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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 12, 2007

Juneau, Alaska

**B**y the authority of AS 08.01.070(2), AS 08.62.030, and in compliance with the provisions of provisions of AS 44.62, Article 6, a meeting of the Board of Marine Pilots was held July 12, July 12, 2007, in Juneau, Alaska.

**Call to Order/Roll Call**

Vice Chairman Poulson called the meeting to order at 1030 and the Marine Pilot Coordinator (MPC) conducted roll call.

Members present constituting a quorum were:

Mr. Robert Arts	- Agent Member
Mr. Joe Austerman	- Commissioner's Designee
Captain Dale Collins	- Pilot Member
Mr. Les Cronk	- Agent Member
Mr. Joseph Miller	- Public Member
Captain Mike O'Hara	- Pilot Member
Mr. Jack Poulson	- Public Member

Staff present were:

Renda Heimbigner, Marine Pilot Coordinator (MPC)  
Gayle Horetski, Assistant Attorney General (AAG)  
Jenna Conley, Assistant Attorney General (AAG)

Guests present were:

Captain Pete Garay, AMP	Anchorage
Captain Cees Deelstra, Holland America	Seattle
Captain Larry Vose, SEAPA	Juneau
Captain Doug Hanson, SEAPA	Juneau
Captain Hans Antonsen, SEAPA	Juneau
Captain Jeff Pierce, SWAPA	Juneau
Kate Tesar, ASA	Juneau
Ivy Frye, Boards and Commission	Juneau

**Review / Set Agenda**

The agenda was adjusted to accommodate additional items:

- Discussion for 'Duties of the Pilot'
- Bylaws from Alaska Marine Pilots (AMP)
- Additional budget pages
- Waiver request for Captain Biagi
- Yacht Application
- Memorandum of Agreement for consideration in Executive Session

It was:

RESOLVED to approve the agenda with the additions.

**Agenda Item 1**

**Declaration of Potential Conflicts of Interest / Recusals**

No conflicts or recusals were declared.

**Agenda Item 2**

**Review / Approve Minutes**

Mr. Cronk identified an incomplete sentence on Page 6 of the April 12, 2007 minutes. The Board tabled action on the April minutes until the MPC could provide clarification.

On a motion by Mr. Cronk, seconded by Captain O'Hara, and carried without dissent, it was:

RESOLVED to approve the minutes for May 18, 2007 without change.

On a motion by Mr. Miller, seconded by Captain O'Hara, and carried without dissent, it was:

RESOLVED to approve the June 7, 2007 minutes without change.

**Public Comment on non-agenda items**

Captain Larry Vose, President of Southeast Alaska Pilots Association (SEAPA) asked to comment on foreign pleasure craft during the established agenda.

Ms. Kate Tesar, Executive Director for Alaska Steamship Association (ASA) asked the Board to keep July agendas light as it was difficult for her members to attend mid-summer. She also requested that meeting packets be available earlier and possibly in electronic format.

**Agenda Item 3**

**Business Items**

Mr. Poulson asked for discussion on a new Board Chair and Captain Collins asked if the newest members wished to be considered for the position. Discussion followed and Mr. Austerman agreed to fill the role with a transition. On a motion by Mr. Miller, seconded by Captain O'Hara, and carried without dissent, it was:

RESOLVED to elect Mr. Austerman as Board Chairman and Mr. Poulson as continued Vice-Chairman.

Budget – The MPC presented a budget summary representing the completion of fiscal year 2007 with comparisons for 2006 and 2005. Revenues were examined in detail and Captain Collins gave historical intent for foreign pleasure craft fees and their use. An analysis of expenses showed an increase in travel costs and supplies, and a decrease in legal from previous year.

Investigation / Litigation Report – The Board reviewed new and open cases with the MPC. Three new investigations had been opened since the last meeting and all three were processed and closed. No new litigations had begun, leaving one open case with a Memorandum of Agreement for consideration by the Board. The MOA was scheduled for Executive Session.

Committee Reports – The MPC gave an update on the Core Exam Audit and explained new scoring and topics covered within the exam. It was noted that language under 12 AAC 56.070 EXAMINATIONS would need amending before the new changes could be enacted. Discussion into the details of the new scoring commenced and the MPC was directed to include Dr. Hertz in suggestions to address paragraph 56.070(c).

On the motion by Mr. Arts, seconded by Mr. Miller, and carried without dissent, it was:

RESOLVED to direct the Core Exam Committee to draft amended language to 12 AAC 56.070(c) for the Board's review in October and report on discussions with Dr. Hertz.

Correspondence – [Region 3 Concerns] Captain Pete Garay, President of Alaska Marine Pilots (AMP), expressed concern to the Board for dangerous practices in

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Region Three, citing 23-mile skiff rides across the Bering Sea. He felt that in the time following his writing the letter to the Board, more folks were aware of the situations. He asked that the Board table his request for regulation but promised to re-introduce the subject in October. Mr. Cronk expressed agreement with Captain Garay for the issues but felt many of them could be resolved without regulation.

[Region 1 Dispatch] On behalf of Southeast AK Pilots Association, Captain Larry Vose presented a request to know from the Board if Holland America was within the provisions of 12 AAC 56.310(10) to 'show cause' and not receive dispatch of a particular pilot to their vessels. The State had exonerated the Pilot after investigation. Captain Vose explained that actions to resolve the issue had stalemated, resulting in SEAPA's inability to provide fair and equitable dispatch as required by 12 AAC 56.310(c)(9). Captain Jeff Pierce, President of Southwest AK Pilots Association, offered their experience with identical situations in Region 2 and the burden it places on the association. Captain Collins felt the Board never described 'cause' when it initiated the regulation years earlier and it was time to define. Mr. Poulson expressed interest in hearing comments from Pilots and Industry on the subject of 'cause.' AAG Horetski expressed caution to the Board that there was not a process in place that gave the Board a role in determining the 'cause' issue. Discussion ensued. Definition in regulation was examined. Captain Vose reiterated his request for resolution. The subject was tabled for later in the agenda.

[Training Pilot Endorsement] Application for Training Pilot endorsement was presented on behalf of Captain Anthony Chadwick from Region One. All regulated requirements were noted to be complete and on a motion by Mr. Cronk, seconded by Captain O'Hara and carried without dissent, it was:

RESOLVED to issue a Training Pilot endorsement to Captain Chadwick.

[Waiver Request] Southeast Alaska Pilots Association requested a waiver for Captain Chris Biagi to take the Core Exam while completing his federal pilotage. Captain Doug Hanson, SEAPA Training Chairman, explained that Captain Biagi had been approved to draw his last chart, Yakutat, and until his pilotage came through, would not be assigned supervised maneuvers in that area. On the motion by Mr. Miller, seconded by Captain O'Hara, and carried without dissent, it was:

RESOLVED to acknowledge good cause and allow Captain Biagi to take the Core Examination.

[Drug and Alcohol Policy] The MPC summarized the comments received from Legislative Audit during the Boards recent Sunset Review, specifically drug and alcohol testing. She presented for Board approval a policy letter giving specific direction to the MPC and Pilot Associations in accordance with Alaska Statute

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08.62.040(b)(2). Discussion followed. On a motion by Mr. Miller, seconded by Captain O'Hara, and carried without dissent, it was:

RESOLVED to adopt the letter as formal policy for drug and alcohol program reporting per 08.62.040(b)(2).

[Training Programs] Captain Pete Garay outlined proposed changes to AMP's Training Program (TP) with intent to address continuing education under 12 AAC 56.083(e) and (f). He explained all their members would be attending manned model training in addition to at least one of the approved courses for biennial requirement. The question was raised if the TP would need to come before the Board each and every time a course was added. It was suggested that not per course, but rather per category. Clarification for manned model as satisfaction for both 56.083(e) and (f) was discussed. It was determined that for edification, language in paragraph (B)(1) should be modified to read:

'12 AAC 56.083(f) requires a Marine Pilot or Deputy Marine Pilot to document that he or she has completed a board approved manned model or simulator course for Region 3.'

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

RESOLVED to adopt AMP's Training Program with amendment.

The Board recessed at 1245.

## **Agenda Item 6      Regulations**

The Board reconvened at 1305.

As the advertised time for public comment on proposed regulations, Mr. Poulson opened the floor to public testimony for 12 AAC 56.110 and 56.120. Mr. Cronk informed the Board that the parties who introduced the proposal wished to table it until the following Board meeting. Discussion ensued. On a motion by Captain O'Hara, seconded by Mr. Cronk, and carried unanimously, it was

RESOLVED to table 12 AAC 56.110 and 56.120 for Board review at the next meeting.

Mr. Poulson asked for public testimony for 12 AAC 56.028(b) and Captain Jeff Pierce, President of Southwest AK Pilots Association (SWAPA) spoke to the proposed change to regulation. He explained that it removed the particulars of training for deputies in Region Two. The dynamics of ship traffic, he added, made

the requirements almost impossible and the proposed change allowed for flexibility rather than appearing before the Board with constant requests. Should a port open up, it would allow the Association to make training assignments in that location, producing a trainee with experience closer to their real work demand. Another element to the proposal called for an increase in the number of trips into Nikiski and Anchorage. Both ports were considered more challenging in wind and tide and it was felt the additional maneuvers in those ports provided more challenging training than the other ports lost.

Captain O'Hara offered comment to the proposal as a pilot in that region. He agreed the skill level required for Nikiski and Anchorage was significantly more than other ports. He professed his support for the proposal. Questions by Board members followed.

Mr. Arts asked for the solution when a port re-opened. Captain Pierce explained that trainees would be assigned an observation trip with an experienced pilot into that port before eligible for dispatch. He offered to amend the proposal by adding that stipulation to reassure the Board.

Captain Collins expressed concern for taking action on the proposal without seeing SWAPA's Training Program (TP) alongside, citing the possibility of giving away oversight. Captain Pierce explained the TP was waiting for approval of the amended language in regulation, and ready to submit. Discussion continued.

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

RESOLVED to request SWAPA submit their revised Training Program to the Board for consideration and table 12 AAC 56.028 to the next meeting.

Mr. Poulson opened the floor for public comment on 12 AAC 56.960(i). The MPC identified the noticed version for the Board and indicated suggested edits by the Department for consideration. Discussion followed.

Kate Tesar, Executive Director of Alaska Steamship Association (ASA) testified to the requirement for photo identification by vessel security. Captain Deelstra of Holland America explained the IMO requirement for photo identification was government-issued. Discussion followed.

Captain Hans Antonsen summarized the purpose of the badges was to distinguish Marine Pilots from everyone else with port security identifications. Mr. Poulson asked if there was even a need to specify photo identification if IMO set requirements. The Board agreed that it was not and moved to strike language

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specific to when a Pilot must show their identification. Amendments were made to address ownership of the badges and reporting of their misuse.

On a motion by Mr. Cronk, seconded by Mr. Miller and unanimously accepted, it was

RESOLVED to repeal current language and re-adopt new to read, 'A State of Alaska pilot badge is accountable property of the State and shall be returned to the Marine Pilot Coordinator immediately upon request by the Marine Pilot Coordinator or as directed by the Board. A pilot shall immediately report to the State Marine Pilot Coordinator any loss or misuse of their State of Alaska pilot badge with engraved number. A pilot photo identification card and State of Alaska pilot badge are valid only when the State of Alaska marine pilot license which it represents is current.'

**Agenda Item 3**

[Training Programs] The Board returned to remaining agenda items under 'Business,' starting with SEAPA's Training Program, Vol II. SEAPA's Training Chairman, Captain Doug Hanson, explained that the changes presented represented wording direct from regulation. He also pointed out the need to address changing vessel traffic without holding up trainees, indicating that a shortage of pilots in Region One was imminent. Discussion commenced for moving training requirements out of regulation and into the training programs. Captain Vose asked if SEAPA and SWAPA might coordinate these efforts simultaneously and petition the Board for this change at the next meeting. Captain Hanson pointed out changes in the Training Program to address continuing education. On a motion by Captain O'Hara, seconded by Mr. Cronk and without dissent, it was:

RESOLVED to approve SEAPA's Training Program as presented.

[Tentative Meeting Dates] The Board reviewed exam / meeting dates and approved October 11 and January 23 in Anchorage and April 16 in Juneau.

[Pilot Duties] AAG Horetski advised the Board that the incident report by Captain Terry Bennett before the Board was considered a public document and members of the audience were provided copies. The report held a summary of Captain Everson of Holland America taking the helm without cause on June 12, 2007. Captain Collins provided his experience with the same captain refusing training to a pilot trainee and asked that the Board issue a letter to remind companies and their captains of their obligation to comply with State regulation, specifically 56.960 Duties of Pilots. Discussion commenced. It was acknowledged these situations did not represent company policies, but rather individual captains. Captain Garay pointed out that Captain Richard Murphy had written a letter to the Board a couple of years earlier, addressing this situation. Mr. Arts suggested

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SEAPA write a letter to this incident, discuss the overall issue, ask for a response then inform the Board. It was noted that relieving the pilot from the conn and refusing training were separate issues and while regulation addressed the first, the second was short sightedness. Discussion continued. Captain Deelstra explained that Everson had just recently returned to assignment in Alaska and referred to these situations as 'isolated.' He cautioned against worsening the situation.

Captain Vose felt it important that the pilot conn issue be reinforced and expressed concern for trainees to do hands-on training to the dock, stating the two were closely tied. Mr. Poulson encouraged a scenario where the cruise lines participate in training efforts by clarifying their policies to their masters. Captain Vose agreed that SEAPA could write a letter.

#### **Agenda Item 4**

#### **Training Updates**

[AMP] Captain Garay expressed appreciation for Local Knowledge exams given to Captains Arzt and Christy in June and reported that both men were on dispatch. Captain Lund was presently training and Deputy Marine Pilot Whalen was due for his upgrade to 60k gross tons.

[SEAPA] Captain Hanson gave an update on Region One trainees and noted that SEAPA would again run their competitive exam in the fall. A waiver for Captain Devine was discussed and the MPC was directed to provide Board members with an email ballot in the days following the meeting.

[SWAPA] Captain Pierce gave a brief summary of SWAPA's trainees and announced the introduction of an apprentice program for their association. He stated their region was also experiencing a tremendous time lag for CG processing of applications to draw and grade charts. Number of candidates interested in training with the association were up, he added, suggesting it was related to their newly enacted training stipends. He also expressed appreciation for Alaska Vocational Technical Center (AVTEC) where SWAPA trainees were allowed free simulator time in exchange for instruction to AVTEC students. Mr. Poulson suggested a future Board meeting in Seward might be in order.

The Board employed a break at 1450.

#### **Agenda Item 3**

[Correspondence] The Board reconvened at 1500 and returned to correspondence received from SEAPA regarding a dispatch matter with Holland America Lines. AAG Horetski provided an overview of power and authority by the Pilot Board in accordance with statutes and regulation, which included referring the matter to Department of Law for criminal penalties for failure to employ a pilot. 12 AAC 56.205 Availability of Pilots and 56.310(b)(5) and (c)(9)-(10) Qualifications for



Recognition apply. She cited a previous case 'AMP vrs Hensch' and Memorandum of Judgement 'Crowle vrs San Francisco Pilots Bar Association.' The point made in both cases, she said, was safety. If the issue is likely to reoccur, she recommended the Board consider regulation that set out more specific direction for due process. Ms. Horetski described the scenario of Captain relieving the Pilot before docking as a separate situation, but both going on the same premise of 'cause.' Is there cause? Discussion commenced.

Ms. Horetski pointed to AMP's By Laws which gave fair definition for 'cause' and SEAPA's Operating Rules which supported fair and equitable dispatch and notification to the Board of refusals. Discussion continued for possible action by the various parties. Captain Vose noted the refusal included all ships within the Holland line. Mr. Miller suggested the process be a complaint lodged with law enforcement, not an area for the Board. Captain Collins made a motion to repeal 56.310. Discussion continued.

Captain Deelstra offered comments concerning Holland America's dispatch refusal and how they needed to show their captain and masters there was a lesson learned from the incident. Discussion for a third-party facilitator commenced. Mr. Miller suggested that 56.310 takes away power from the Board by giving veto power to their licensing authority. Discussion continued. Agreement was made by Captain Deelstra and Captain Vose to enter into mediation with a third-party facilitator. A working committee was established to examine 56.310 and make recommendations to the Board.

**Agenda Item 6**

**AMP Report**

Captain Garay volunteered to postpone his report on Region 3 issues to the next Pilot Board meeting and allow the Board to adjourn on time.

**Agenda Item 7**

**Yacht Exemptions**

Captain Vose gave a brief summary of concerns for yachts and manpower. He addressed erratic itineraries, no notice of arrival and difficulties to provide prepared pilots. He suggested a creative look at first-level licenses for trainees. Changing the exemption statute was not seen as an interest in safety. Mr. Cronk commented that the nature of pleasure craft did not lend to regulating and that a concept of a different license category was worth exploring. Chief of Occupational Licensing, Jenny Strickler, summarized the procedure to examine an emergency licensure. The MPC reported on two yachts sighted within the last hour in compulsory water without a pilot or exemption. Discussion continued. The Board asked the Yacht Committee to examine the issue as presented by Captain Vose within the next two weeks.

Mr. Poulson asked if there was public comment prior to the Board adjourning to Executive Session. There was none.

**Agenda Item 8**      **Executive Session**

Mr. Matthew Crane, attorney for Captain Richard Seigel, joined the meeting at 1603. AAG Horetski summarized prior action by Captain Seigel, the State and Pilot Board to gain agreement in a Memorandum and she requested favorable adoption of the latest revision. Mr. Crane echoed the request for the Board to see sufficient action taken by Captain Seigel and adopt the Memorandum. The Board reviewed the document and on a motion by Mr. Miller, seconded by Captain O’Hara with objection from Mr. Arts, by a roll call vote 6-1, it was:

RESOLVED to adopt the Memorandum of Agreement for Captain Richard Seigel.

Arts	No	
Austerman	Yes	
Collins	Yes	
Cronk	Yes	
Miller	Yes	
O’Hara		Yes
Poulson	Yes	

On a motion by Captain O’Hara, seconded by Mr. Cronk and without dissent, it was:

RESOLVED to move into Executive Session to hear the MPC’s report on a current Memorandum of Agreement.

The Board moved into Executive Session at 1615.

The Board returned to open session at 1635. No Board action was taken.

On a motion by Mr. Cronk, seconded by Captain O’Hara and carried unanimously, it was

RESOLVED to adjourn the meeting.

Meeting was adjourned at 1640.

Respectfully submitted:

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 Renda Heimbigner

Marine Pilot Coordinator

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Joe Austerman, Chairman  
AK Board of Marine Pilots