



MEETING MINUTES OCTOBER 13, 2016

ROBERT G. ATWOOD BUILDING
550 W. 7TH ST., SUITE 1270
ANCHORAGE

These minutes were approved by the Board of Marine Pilots at its January 26, 2017 meeting.

By authority of AS 08.01.070(2), 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.

Item 1. Roll call/Call to order

Board members present: Ms. Shirley Marquardt (acting chair), Mr. Tom Rueter, Capt. Hans Antonsen, Capt. David Arzt, Mr. Richard Erickson and Mr. Andrew Mack.

Board members absent: Commissioner Chris Hladick (excused)

A quorum was present.

Division of Corporations, Business and Professional Licensing Operations Manager Sara Chambers (Acting Marine Pilot Coordinator) was in attendance and recorded minutes.

Other CBPL staff present at various times were Chief Investigator Angela Birt and Paralegal/Rising Marine Pilot Coordinator Charles Ward

Members of the public present included Carolyn Vermette, deputy marine pilot license applicant; Capt. Michael O'Hara, president of Southwest Alaska Pilots' Association; Paul Axelson, with Yacht Services of Alaska and co-chair of the Board's Yacht Committee; Capt. Paul Merrill, president of the Southeast Alaska Pilots' Association; Capt. John Herring of SEAPA and Capt. Bill Gillespie of Alaska Marine Pilots.

Marquardt called the meeting to order.

Item 2. Atwood Building Orientation

Chambers provided a safety briefing.

Item 3. Review Agenda

There were no additions nor deletions from the agenda

There were no recusals or declarations.

Item 4. Review and approve minutes

Motion by Antonsen to approve the minutes of the 17 June 2016 meeting as drafted. Seconded by Erickson. There was no discussion. Motion passed by unanimous consent.

Item 5. Public comment

Marquart opened the floor for public comment. There was none.

Item 6. Deputy Marine Pilot application review: Carolyn Vermette

Rueter: Concern about oral examination being held in public. Candidate needs to feel free to answer openly, express with candor.

Marquart: Invited Chambers to discuss state law regarding executive session.

Chambers: Discussed the email sent to the board regarding state law pertaining to executive session.

Mack: Recommended the Board go into executive session and record it, based on a greater likelihood of a candid conversation.

Antonsen: Agreed with Mack, especially given the board's need to get to know the candidate, given her responsibility. He pointed out the Board can't really fail someone based on the oral interview.

Rueter: Agreed with Mack. Candor is important, and this is Board's opportunity to know the candidate on an individual basis.

Marquart: Recommended the new MPC be informed of the board's culture and how the recording will be preserved (with the recording preserved, but no transcript generated unless requested).

Executive Session

Motion by Arzt to go into executive session for purpose of discussing the Deputy Marine Pilot application of Vermette in accordance with AS 44.62.310(c)(1-4). Seconded by Erickson. There was no discussion. Motion passed unanimously.

The Board entered into executive session at 0924

The Board went back on the record at 1000

Motion by Rueter to leave executive session. Seconded by Mack. Motion passed by unanimous consent.

Motion by Antonsen to grant Vermette a Deputy Marine Pilot's license as she has successfully completed the oral exam, with the condition she complete ice docking requirements as soon as possible. Seconded by Rueter.

Discussion: Marquardt, Mack and Antonsen expressed their appreciation for the fulsome interview, Vermette's successful local candidacy and the success of the Southwest Alaska Pilots' Association's apprenticeship program. Antonsen and Mack said they were looking for great things from Vermette. Motion passed unanimously. Chambers said she will issue Vermette's license today. O'Hara offered congratulations.

Item 7. Business items

New Marine Pilot Coordinator

Chambers said Ward would be the new Marine Pilot Coordinator, and he would be at the meeting to meet the Board at 1130. Chambers reviewed Ward's resume and stated Ward was looking forward to working with the Board to bolster his maritime knowledge.

Foreign Pleasure Craft

Chambers reviewed the Foreign Pleasure Craft history from Fiscal Year 2016 to date. She noted one of the challenges the Board faced was the number of last-minute exemption requests the Board received.

She noted vessel agents expressed concern about the amount of time the Board had to review exemption requests.

Antonsen: Wanted to clarify his rationale for voting “no” on several recent exemption requests. He suggested that procedures be clarified before the summer of 2017 to ensure the yachts requesting exemption are complying with the requirement to request same 30 days before entering pilotage waters and the Board is given its full 10 days to approve or disapprove those requests. He said it is important to do so to ensure due diligence, and that not doing so does a disservice to yachts that are complying with the 30-day/10-day requirement.

Marquardt: Asked if there is a way for vessels who don’t comply with the 30-day/10-day requirements to pay for an expedited service—what will get their attention to comply?

Antonsen: Said there are different levels of fines and penalties in statute and regulation and that a fine for not applying in a timely manner may be too strong.

Marquardt: Asked if, under statute, CBPL staff could inform yachts requesting exemptions there is a fine for a late application.

Antonsen: Said there would need to be a legal opinion on that question.

Erickson: Asked why some applicants don’t know about the requirements for a pilot and the time frame for requesting an exemption, when others do? He also expressed concerns about pilots being able to be dispatched timely, and about penalizing a vessel that is already being penalized by not being able to sail or having to take on a pilot.

Marquardt: Said intent was not to penalize, but to bring the statutory timelines to the yachts’ attention.

Antonsen: Said he was not looking to penalize, just to get vessels to comply with the statute. It’s an issue of fairness for vessels that take efforts to comply with the statute.

Erickson: Asked if the Board was assuming the yachts knew about the 30-day/10-day requirement and didn’t comply.

Antonsen: Said he wasn’t assuming the boats knew about the rule, just that they didn’t comply. The Board should decide what is important to emphasize in terms of compliance.

Rueter: Said the State is open for business. These folks are not commercial vessels but are private yachts. They may have professional mariners on board, but they are not commercial vessels. We can argue that they do need to know the laws, but as the state, we want to encourage visitors to enhance the commerce of the state. Does the board want to make them sit for 30 days? There’s a need for the MPC or the Board to do a short study to see if the statutes or regulations should be amended to create an additional fee for expedited service.

Mack: Said he read the information this summer when it was pertinent. Asked when the line is crossed between paying an exemption fee and paying a penalty. Asked if not only fines apply, but could a misdemeanor be charged.

Antonsen: Quoted AS 08.62.190(b). “A person who violates any other provision of this chapter or a regulation adopted under this chapter is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not less than \$1,000 nor more than \$5,000.” Clarified that applied to all violations except that of failure to properly employ a pilot, which carries a larger fine.

Marquardt: Expressed support for the idea of adding an additional fee for an expedited review.

Arzt: Clarified this time frame is in statute, not regulation, and stated the issue may be beyond creation of a new regulation.

Antonsen: Said he was not opposed to expediting if that was what the Board wanted, but pointed out again violating the 30-day/10-day timeline was a violation of statute and a misdemeanor.

Mack: Said he has an issue with granting exceptions because the statute is there for good reason. Said we care about our coastline and how things are managed. Said we should not end up in this situation for safety reasons, and expressed concern about knowledge of the vessel’s captain. Pointed out three requests for exemptions from larger yachts during summer of 2016 that perhaps should not be surprised by Alaska’s pilotage rules. Said we should go slow but try to have something in place for next summer. Said the goal is not to penalize, but to not expose Alaska to risk.

Marquardt: Suggested the new MPC study and offer options to the Board at the next meeting.

Erickson: Asked if the yachts entered pilotage waters and then realized they need a pilot.

Antonsen: Said all took on a pilot when entering pilotage waters.

Antonsen: Said he believes exempt vessels are licensees, and he's uncomfortable with allowing licensees to commit violations. Pointed out his concerns are not anti-yacht, and said he enjoyed piloting yachts and generally found their captains and crews to be trouble-free.

Rueter: Asked for clarification regarding the yachts' specific violation. Asked if the act of submitting an application outside the time frame was in itself a violation. He requested the MPC study the issue.

Mack: Suggested Board members submit specific questions, concerns, options, assumptions to the MPC to assist in moving forward, and said it was possible for the MPC to work with the Yacht Committee.

Axelson spoke to the Board and said he concurs with concerns of the Board. Said the statutes and regulations do not appear to be very well thought out. Expressed concern a yacht trying to make something right could be violating the law simply by asking for an untimely exemption. Said the statutes either needs to be fixed or the Board needs to stay consistent in order to maintain fairness. Said the Committee and Board need to be cautious and precise when requesting a fix. Expressed concern the current situation could drive commerce away.

Rueter: Said the Board and public should submit suggestions to the MPC soon, as the Legislative session begins in January, and the preparatory work needs to begin soon in cognizance of that.

Marquardt: Expressed concern about valuing a quick review process over careful deliberation. Said this will not be done before the summer yacht schedule.

Axelson: Said he appreciates staff and Board's efforts to turn exemption requests around quickly.

Antonsen: Said the Board could determine that an application submitted with less than 30-day/10-day notice could be considered incomplete and the yacht has the option to take on a pilot in order to visit.

We are not turning away commerce.

Task: Chambers will work with Ward to develop strategy to research issue with Yacht Committee and place on agenda for next meeting. Goal is to present options to the board at that time.

Renewals of license for Marine Pilots and Vessel Agents

Chambers: Said the renewals were moving forward. Said renewal went live about a week ago. Said the Division had a new online renewal and a paper application process. Encouraged any licensee with issues to contact the CBPL office. Said Ward had been briefed on renewal process and frequently asked questions in order to answer questions during her pending absence from the office.

Correspondence

Chambers: Said two letters had been submitted raising concerns about the level of regulation to sail in Alaska. Said there may be an opportunity for the Board and vessel agents to increase education available to the public. Said she understood the Board did not have a great deal of funds for such a purpose, but provided low-cost options for outreach. Said the letter from Capt. Glenn Walsh in British Columbia expressed a request for captains with local knowledge to receive relief from certain requirements. Said there was no specific action being requested of the Board.

Artz: Asked about correspondence from SEAPA and SWAPA. Chambers said she placed that correspondence with the association reports.

Marquardt: Asked if any Board members wanted to address any items of correspondence. There was no response.

Public review of Board actions

Chambers: Said there was a list of exemption approvals and training tonnage upgrade requests the Board had approved via mail ballot since its last meeting. Pointed out the Board can take votes outside of Board meetings in this manner for items not requiring discussion.

Board actions from 6/8/16 – 9/2/16

Date	Motion	Voting Tabulation	Action
06/08/2016	Approve S/Y ASAHI exemption	Arzt, Erickson, Rueter, Hladick, Mack, Marquardt (Y) Antonsen (N)	Motion passed

Date	Motion	Voting Tabulation	Action
07/01/2016	Approve M/Y ANNASTAR exemption	Erickson, Hladick, Rueter, Marquardt (Y) Antonsen(N) Arzt, Mack (NR)	Motion passed
07/14/2016	Approve M/V TAMSEN exemption	Hladick, Marquardt, Rueter, Arzt, Erickson, (Y) Antonsen (N) Mack (NR)	Motion passed
07/27/2016	Captain Eric Collins training pilot	Arzt, Antonsen, Erickson, Mack, Hladick, (Y) Rueter, Marquardt (NR)	Motion passed
07/27/2016	Captain Barry Olver training pilot	Arzt, Antonsen, Erickson, Mack, Hladick (Y) Rueter, Marquardt (NR)	Motion passed
07/27/2016	Captain Michael Tamney training pilot	Arzt, Antonsen, Erickson, Mack, Hladick (Y) Rueter, Marquardt (NR)	Motion passed
07/27/2016	Captain Phil Taylor training pilot	Arzt, Antonsen, Erickson, Mack, Hladick (Y) Rueter, Marquardt (NR)	Motion passed
07/27/2016	Captain Matthew Michalski 90K GT upgrade	Arzt, Antonsen, Erickson, Mack, Hladick (Y) Rueter, Marquardt (NR)	Motion passed
08/19/2016	Captain Keith Austin 65K GT upgrade	Unanimous	Motion passed
08/19/2016	Captain Ian Maury 65K GT upgrade	Unanimous	Motion passed
09/02/2016	Captain Rich Preston training pilot	Antonsen, Mack, Erickson, Arzt (Y) Marquardt, Rueter, Hladick (NR)	Motion passed

(Y) = Yes (N) = No (NR) = No response.

Regulations status update

Chambers: Said changes to regulations regarding marine pilot availability in Western Alaska and changes to marine pilot duties in case of collisions, allisions, and groundings became effective on 9 October 2016. Said the length overall regulations adopted by the Board were with the CBPL regulations specialist and would need review from the Department of Law. Said she did not anticipate issues, but said attorneys do often find wording that needs to be corrected.

Break at 1101

Board went back on the record at 1133

Item 8. Investigative Report

Birt presented the 16 June 2016 - 5 October 2016 investigative report. Said there were two pending matters and two matters had been closed. Stated one pending matter was awaiting the results of a medical evaluation and another was under active investigation.

Ward was introduced as the new MPC and he presented his background as paralegal.

Birt: Explained the recruitment process and how Ward has demonstrated competence.

Marquardt: Welcomed Ward to the position.

Marquardt: Introduced letter from Capt. W.E. Murphy and stated the letter was best discussed in executive session.

Executive session

Motion by Rueter to enter executive session for the purpose of discussing investigative matters. Seconded by Antonsen. There was no discussion. Motion was approved by unanimous consent.

The Board entered executive session at 1141.

The Board recessed for lunch at 1223

The Board went back on the record at 1331.

Motion by Artz to exit executive session. Seconded by Rueter. There was no discussion. Motion was approved by unanimous consent

Item 9. Pilot organization reports

SEAPA

Training

Merrill: Said there are 46 full pilots and one deputy at 65,000 gross tons; Capt. John Larson retired after 44 years; six observing trainees now and expect 1-2 each year going forward. SEAPA will give an exam in March and four successful candidates will enter SEAPA's training program at an appropriate category. Said enough pilots exist to cover the region given expected traffic. Reports good cooperation between SEAPA and the cruise lines, which helps trainees.

Erickson: Asked for clarification on SEAPA's training process, and Merrill explained the process.

Bieli Rocks

Merrill: Said the Bieli Rocks trial station is an alternate station in Sitka. Said it has been a trial for two summers and has been necessary due to a new dock at Halibut Point. Said SEAPA requests it be formalized. Said discussion should be had on whether Bieli Rocks should be a seasonal or year-round station.

Marquardt: Asked if there was a process for the Board to follow to make Bieli Rocks a permanent station.

Chambers: Said the Board could deliberate as to whether to change 12 AAC 56.120 add Bieli Rocks as a permanent station.

Marquardt: Asked for discussion.

Antonsen: Asked why there had been a slight change from the preliminary trial station to the current location being considered.

Merrill: Said the new location provides adequate shelter, is safer, and better approach. Said it's closer to the dock by about 3 miles from trial position and decreases transit time.

Rueter: Asked if the new location was closer to or further away from the dock.

Merrill: Said it was closer to the dock.

Rueter: Asked if the new location added or decreased total transit time.

Merrill: Said it decreased total transit time.

Erickson: Said industry is in favor of the addition.

Motion by Antonsen to amend 12 AAC 56.120 to add Bieli Rocks (1 mile, 315 degrees True from Bieli Rocks; approximate position 57 degrees, six minutes North latitude, 135 degrees, 31 minutes West longitude). Seconded by Rueter. There was no discussion. Motion passed unanimously.

Deputy Marine Pilot qualifications

Merrill: Discussed his letter of 18 September 2016 requesting a review of the deputy marine pilot qualifications in AS 08.62.093(d) statement "except as otherwise provided by the board" to qualify the 25,000 gross tons initial license qualification.

Merrill: Described the training track for deputy marine pilot licenses. Said limiting the initial license to 25,000 gross tons upon initial license doesn't add value to new deputies as outlined in the letter and limits their utility to build their skills in paid status on larger ships. Said the Legislature foresaw the need to allow initial pilotage of larger vessels. Said the value of a new licensee to work on their own is invaluable.

Said a return of a large number of large vessels to Southeast Alaska is unlikely. Said the Board should discuss a regulation allowing a higher tonnage on initial licensure.

Arzt: Said the Board needs direction on its scope of ability to adopt regulations to issue a license at a tonnage other than 25,000 gross tons.

Chambers: Said it appeared the Legislature gave the Board authority to license beyond 25,000 gross tons. Said the Board might consider any changes it wished now, then seek an attorney's opinion.

Antonsen: Said an attorney's opinion is necessary. Suggested he help spearhead discussions among the associations and industry about suggested changes to the license tonnage so a full discussion on a specific tonnage limit can take place at the January meeting. He expected the Board may see a proposal at the April meeting.

Chambers: Said she would work with Ward to get an attorney's opinion. Said Law's ability to review matters expeditiously had been hampered by budget cuts. Said Law will look at the statutory authority to enact a regulation twice during the regulation process. Suggested the Board could have a discussion now to understand its desires, then proceed to the regulations process.

Antonsen: Suggested a discussion now, so the project could proceed on two tracks.

Erickson: Asked if this had been a topic of discussion among Alaska Marine Pilots.

Arzt: Said this has not been a topic among AMP, but it would be an enhancement to increase training and availability of pilots.

Rueter: Asked what the Board is missing if the 25,000 gross tons license was skipped.

Arzt: Said training mechanisms have improved and vessel sizes have changed. Said pilots are training on larger vessels already. Said it's a great question and needs this further exploration to determine next steps. There was a consensus among Board members they supported holding initial discussions about this possible change.

Task: SEAPA will take the lead to work informally with industry and other associations to gather information, work with the MPC as necessary, and bring it back to the board in January.

Training program changes

Herring walked through the side-by-side comparison of the updated SEAPA training program. Assured the Board it was a housekeeping effort, not a substantive change other than in a few areas in Volume II. Said the Misty Fjords observation requirement has changed to include a waiver in case the trainee can't get there. Said the regional simulator training requirement had been beefed up to require trainees to go to a real simulator with a SEAPA training pilot to work on more challenging dockings and undockings. Said weighing anchor was required in regulation, so the anchoring requirement was reduced from eight to six and two weighing anchorings had been added. Said Automatic Radar Plotting Aides requirement changed to be current, not every three years. Said the pilot briefing does not have to be in writing. Said changes minimized orientation to focus on safety, expectations, and review of training process.

Herring: Said Volume I focuses on entry to the program. Said SEAPA eliminated the provision to move to the bottom of the list after the second refusal, and changed it so they only have one opportunity to refuse. Said a new appeals/dismissal section was added because the existing section referred to SEAPA bylaws, which don't apply to trainees.

Herring: Said a few additional changes were made to conform with pilot regulations and eliminate redundancy when aspects were already included in statute and regulations. Overall, SEAPA sought brevity and clarity.

Marquardt: Asked for input from the Board. There was none.

Antonsen: Said he appreciated SEAPA's hard work and commended Herring.

Motion by Antonsen to approve changes to the SEAPA training manual Volumes I and II as presented. Seconded by Mack. Approved unanimously.

SWAPA

O'Hara: Said there were 14 Very Large Crude Carrier pilots, four deputy pilots that will eventually be VLCC pilots, one trainee in Valdez and three observers. Said he had no issues to bring forward. Said he looked forward to the discussion about possible changes to the 25,000-gross-ton limit on initial deputy licensure.

Marquardt: Asked SWAPA provide their changes and thoughts on the tonnage change to the MPC.

AMP

Gillespie said there were nine pilots—eight unlimited and one VLCC, one deputy pilot and one trainee. Said AMP reviews pilotage needs at every annual meeting to look toward meeting pilotage needs in the future.

Rueter: Asked whether Gillespie feels there is a growing need in Region 3.

Gillespie: Said he didn't think there was a demand they couldn't meet. If Shell had continued operations, they may have needed more.

Gillespie: Said AMP published new tariffs, working with the Alaska Steamship Association ahead of time to make sure that process went smoothly. Said Army Corps of Engineers, AMP, and cities of Dutch Harbor and Unalaska worked to dredge an area of the harbor to improve access and economic activity. Said the Champion Ebony ran aground just outside of pilotage waters; AMP took notice since navigation might affect other tanker vessels—it's a bad area navigationally and has increased traffic. Said AMP met with NOAA to discuss and request a new survey for the area since it is dangerous and a grounding of a tanker may have disastrous impacts.

Marquardt: Offered her assistance in her capacity as mayor of Unalaska.

Rueter: Asked about additional charting activity in Dutch Harbor.

Gillespie: Said he believed additional charting had been completed, to the edge of state waters. General discussion followed about the charting process in the Dutch Harbor area.

Gillespie: Said AMP pilots had been busy with a broadband cable project in Northern and Western Alaska. Said one failure might be that of the Crystal Serenity, which was piloted in compulsory waters. Said, however, many had asked if AMP would have a presence in the ice corridor, and they didn't have a presence despite asking to have one.

Item 10. Other business

Next meeting

Board discussed meeting 26 January 2017 in Juneau due to the Legislative session, and possibly meeting in Anchorage in April instead.

Chambers: Said Division Director Janey Hovenden recommended boards meet in the most inexpensive location possible for budgetary reasons, which is Anchorage for most boards, given the majority of members of most boards are based in or near Anchorage. Said Hovenden and Hladick was reviewing requests individually, and considerations such as interaction with the Legislature were compelling reasons to meet outside Anchorage.

Rueter: Expressed concern the Board be able to meet in various locations around the state to interact with the public and pilotage associations.

Antonsen: Suggested the Board send business reasons to meet in person. Said Juneau may be best given the numbers and Chambers' and Ward's need to attend, as well. Mack and Arzt agreed.

Chambers: Said CBPL staff were assembling travel justification worksheets for other boards. Said these worksheets list justifications for face-to-face meetings.

Rueter: Suggested April 12, 13, 19, or 20, as dates for an April meeting. Said meeting much later than that would be more difficult for those prepping for summer. Discussion about dates and location resulted in **April 19 with location to be determined**—likely in Juneau due to legislative session and ability of members and staff to attend.

Item 11. Adjournment

Motion by Erickson to adjourn. Rueter seconded. Motion passed by unanimous consent.

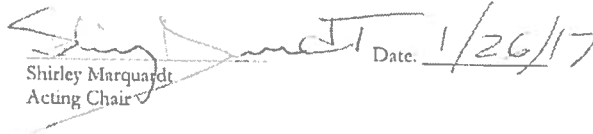
Meeting ended at 1449.

Respectfully submitted:



Charles Ward
Marine Pilot Coordinator

Date: 1/26/17



Shirley Marquardt
Acting Chair

Date: 1/26/17