



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Commerce, Community,
and Economic Development

BOARD OF MARINE PILOTS

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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
January 20, 2021**

By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a scheduled meeting of the Board of Marine Pilots was held via video/teleconference January 20, 2021.

Call to Order/Roll Call January 20, 2021

The meeting was called to order by Chairman Curtis Thayer, at 10:07 a.m. Those present, constituting a quorum of the Board were:

Curtis Thayer
Rick Harris
Captain Edward Sinclair
Captain Ronald Ward II
Lucas Hasenbank
Peggy McLaughlin *joined at 10:15 am*

Present from the Department of Commerce, Community and Economic Development, Division of Corporations, Business and Professional Licensing, were:

Renee Hoffard, Marine Pilot Coordinator
Greg Francois, Chief Investigator
Melissa Dumas, Administrative Officer

Visitors present included:

Mike Tibbles, Cruise Lines International Association, Alaska (CLIA)
Captain John Herring, Southeast Alaska Pilots Association (SEAPA)
Jenni Zielinski, Southwest Alaska Pilots Association (SWAPA)
Captain Joe Martin, Southwest Alaska Pilots Association (SWAPA)

Captain Clayton Christy, Alaska Marine Pilots (AMP)

Tom Rueter, Alaska Maritime

Captain Wesley Kuhns, AMP

Approximately 10 callers joined the call over the course of the meeting.

Agenda Item 2 – Review Agenda

Approved by unanimous consent, it was:

RESOLVED to approve the agenda as amended to include public comment immediately following the ethics reports.

Agenda Item 3 – Ethics Declarations/Recusals

The board had no ethics declarations or recusals.

Agenda Addition – Public Comment

Chair Thayer opened the floor for public comment; at that time there were 15 members of the public in attendance. No comments were made.

Agenda Item 4 – Review of meeting minutes

The Board reviewed the draft minutes for the October 9, 2020 teleconferences.

Captain Ward noted an error on page 6, an incorrect use of “restarted” in the SWAPA report.

MPC Hoffard noted that she made corrections to the draft.

Addition – Tom Rueter, Alaska Maritime to attendance

Corrections:

1. Page 1 first paragraph has the wrong date – should be 10/9/2020
2. Page 2 ... Resolved... agenda written should be “Resolved...agenda “as” written. Add the word “as”.
3. Page 7 ... delete “deviation” from (a)(2)(D)
4. Page 7.... (a)(2)(E) should read “change the language; the vessel needs at least 2 transceivers to ensure they meet the federal requirements for watchkeeping”

Approved by unanimous consent, it was:

RESOLVED to approve the October 9, 2020 board meeting minutes as amended.

Agenda Item 5 – Cruise Industry Update

Mike Tibbles of Cruise Lines International Association (CLIA), Alaska joined the meeting to provide an update on the cruise industry. The industry remains under a no-sail order in Canada that continues until the end of February 2021. The industry has used the time to work with medical experts developing protocols for the safe resumption of operations. There were 74 protocols developed through what was called the healthy sail panel that was all submitted to the to the CDC. In addition, the industry came together not only supporting the healthy sail recommendations but to adopt a global policy. There have been approximately 200 successful

cruises outside the United States that have taken place to date, of course, right now those are mostly on hold, due to spikes in COVID cases around the world. Those cruises are anticipated to be resuming targeted sometime within the next few months. There are several phases for the resumption of cruising to test the protocols; the industry looks forward to guidance from the CDC as they move forward. But at this point there has been about 10 ships that have canceled the entire season and about 11 ships that have canceled partial season. Some of these are just moving their start dates back and canceling a few voyages. CLIA anticipates more announcements coming given the pace that everyone has been on in discussions with various government entities and the current trajectory. Chair Thayer asked if there were any conversations regarding seeking a Jones Act waiver to allow bypassing Canada. Mr. Tibbles let the board know that at the industry is looking at the work being done in the port of Vancouver and working with CDC for the safest possible outcomes for all, a waiver has not been part of the discussions. Mr. Harris asked about involvement with local communities. Mr. Tibbles informed the board that the industry has been working closely with core communities since the onset of the pandemic and that will continue moving forward.

Agenda Item 6 – Investigations Report

Chief Investigator Greg Francois joined the meeting to provide the investigative report. October 9, 2020 – January 20, 2021 there have been 4 investigations closed with 1 investigation remaining as an open case. There were no disciplinary actions for the cases that were closed. Chair Thayer asked for clarification on one of the cases that had been closed. Captain Ward asked for an explanation as to why the 1 open case had not been sent to a reviewing board member yet as the case was opened in 2019. Chief Francois responded to the questions. The closed case had been reviewed by an expert witness who found no violation of program statutes and regulations. The open case was not a matter of public or maritime safety and was held for board member review opposed to hiring an expert witness at expense to the program.

Chief Francois informed the board that an investigator has been assigned the Marine Pilot program. Investigator Michael Bowles has been with the division for just over 1 year and will be assuming responsibility of the program investigations workload.

Agenda Item 7 – Current Regulations Project

The board reviewed the regulation amendments for 12 AAC 56.028 and 12 AAC 56.033(b)(2) as public noticed for written comment in a supplemental notice. No written comments were received for the supplemental notice.

Upon a motion duly made by Captain Ronald Ward, seconded by Peggy McLaughlin, and approved via roll call, it was:

RESOLVED to adopt the proposed amendments for 12 AAC 56.028 and 12 AAC 56.033(b)(2) as written.

Agenda Item 8 – Schedule Future Meetings

Chair Thayer asked the board members to consider their schedules in regard to the April 2021 board meeting. The meeting is anticipated to be held via Zoom and will not be an in-person meeting. The available dates are Wednesday, April 21 and Wednesday, April 28. MPC Hoffard will send out emails to confirm the date within the week following this meeting.

Agenda Item 8 – Executive Session - Oral Interviews/Application Review

Upon a motion duly made by Captain Ronald Ward, seconded by Lucas Hasenbank, and approved unanimously, it was:

RESOLVED to enter into executive session for the purpose of discussing matters subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion. Board staff to remain during the session.

Off record at 10:38 am

Back on record at 11:02 am

Board member Les Cronk joined the meeting at 10:40 am in executive session and participated in that discussion. No actions were taken during executive session.

Upon a motion duly made by Captain Ronald Ward, seconded by Peggy McLaughlin, and approved via roll call, it was:

RESOLVED to approve the Deputy Marine Pilot license for Captain Wesley Kuhns for pilotage on vessels up to 50,000 gross tons upon the waters of western Alaska with the exception of Port Moller.

Agenda Item 9 – SEAPA –Bylaws amendments

Captain John Herring joined the board to discuss the proposed amendments for SEAPA's bylaws.

1. Page 4 of 23; Amend the Select Pilot Member (SMP) membership category expiration date to October 1, 2022 opposed to October 1, 2020.
2. Page 16 of 23; amend the tonnage for compensation shares to align with the tonnage endorsements as listed in regulation for Deputy Marine Pilots.

Upon a motion duly made by Captain Ronald Ward, seconded by Les Cronk, and approved via roll call, it was:

RESOLVED to accept the bylaws for the Southeast Alaska Pilots' Association as presented.

Agenda Item 10 – Association Reports

SEAPA:

Captain John Herring provided the association report. Current roster of 38 full pilots, 11 deputy pilots, and 18 trainees. Some of the trainees are very close to completing the training, they need 2 weeks of cruise ship time. Once those trainees receive their licenses, SEAPA will have total of 51 pilots. The pause in cruising has effectively stopped the training program as only a small amount of cargo training is available. SEAPA looks forward to the resumption of cruise ship sailings. There are several new docks in the region, hopefully that means an increase in future traffic. Sealaska Corporation has announced they are leaving the logging business; that provides roughly 50% of SEAPA's cargo work. Most of the SEAPA members are enrolling in trainings this winter and spring to do all they can to stay current. There is still a pause on observing routes with Alaska Marine Highways as they are not permitting observers on the bridge at this time. This is not currently an issue as many of the trainees are from the ferry system and have already completed those routes for federal pilotage. SEAPA held trainee selection events in the fall; due to low turn-out and limited numbers passing the exams, they will hold selections again in the spring. Captain Ronald Ward asked if there were any issues with the traffic SEAPA currently has accepting trainees due to COVID. Captain Herring responded that the only minor issue was involving a facility, not a ship and SEAPA has not been sending observers. They have only been sending trainees under supervision and have not had any problems.

AMP:

Captain Clayton Christy provided the report. AMP has a current roster of 9 full pilots with 1 trainees in the 4th year and 1 apprentice working towards federal pilotage. Congratulations to Captain Wesley Kuhns on the issuance of his Deputy Marine Pilot license, he is the only Deputy pilot for AMP. AMP had no issues fulfilling their dispatch, the only notable problems were with in-state travel. Each village/community had policies to be completed and those were changed quiet frequently. At times it was difficult to keep up but AMP managed. There are 2 projects in the region that are coming up. The Port of Dutch Harbor is working with the Army Corps of Engineers to have the Dutch Harbor bar dredged, they are hoping to have that completed within a couple of year. The city of Nome is working to increase the size of their facility and push out the docks and create a deep-water port in the Arctic; the two-year planning phase is expected to start this spring. The board had no questions for AMP.

SWAPA:

Captain Joe Martin provided the report. Captain Eric Eliassen, who was with SWAPA for 33 years, retired at the end of November 2020. SWAPA has 15 full member-VLCC qualified pilots. There are 2 Deputy Pilots holding 110 thousand Gross Ton licenses that are currently training on VLCC's in Valdez and 2 Deputy Pilots holding 95 thousand Gross Ton licenses, one of whom has applied to upgrade to the 110 thousand Gross Ton license. SWAPA's training program has 2 trainees working on hands on maneuvers and 2 observers, one of whom has applied to take the state Core Exam. As one may expect, COVID-19 has severely impacted training. However, they are now able to have trainees on some of the vessels calling in the region and hope this will continue to improve. As with other regions, SWAPA had no cruise ship traffic to speak of in 2020. The board had no questions for SWAPA.

Break 11:17 am

Return to record 11:30 am

Agenda Item 12 – Division Update

Administrative Officer, Melissa Dumas provided the division update. Ms. Dumas reviewed the FY2020 end-of-year fiscal report with the board. The program ended FY2020 with a surplus of \$278, 813. There was \$86,250 in revenue with a total of \$110,699 in expenditures. The program started FY2020 with a surplus of \$303,262. She reviewed the indirect allocations that each licensing program is responsible for based on the size of the program; these are division, department and state-wide expenses. For FY2021 the program has received a total of \$112,600 in revenue with \$42,212 in expenditures for total surplus of \$349,201. Ms. Dumas stated that she would recommend a fee analysis for the division to potentially reduce fees. The analysis would be scheduled at least 6 months prior to the next renewal of December 2022. The board asked that the division carefully consider the unique nature of the past year's restrictions before considering any thoughts of fee reductions. Travel restrictions for board meeting did impact the expenditures for the program. The program has not had heavy investigative or legal fees in the past few years but a single significant investigation or lawsuit could drastically reduce the current surplus.

Agenda Item 13 – Information regarding COVID-19 Vaccinations

The state pilots' associations submitted a joint letter to the vaccination taskforce. MPC Hoffard followed that letter with an email request for information for the board. Health and Social Services responded via email; the most accurate information for the vaccine is available on their website. Marine pilots are frontline essential workers (defined as Public transit workers, including rural aviation workers serving communities defined as essential air services, and rural cab service workers). The vaccines will be administered in phases; Phase 1b Tier 1 is currently open to Alaskans 65 and older, Phase 1b Tiers 2, 3, 4 are currently closed. The next Tier to open will be relevant to marine pilots. There is an age component for Phase 1b, prioritizing older workers first. Pilots 50 and older will be eligible in Phase 1b Tier 2; no hard date has been set, but possibly around early February. As of now, none of the association have customers requiring the pilots be vaccinated, the pilots consider the vaccine a preventative measure to reduce their exposure as well as keeping customers safe.

Chair Thayer reminded the board members that there is an open ballot in OnBoard for a tonnage increase, 4 board members still need to vote. The ballot will close January 29, 2021.

Foreign Pleasure Craft Exemptions:

Captain Edward Sinclair asked the board to consider the Department of Law response to clarification requests submitted by the board following the October 2020 board meeting. MPC Hoffard had emailed the response to the board 11/24/2020 but it was not included on the agenda for this meeting. The board briefly reviewed the memo from AAG Richard Moses; Captain Sinclair led the discussion

Requests for clarification:

1. 30-day timeframe for FPC exemptions - ***There is a mechanism to grant the exemption prior to the expiration of the thirty days—the statute itself—because the exemption is considered granted if not denied within ten working days of the board's receipt.***
2. Authority to interpret 12 AAC 56.115(c); can the Board round the length of a vessel to the nearest foot? ***The Board may not interpret the regulation as proposed because the***

rounding down (or up for that matter) would amount to a substantive change in the regulation given the plain language of the regulation as it is currently written.

3. Preliminary review of regulation amendment draft language for 12 AAC 56.115 - *AS 08.62.040(b) grants the Board of Marine Pilots broad authority to promulgate regulations “for proper and safe pilotage upon the inland and coastal water of and adjacent to the state.” Assuming that the proposed changes to 12 AAC 56.115 are intended for that purpose, the Board has the statutory authority to amend the regulation as proposed.*

Chair Thayer asked Captain Sinclair to draft a memo clarifying the board’s interpretation of the 30-day clock versus the 10-day clock. Applications must be submitted a minimum of 30 days before the anticipated arrival but the exemption may be granted once the board has voted to approve the exemption.

MPC Hoffard will submit draft language for the amendments to 12 AAC 56.115 to the board prior to the April board meeting for consideration and review.

MPC Hoffard was asked to follow-up with the Department of Environmental Conservation (DEC) in regard to the certificate of financial responsibility (COFR) letter sent 11/2/2020.

Upon a motion duly made by Captain Ronald Ward, seconded by Captain Edward Sinclair, and approved unanimously, it was:


RESOLVED to adjourn the meeting.

Off record at 12:21 pm.

Respectfully Submitted:

Renee Hoffard
Marine Pilot Coordinator

Approved:



Curtis Thayer, Chair
Alaska Board of Marine Pilots

Date: 4/21/21