

**July 7, 2005**

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**STATE OF ALASKA, DEPARTMENT OF COMMERCE,  
COMMUNITY AND ECONOMIC DEVELOPMENT  
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING  
BOARD OF MARINE PILOTS**

**MINUTES OF MEETING**

**July 7, 2005**

**SOB Conference Room A, Juneau, AK**

**Teleconference**

These draft minutes were prepared by staff of the Division of Occupational Licensing.  
They have not been reviewed nor approved by the Board.

**B**y the authority of AS 08.01.070(2), AS 08.62.030, and in compliance with the provisions of AS  
of AS 44.62, Article 6, a meeting of the Board of Marine Pilots was held July 7, 2005, in Juneau,  
Juneau, Alaska.

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Start Tape 1, Side A

**Agenda Item 1      Call to Order/Roll Call**

Chairman Clough called the meeting to order at 1000. The Marine Pilot Coordinator (MPC) conducted roll call.

Members present constituting a quorum were:

Mr. Al Clough	- Commissioner's Designee (Chair)
Captain Dale Collins	- Pilot Member
Mr. Les Cronk	- Agent Member
Captain Tony Joslyn	- Pilot Member
Mr. Jack Poulson	- Public Member

Members participating by teleconference:

Mr. Robert Schasteen	- Public Member	Dutch Harbor
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Member absent:

Mr. Robert Arts	- Agent Member
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Staff present were:

Renda Heimbigner, Marine Pilot Coordinator (MPC)

David Brower, Assistant Attorney General (AAG)

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Guests present:

Kate Tesar	AK Steamship Assoc	Seattle, WA
Captain Ted Kellogg	SEAPA	Juneau SOB
Captain Ron Ward	SWAPA	Homer
Captain Steve Moreno	AMP	Olympia, WA
Bill Sharp	Holland America	Seattle, WA

**Agenda Item 2**      **Review / Set Agenda**

On a motion made by Captain Joslyn and carried without dissent, it was:

RESOLVED to approve the agenda without changes.

**Agenda Item 3**      **Public Comment**

Captain Ted Kellogg of Southeast Alaska Pilots' Association informed the Board that SEAPA pilots have reported 3 possible whale strikes to the National Marine Fisheries and Coast Guard, so far this year. Mr. Bill Sharp of Holland America added that his company participated in those reportings.

**Agenda Item 4**      **Review / Approve Minutes**

On a motion made by Mr. Cronk and carried without dissent, it was:

RESOLVED to approve the April 2005 minutes without changes.

**Agenda Item 5**      **Declaration of Potential Conflicts of Interest / Recusals**

No conflicts or recusals were declared.

**Agenda Item 6**      **Business Items**

The MPC presented the Board's Budget Report. It was noted that this will be the last report for the fiscal year 2004-2005 and the numbers reflect a license renewal cycle.

The MPC reported that all pilot ID cards have been issued and no requests for corrections have been received. Captain Joslyn suggested that the Associations be

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contacted to double check for any pilot who might have been overlooked, as increased port security was making consistent identification more important.

Correspondence – Chairman Clough explained that the letter from Department of Administration, Office of Administrative Hearings, was a formal notice of new duties and procedures for Hearing Officers and OAH, effective July 1, 2005. Previously, the various agencies had Hearing Officers assigned specifically to them and now all the Hearing Officer functions are held within the OAH. He did not anticipate any dramatic changes to their day to day operations. Kate Tesar, representing the Alaska Steamship Association, asked if the changes would affect hearing procedures. Assistant Attorney General David Brower stated that the Board of Marine Pilots was subject to the changes as well as other boards and commissions, regarding disciplinary hearings and other licensing actions. However, he added that the BMP was specifically exempted from it regarding rate hearings.

SWAPA ByLaws – Captain Joslyn noted for the record that he was not an officer of the Southwest Alaska Pilots Association Board and his name on the Ballot Results, as reported to the Board, was because a full-member is required to sign for a ballot count. He explained that he happened to be present in the office at the time of the count. Ron Ward, President of SWAPA, explained that the bylaw changes address new regulations and incorporate the age 70 into their bylaws. AAG Brower recommended that the Board pilot member from SWAPA be excused from voting on the bylaw approval. In response to Captain Collins request for clarification, he explained there were financial interests and personal interests. It was his opinion that out of Abundance of Caution, a member of the Board should not be voting to approve their own association proposals which required approval by the Board. Discussion ensued concerning Board members and their ability to vote. On a motion made by Captain Collins and carried without dissent, it was:

RESOLVED to approve the SWAPA bylaws as presented. Captain Joslyn recused himself from the vote.

The date of the next meeting is currently scheduled for October 19 and 20 in Anchorage at the Captain Cook Hotel.

## **Agenda Item 7**

### **Committee Reports**

Physical Standards Committee – Captain Ted Kellogg reported that the committee reviewed the test development and validation by SEAPA and Healthforce. SEAPA is requiring their new trainees to complete the physical agility testing and encouraging voluntarily compliance from their complete membership by May of 2006. Kellogg added there was a

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cognitive addendum within the test. It was agreed that AMP and SWAPA involvement was welcomed and encouraged. Committee Members Poulson and Cronk congratulated SEAPA for their progress so far and recommended the Board issue a letter encouraging continued efforts on a voluntary basis, as opposed to the Board initiating regulatory action. Captain Collins offered concerns that voluntary pilot participation was a minority view within SEAPA. Captain Kellogg agreed that given time, the projection for voluntary participation is small. Chairman Clough recommended the Board issue the directive for voluntary participation and directed the MPC to request that AMP and SWAPA offer representatives for inclusion to the committee.

Training and Evaluation Committee – Captain Joslyn reported that Pacific Maritime Institute has received all of the databases and have begun developing their simulator files. This will be followed by the vetting process which, due to the busy summer season, is not expected until after October. In the past, representatives from each Association participates in the vetting of the databases, then selection of evaluators. Upon final acceptance, PMI would be given the curriculum for implementation. Captain Joslyn did not anticipate PMI coming on line until after spring 2006. Captain Kellogg informed the Board that recent information points to AIS/ECDIS (Electronic Charting Display and Information System) training as a requirement for STCW and noted that PMI offers this training.

Start Tape 1, Side B

Rate Regulation Committee – Mr. Poulson notified the Board that the committee was awaiting response to their questions as forwarded to the Attorney General. AAG Brower stated the Board of Marine Pilots is subject to the Alaska Administrative Procedure Act 44.62 and it is specific about how hearings are held. Kate Tesar asked if a written response to the list of questions was forthcoming. AAG Brower said he would be able to present his responses in writing by mid-August at the earliest and no later than the October board meeting.

## **Agenda Item 8**

### **Terrorism Report**

The MPC reported that the proposed federal regulation for security zones around high capacity passenger vessels was still being reviewed by the US Coast Guard and it was not anticipated to be implemented in 2005. Current terrorism tactics and surveillance methods as explained by the Secret Service were presented. The MPC felt that marine pilots and vessel agents were key players in detection of suspicious behavior.

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**Agenda Item 9**      **Regulations**

The MPC presented 12 AAC 56.115(b) for modification, asking that reference to the overall length of a vessel be changed from 125 to 65 to correct a typographical error.

On a motion made by Captain Joslyn and carried unanimously, it was

RESOLVED to public notice 12 AAC 56.115 Pleasure Craft Exemptions as presented.

**Agenda Item 10**      **Executive Session**

On a motion made by Mr. Poulson, seconded by Mr. Cronk and carried unanimously, it was

RESOLVED to move to Executive Session to discuss the Attorney General's ethics determination for Board members, Investigations and Litigations, and conduct an oral exam of Captain Fred Montez.

Mr. Arts joined the meeting by teleconference from Anchorage.

The Board moved to Executive Session at 1110.

**Agenda Item 10**      **Ethics Determination**

The Board returned from Executive Session at 1210.

Chairman Clough announced that he had received the Ethics Opinion from the Attorney General's Office and the members of Board have agreed to waive their confidentiality issues. The members had also agreed that the Opinion be published in its entirety. AAG Brower was asked to review the Opinion closely and counsel the Board for further action.

**Deputy Marine Pilot License**

The MPC requested that the Board approve a Deputy Marine Pilot license for Captain Fred Montez, pending completion of a BRM course scheduled on July 15, 2005. On a motion made by Captain Joslyn, seconded by Mr. Cronk and carried unanimously, it was

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RESOLVED to approve Captain Montez's Deputy Marine Pilot license pending completion of his BRM course.

**Public Comment**

Captain Steve Moreno, President of Alaska Marine Pilots, asked how the Ethics Opinion will reflect on the AMP Rate Hearing. Chairman Clough replied that each Board member would have to be interviewed to determine their interests and a ruling made, prior to setting a hearing date.

Captain Collins asked for ethics information, as a new member of the Board.

Mr. Poulson asked about scheduling a conference call prior to the October Board meeting. Chairman Clough suggested the Board wait for the recommendation of AAG Brower.

The MPC suggested moving the Litigation / Investigations Report to the October meeting for lack of time. Chairman Clough approved rescheduling the report.

On a motion made by Captain Collins, seconded by Mr. Poulson, and carried without exception, it was

RESOLVED to adjourn the meeting at 12:15.

Respectfully submitted:

Renda Heimbigner  
Marine Pilot Coordinator

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Albert H. Clough  
Deputy Commissioner