumgardner, seconded by Mr. Springer and carried unanimously, it was

RESOLVED to grant Captain Bates an unlimited Marine Pilot License.

Agenda Item 10 Grade Yakutat Exam

On a motion made by Captain O'Hara, seconded by Ms. Bumgardner and carried unanimously, it was

RESOLVED at 1617 to enter executive session for the purpose of grading Yakutat examinations.

The meeting was recessed at 1730.

Tuesday, February 8, 1994

The meeting was called to order at 0730. Mr. Reed was absent.

Agenda Item 12 Public Comment Period

1. Ken Castner spoke on the problems of providing objective training in a competitive pilotage environment.
2. Captain Ron Sumstad spoke on training problems in the Kuskokwim River area.
3. Captain Eric Elliason spoke on the requirements of 12 AAC 56.016, TRAINING PILOTS.
4. Captain Doug McPherson spoke on 12 AAC 56.016 and requested an exam in April.
5. Captain Jim Drahos spoke on a variety of topics, including 12 AAC 56.016, 18 AAC 75, alcohol testing, fatigue standards and the master/pilot relationship.

6. Captain Joe Homer requested an examination be given in April.
7. Captain John Schibel spoke on 12 AAC 56.016, and requested another examination date.
8. Captain Mike Spence spoke on 12 AAC 56.016, drug/alcohol testing, and requested an exam in April.
9. Captain Hans Antonsen spoke on 12 AAC 56.016, drug alcohol testing, and requested that there be no further exams this year.
10. Captain Ted Kellogg requested an exam in April.
11. Captain Kurt Petrich requested an exam in April.

Agenda Item 13 Sunsetting of AS 08.62.045, TARIFFS

Discussion was held concerning the consequences of allowing the tariff setting responsibility of the Board of Marine Pilots to sunset on June 30, 1994. Concerns were raised that pilot organizations would not be protected from federal anti-trust suits under the "state action exemption" if there were no direct oversight of tariff issues by the board. Mr. Jim Forbes (Attorney General's office) answered questions relating to anti-trust issues.

On a motion made by Mr. Watt, seconded by Ms. Bumgardner and carried unanimously, it was

RESOLVED to have the Marine Pilot Coordinator send a letter to the Legislature requesting that the authority of the Board of Marine Pilots to set maximum tariffs be extended to June 30, 1998.

0924 Mr. Reed arrived

Agenda Item 11 Status of Regulations Projects

12 AAC 56.016, TRAINING PILOTS

On a motion made by Mr. Watt, seconded by Ms. Bumgardner and carried unanimously, it was

RESOLVED to adopt 12 AAC 56.016 as amended to read:

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12 AAC 56.016, TRAINING PILOTS. (a) To qualify for a training pilot endorsement under AS 08.62.097(b), a licensed marine pilot must

(1) hold an unlimited federal pilot license for the region for which a training pilot endorsement is sought if federal pilotage exists;

(2) have satisfied the requirements of AS 08.62.120(a)(4)(A) during the license period immediately preceding the license period for which a training pilot endorsement is sought;

(3) meet the following experience requirements for the region for which the training pilot endorsement is sought:

(A) in the Southeastern Alaska Region, three years of experience operating on an unlimited tonnage state pilot license or marine pilot license in the Southeastern Alaska Region; the experience must be earned during the three years immediately preceding the license period for which a training pilot endorsement is sought;

(B) in the Southcentral Alaska Region, three consecutive years experience operating on an unlimited tonnage state pilot license or a marine pilot license in the Southcentral Alaska Region; the experience must have been earned during the three years immediately preceding the license period for which the training pilot endorsement is sought;

(C) in the Western Alaska Region, three consecutive years of experience operating on an unlimited tonnage state pilot license or a marine pilot license in the Western Alaska Region; the experience must be earned during the three years immediately preceding the license period for which the training pilot endorsement is sought;

(D) in the Kuskokwim River Region, five years of experience piloting vessels in the Kuskokwim River Region; the experience must have been earned during the five years immediately preceding the license period for which a training pilot endorsement is sought;

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(6) The number of years of piloting experience required by (a)(3) (A)(B) and (C) of this section will increase to four years effective March 1, 1995, and to five years effective March 1, 1996.

(7) A pilot seeking a training pilot endorsement for the Kuskokwim River Region after March 1, 1997 must in addition to the requirements of (a)(3)(D), hold a valid marine pilot license issued under this chapter.

(8) submit a recommendation from the pilot organization that the applicant represents; and

(9) be approved by the board with the concurrence of the department.

(b) A training pilot shall have full responsibility for and exercise complete control over the actions of the trainee.

(c) The liability of a training pilot is limited to the same extent as described in AS 08.62.165.

(d) A training pilot may not be compelled to accept a trainee. Notification of nonacceptance shall be given to the Marine Pilot Coordinator.

**12 AAC 56.027, DOCKINGS, UNDOCKINGS, AND
OBSERVER TRIPS.**

On a motion made by Mr. Watt, seconded by Mr. Springer and carried unanimously, it was

RESOLVED to adopt the amendments to 12 AAC 56.027(d) as published.

12 AAC 56.940, DRUGS AND ALCOHOL.

On a motion made by Ms. Bumgardner, seconded by Mr. Reed and carried unanimously, it was

RESOLVED to adopt 12 AAC 56.940 as amended.

12 AAC 56.960(a), DUTIES OF PILOTS.

On a motion made by Ms. Bumgardner, seconded by Mr. Springer and carried unanimously, it was

RESOLVED to adopt 12 AAC 56.960(a) as amended.

12 AAC 56.960(l)

On a motion made by Mr. Springer, seconded by Ms. Bumgardner and carried unanimously, it was

RESOLVED to add subsection (l) as amended.

Agenda Item 12 OCMI Presentation

CDR. Powers USCG, Officer in Charge of Marine Inspection, Southeast Alaska addressed the board concerning licensing problems that may arise by not allowing trainees to use their time gained qualifying for federal pilotage concurrently to gain a state license. CDR. Powers and LT. Ferguson fielded questions from the board and the audience.

Agenda Item 13 Status of Tariff Negotiations

Ms. Bumgardner briefly summarized the tariff negotiations currently ongoing within the state. Discussion was held concerning the impact of the sunseting of AS 08.62.045 on current negotiations.

1200 Recess

1300 Call to Order

Mr. Springer and Ms. Bumgardner were absent.

Agenda Item 14 Legislative Audit Report

Discussion was held on the poor quality of the third revision of the legislative audit of the Board of Marine Pilots that was made public February 8, 1994. The Marine Pilot Coordinator described the departmental replies to the preliminary draft audit and how the replies were formulated. Mr. Reed expounded on this process by stating that the published departmental replies were considerably revised by himself and the Commissioner from the drafts written by the Marine Pilot Coordinator.

On a motion made by Mr. Watt, seconded by Mr. Reed and carried unanimously, it was

RESOLVED to support the auditor's recommendation No. 1 to extend the Board of Marine Pilots through June 30, 1998.

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A motion made by Mr. Watt, seconded by Captain O'Hara to disagree with Recommendation 2A with the exception of the first sentence of the last paragraph did not pass. 3 YES, 3 NO, 1 ABSTAINED.

A poll of the board as to whether the Legislature should open the statute received the following results:

Captain Collins	NO
Captain O'Hara	NO
Ms. Bumgardner	NO
Mr. Springer	NO
Mr. Watt	NO
Mr. Reed	YES
Captain Klepper	YES

On a motion made by Mr. Watt, seconded by Mr. Springer and carried unanimously, it was

RESOLVED to concur with Recommendation 2B. A statement will be made in the reply letter to let the auditors know that these issues are already being handled by the division.

On a motion made by Mr. Springer, seconded by Captain Collins and carried 6 YES, 1 NO, it was

RESOLVED not to support the auditor's recommendation No. 3.

On a motion made by Mr. Watt, seconded by Ms. Bumgardner and defeated 6 NO, 1 YES, it was

RESOLVED not to support the auditor's recommendation No. 4A.

On a motion made by Mr. Watt, seconded by Captain Collins and carried unanimously, it was

RESOLVED to support the auditor's recommendation No. 4B to eliminate the oral examination in its current format, but to keep the oral exam in a revised format.

On a motion made by Mr. Springer, seconded by Ms. Bumgardner and defeated unanimously, it was

RESOLVED to strongly reject the insinuations of guilt contained in the auditor's recommendation No. 5 and include in the strongest terms, a rebuttal to the

unfounded allegations of wrongdoing on the part of Keith Greba, a transcription of this portion of the meeting, and a transcription of the testimony of Larry Galloway regarding this issue. Included in this section of the reply letter will be a statement that this is another example of the poor quality of this audit.

On a motion made by Mr. Springer, seconded by Ms. Bumgardner and carried unanimously, it was

RESOLVED to agree with the auditor's recommendation No. 6 with a caveat that the board is already carrying out this recommendation. A statement will be made that there is a math error in the calculation of the funding allocation for the Marine Pilot Coordinator position on Page 56, and although Captain Twohig's diligent service is obviously deserving of a \$97,000 per year salary, the state has determined that his position will be funded at level 20A.

On a motion made by Mr. Springer, seconded by Mr. Reed and carried unanimously, it was

RESOLVED to agree with the editor's recommendation No. 7 with a comment in the reply stating that this is another example of the poor quality of this audit.

On a motion made by Mr. Watt, seconded by Mr. Reed and carried unanimously, it was

RESOLVED to take no position on the auditor's recommendations 8 and 9 because they do not pertain to the Board of Marine Pilots and should not have been included in this audit.

On a motion made by Mr. Springer, seconded by Mr. Reed and carried unanimously, it was

RESOLVED to agree with recommendation 10.

Agenda Item 15 Status of Tariff Negotiations (Revisited)

Ms. Bumgardner gave up her seat to Joe Kyle for a discussion of continuing tariff negotiations in Region 2.

Mr. Reed gave up his seat to Captain Elliason for the tariff discussion.

Captain O'Hara recused himself from voting on the issue.

On a motion made by Mr. Reed, seconded by Ms. Bumgardner and carried unanimously with 1 abstention (Captain Collins), it was

RESOLVED to public notice a draft regulation to increase in the maximum tariff for Cook Inlet and the extension of the tariffs for the rest of the state.

Agenda Item 14 Review of Examination Scores

The board reviewed the scores of examinations administered on February 7, 1994.

On a motion made by Mr. Watt, seconded by Mr. Reed and carried unanimously, it was

RESOLVED to grant Captain Cochinos an endorsement extending his license to the Port of Cordova.

On a motion made by Mr. Springer, seconded by Mr. Reed and carried unanimously, it was

RESOLVED to grant Captain Petrich an endorsement extending his license to the Port of Yakutat.

On a motion made by Mr. Springer, seconded by Mr. Reed and carried unanimously, it was

RESOLVED to grant Captain MacPherson an endorsement extending his license to the West Coast of Prince of Wales Island.

On a motion made by Mr. Springer, seconded by Mr. Reed and carried unanimously, it was

RESOLVED to grant Captain Kellogg endorsements extending his license to the West Coast of Prince of Wales Island and the Port of Yakutat.

On a motion made by Mr. Springer, seconded by Mr. Reed and carried unanimously, it was

RESOLVED to grant Captain Charles an endorsement extending his license to Sitka Sound/Port of Sitka.

Agenda Item 15 Fee Setting Project for the Board of Marine Pilots

The board was addressed by Captain Luck, Director of the Division of Occupational Licensing, concerning the methods

used by the Department of Commerce and Economic Development to calculate fees for the upcoming biennial license period.

Agenda Item 16 60,000gt Endorsements

On a motion made by Ms. Bumgardner, seconded by Mr. Reed and carried unanimously, it was

RESOLVED to have the Marine Pilot Coordinator draft a regulation to create a 60,000gt Endorsements and designate requirements for this endorsement that includes dockings/undockings and simulator training.

Agenda Item 17 Mandatory Retirement Age for Pilots

Ms. Bumgardner discussed the possibility of creating a mandatory retirement age and the implications of exploring this issue based on ADA and age discrimination.

Captain Klepper suggested this be included in the exploration of medical standards for pilots.

Agenda Item 18 Other Business

a. Other Business:

The Marine Pilot Coordinator brought the application for route extension (Southeast Alaska) made by Captain Picton to the attention of the board and asked for direction.

An ensuing discussion was held concerning several recent attempts at cross-regional licensing and the fact that under the current licensing scheme you could not extend a route from one region into another.

On a motion made by Captain O'Hara, seconded by Mr. Reed and carried unanimously, it was

RESOLVED to have the Marine Pilot Coordinator return Captain Picton's application and fee for extension of route, and ask him to apply for a deputy marine pilot license.

b. Set Exam Date:

On a motion made by Mr. Springer, seconded by Mr. Reed and carried 5 YES, 2 NO, it was

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RESOLVED to set the next extension of route examination date for no later than May 31, 1994.

After discussion with the Marine pilot Coordinator, the Chairman set the examination date for May 26, 1994 in Juneau.

After consultation with the Assistant Attorney General, the Chairman decided that examinations would be open to all applicants.

c. Set Meeting Date:

On a motion made by Mr. Watt, seconded by Ms. Bumgardner and carried unanimously, it was

RESOLVED to hold the next meeting of the board by teleconference at the call of the chair during the first week of June and the next examinations and a face-to-face meeting will be held on October 4, 1994.

Adjourn

On a motion made by Mr. Reed, seconded by Captain O'Hara and carried unanimously, it was

RESOLVED to adjourn.

Respectfully submitted:



John Klepper, Chairman



Dan Twohig, Marine Pilot Coordinator

Approved on: _____