

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING

BOARD OF MARINE PILOTS

CONDENSED MINUTES OF THE MEETING HELD APRIL 26, 2023

By authority of AS 08.01.070(2) and in compliance with the provision of AS 44.62, Article 6, a scheduled meeting of the Board of Marine Pilots was held on April 26, 2023, at the Juneau Yacht Club, 1301 Harbor Way, Juneau, Alaska.

Date:	April 26, 2023
Time:	9:00 a.m. (9:04 a.m.)
Location:	Alaska Energy Authority Building: 813 W Northern Lights Blvd, Anchorage, AK
Board Members Present:	Chair Curtis Thayer, Captain Edward (Ed) Sinclair (9:17 a.m.), Captain James Cunningham, Les Cronk, Lucas (Luke) Hasenbank, Richard (Rick) Harris, Joseph (Joe) Tougas (online)
Board Members Absent:	None
Division/SOA Staff Present:	Thomas Bay (Marine Pilot Coordinator), Janet Brown (Occupational Licensing Examiner), Jennifer Summers (Senior Investigator)
Present from the Public:	Captain Mark Lundamo (SEAPA), Captain Ron Leighton (SEAPA), Jessie Li (SEAPA), Captain Ian Maury (SWAPA), Jenni Zielinski (SWAPA), Dave Lund (AMP), Tom Rueter (ALAMAR/CLAA), Andrew Mew (ALAMAR/CLAA), Mike Tibbles (ASA), Jeff Logan (SEAPA), Kris Mackie (SEAPA), Stefano Borzoue (Princess/Carnival), Doulas Sturm (SEAPA), Dan Butts (SEAPA), Levi Benedict (SEAPA)

1. Review Agenda	
Brief Discussion:	Luke Hasenbank asked if the board could post the published rates for pilotage rates on the board's website. Chair Curtis Thayer said they could add the discussion under Board Business on the agenda, to which the board agreed.
Motion:	Move to accept the agenda as amended (First: Cronk; Second: Hasenbank).
Recorded Votes (roll call):	Cronk - Yes Harris - Yes
	Hasenbank - Yes Tougas - Yes
	Sinclair - Absent (excused) Cunningham - Yes
	Thayer - Yes
2. Review/Approve Minutes: January 25, 2023	
Brief Discussion:	No discussion to amend the meeting minutes.

Motion:	Move to accept the January 25, 2023, meeting minutes as written (First: Harris; Second: Cunningham).	
Recorded Votes (roll call):	Cronk - Yes	Harris - Yes
	Hasenbank - Yes	Tougas - Yes
	Sinclair - Absent (excused)	Cunningham - Yes
	Thayer - Yes	

3. Public Comment

Brief Discussion: There was nobody in attendance for public comment.

4. CLIA Update – L. Downs, Sr. Director, Community Relations & Public Affairs

Brief Discussion: The board asked Mr. Bay if Lanie Downs was available for the Cruise Line International Association Alaska update. Mr. Bay informed the board that Ms. Downs had contacted him by email, prior to the board meeting, letting him know that she would not be attending, but that Rick Erickson was in attendance to answer any questions. Mr. Erickson informed the board that CLIA was expecting about 1.6 million passengers in 2023 and expects all ships to be at 100% capacity or more, which will put them in line to be back to normal pre-COVID numbers. He said that Ketchikan now has four downtown berths and two at Ward Cove. He said that Wrangell is going to have an uptick of passengers compared to the past and that they would also be getting some larger ships. He said that Yokohama fenders were installed in Haines to replace the wood fenders. He said that there would be two berths in Icy Strait and that Sitka can now accommodate two larger, quantum-class, ships, while also having three anchorages downtown, almost doubling the number of passengers allowable in the past. Mr. Erickson reminded the board that there was a rockslide in Skagway in 2022 that hindered the operations of the port, requiring rerouting of ships, but that some ships were able to tender in passengers into the town. He said that, in 2023, the plan was to both tender and do a shuttle service for passengers, depending on where the ship was docked, and that they planned for a successful season for Skagway. Rick Harris asked what the 5-ship agreement that CLIA has with Juneau is, to which Mr. Erickson replied that it was an agreement for future seasons where there would be no more than five ships in Juneau on any given day, excluding Tuesdays when there would be a 6th ship that hot-berth's between Norwegian ships on the AJ dock. Also, he added, smaller ships with less than 990 passengers would also be allowed to be a 6th ship on 5-boat days. Chair Thayer asked Mr. Erickson if there had been discussions regarding electrification of the docks in Southeast Alaska, to which he replied that there was a lot of interest in the industry to hook up to shore power and suggested that Stefano Borzoue, a Carnival Corporation/Princess Cruises representative at the meeting, might be able to provide more information. Mr. Borzoue informed the board that the Carnival Corporation/Princess Cruises is extremely focused on the carbon indexing reduction program and said that shore power is a major element of achieving their goals. He said that, while they are currently upgrading the Franklin Dock in Juneau, they are in full support of the broader approach to carbon index reduction, explaining that they take it into account when scheduling their itinerary for ships and that they are experimenting with new technology to create better energy use than the current models that ships use. Joe Tougas asked Mr. Erickson if there

	was a long-term plan for the rockslide mitigation in Skagway, aside from shuttling and littering , to which he replied that there was, but that their plan right now is to mitigate the slope as well as the dock for the 2023 season, and that they plan on fully mitigating the slope after the season to go back to full operations.
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5. Association Reports

AMP

Discussion:	The Alaska Marine Pilots (AMP) Association’s president, Captain David Lund, provided AMP’s association update. Captain Lund informed the board that AMP currently has 11 full-time pilots, which includes nine marine pilots and two deputy marine pilots. He said that they also have two trainees. He informed the board that there would not be a herring season for them in 2023, requiring a majority of their tonnage trips to be taken on tankers. He said that, because of the current state of affairs with Russia, they would instead be sending a pilot to Japan to join a ship to begin their cruise ship season. He said that the Red Dog Mine would be starting up on schedule (06/27/23), that one of the cable laying projects they have would be starting up at the end of August and run through September, and that the Dutch Harbor Dredging Project was scheduled to start up Spring 2024. He informed the board that port activity in 2023 started off slower than anticipated, by about 10%, but that they expect it to pick up as the season goes on. Mr. Harris asked how much tourism accounts for their business, to which Captain Lund responded that they are scheduled to have about a 25% decline in pilot days because of the Western Aleutians issue regarding the inability to port from Russia.
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SEAPA

Discussion:	The Southeast Alaska Pilots Association’s (SEAPA’s) president, Captain Mark Lundamo, provided SEAPA’s association report. Captain Lundamo informed the board that SEAPA anticipates a three percent increase in traffic from the 2022 season and that they have 55 total pilots, which includes 39 marine pilots and 16 deputy marine pilots. He said that they also have 13 trainees. Lastly, he informed the board that they would be piloting yachts in the same manner as they did in 2022.
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SWAPA

Discussion:	The Southwest Alaska Pilots Association’s (SWAPA’s) President, Captain Ian Maury, provided SWAPA’s association report. Captain Maury informed the board that SWAPA has 15 VLCC pilots, four deputy marine pilots, three transitional pilots that only work half of the year, and four trainees. He informed the board that their cruise season should be at a slight increase compared to 2022, which was not as much as anticipated, but that the issue was because of a change in the Holland America schedule. He said that they still have not been able to bring a ship into the new port in Anchorage, but that they expected to try it out in the near future. He informed the board that they had ongoing discussions throughout the winter with the US Coast Guard, Marine Exchange, and the Alaska Chadux Network regarding routing conflicts.
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6. Association Amendments

SWAPA Training Program Amendments

Brief Discussion:	SWAPA's business manager, Jenni Zielinski, informed the board that they were upping the in-house clearances for deputy marine pilots with 50K GT licenses from 25K GT to 30K GT. She also informed the board that they were removing "Drift River" references from their training program due to the decommissioning of port.	
Motion:	Move to approve SWAPA's training program amendments as presented (First: Cronk; Second: Hasenbank).	
Recorded Votes (roll call):	Cronk - Yes	Harris - Yes
	Hasenbank - Yes	Tougas - Yes
	Sinclair - Yes	Cunningham - Yes
	Thayer - Yes	
7. Board Business		
Exam Software Update		
Brief Discussion:	Mr. Bay informed the board that the division was in the beginning stages of testing out new exam software to replace the outdated exam software that the board currently has. Chair Thayer asked Mr. Bay if it was possible to have the new software up and running by the end of the year, to which Mr. Bay responded by telling him that the questions needed to be reviewed/updated first and that if there was an updated databank to pull questions from, that their exams could be updated by the end of the year, as long as the new software tested out well. The board decided to create a workgroup that includes captain's Sinclair and Cunningham and all three associations to update their exam question databank for both the Core Exam and Local Knowledge Exam.	
Motion:	Move to create a workgroup to update the boards' exam question databank for both the Core Exam and Local Knowledge Exam, that includes Edward Sinclair, James Cunningham, AMP, SEAPA, and SWAPA (First: Harris; Second: Cronk).	
Recorded Votes (roll call):	Cronk - Yes	Harris - Yes
	Hasenbank - Yes	Tougas - Yes
	Sinclair - Yes	Cunningham - Yes
	Thayer - Yes	
Annual Report		
Brief Discussion:	Mr. Bay informed the board that their annual report was due by June 1 st . The board informed Mr. Bay that they would review the annual report via OnBoard and have a vote on it prior to the deadline.	
Publish Rates		
Brief Discussion:	Luke Hasenbank asked Mr. Bay if the published rates for each association could be uploaded to the board's website, so there is a centralized location with all of the rates, to which Mr. Bay said yes. Mr. Hasenbank said that he would get the rates to Mr. Bay so that he could get them uploaded to the board's website.	
8. Ethics Disclosures		

Brief Discussion:	There were no ethical disclosures by any board members or staff.
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9. Investigative Report	
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Brief Discussion:	<p>Senior Investigator Jenni Summers introduced herself to the board and informed them that she would be providing them with their Investigative Report for the period of January 04, 2023, thru April 10, 2023, and a training on the investigative process. She informed the board that three cases had closed since their last report and that two were still open. One of the open cases, Case No. 2019-000695, was a complaint from 2019 regarding unlicensed practice or activity. Ms. Summers informed the board that the division is waiting on another agency to finish up with action on their end before they can move forward with anything. Chair Thayer informed Ms. Summers that he had a discussion with Director Sylvan Robb on this matter and told her that the board was consistently getting less and less information regarding open cases. He asked about the second open case, Case No. 2022-000218, which had a "Litigation Initiated" case status, and asked if that meant the board was getting sued, to which Ms. Summers said no and replied that it meant the case was with the AG's office and they were working to get a hearing with the Office of Administrative Hearings. Chair Thayer referred back to the unlicensed practice or activity case from 2019, stating that the case had been open for a very long time, and asked who the other agency is that they were waiting on, to which Ms. Summers said the US Coast Guard. Mr. Thayer reminded Ms. Summers that the board is charged with imposing disciplinary sanctions under AS 08.62.150 and that it appears that the Investigations Unit had been making determinations without consulting the board. He asked if they could discuss the issue during executive session and have more information available to the board so they could follow statute, to which Ms. Summers said they could. Ms. Summers provided the board with a public training on the investigative process. She explained that a reviewing board member determines if there has been a violation after a complaint has been filed. If a violation is confirmed, the reviewing board member recommends the appropriate resolution to the matter. If a license action is recommended, the licensee either agrees to it and the consent agreement is reviewed by the entire board at the next scheduled meeting in executive session or disagrees to it and the litigation process begins with the Office of Administrative Hearings. Captain Sinclair said that he was unaware that he had that much responsibility and that he feels like the recommendation should be a board recommendation rather than a single individual board member's recommendation. Mr. Cronk also suggested a board recommendation should be the first recommendation being offered to a licensee. Chair Thayer asked why a board member was making recommendations when the statute states, "The board shall impose a disciplinary sanction on a person licensed under this chapter..." Ms. Summers explained that the board has the final approval and can deny the recommended consent agreement and follow up with an entirely new one if they desire. Ms. Summers said that the division has a single board member review cases, and not the board, as to not taint the review process and have an unbiased recommendation from that board member. Captain Sinclair asked about the non-disciplinary letter of advisement, which, if issued, the board never sees. He said it is merely provided to the licensee and the board never gets to review it, which gives all the responsibility to the reviewing board member. Chair Thayer said that the process of having a reviewing board member, who is chosen by the division, review cases does not follow statute because the rest of the board does not get a chance to review the cases. He asked</p>
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	<p>where the investigations process was in statute/regulation, to which Ms. Summers said it was not. He stated that the investigations process, which is not in statute/regulation, is contrary to the board’s statutes. He said that, although the investigations process likely works a lot of the time, it does not take into account individual boards and their statutory responsibilities. Ms. Summers replied that all programs go through the same investigative process and have the same language in statute (The board shall...). She said that this conversation was likely one that the board needed to have with upper management and suggested that they speak with Director Sylvan Robb. Chair Thayer agreed, but also suggested that the board meet with the deputy commissioner and a representative from the Department of Law, to explain why the investigations process does not follow statute. He asked if Ms. Summers could provide the board with a 5-year Investigative Report, so they could have a better understanding of what has gone to the board for review and what has not, to which Ms. Summers said she would. She asked if the board still wanted to go into executive session for a more in-depth training on the investigations process, something not available to the general public. The board agreed that they did not agree with the investigations process and decided not to have a more in-depth training until they could speak with upper management.</p>	
10. Schedule Future Meeting Date(s)		
Discussion:	After discussion, the board decided to have their next meeting via teleconference, on July 12, 2023, with the Local Knowledge Exam on July 11 th .	
11. Executive Session: Training Program Extension Requests/Deputy Marine Pilot Candidate Interview		
Brief Discussion:	The board decided to discuss applications and conduct candidate interviews in executive session.	
Motion: Off Record: 10:54 a.m.	I, James Cunningham, move that the Alaska State Board of Marine Pilots enter into executive session in accordance with AS 44.62.310(c), and Alaska Constitutional Right to Privacy Provisions, for the purpose of discussing subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion; and matters which by law, municipal charter, or ordinance are required to be confidential. Board staff Thomas Bay and Janet Brown, and public members Mark Lundamo, David Mesdag, Levi Benedict, Dan Butts, and Pieter VanderHoek to remain during the session (First: Cunningham; Second: Sinclair).	
Recorded Votes (roll call):	Cronk - Yes	Harris - Yes
	Hasenbank - Yes	Tougas - Yes
	Sinclair - Yes	Cunningham - Yes
	Thayer - Yes	
Brief Discussion: On Record: 11:56 a.m.	Chair Thayer said no official action was taken during executive session. The board approved deputy marine pilot licensure for captain Pieter VanderHoek.	
Motion:	Move to approve deputy marine pilot license for 50,000 Gross Tons for Region 2 with the exception of Whale Passage and Ouzinkie Narrows for Pieter VanderHoek – Badge #245, License #155940 (First: Cunningham; Second: Hasenbank).	
Recorded Votes (roll call):	Cronk - Yes	Harris - Yes

	Hasenbank - Yes	Tougas - Yes
	Sinclair - Yes	Cunningham - Yes
	Thayer - Yes	
Brief Discussion:	The board approved extension requests from captains Dan Butts and David Mesdag.	
Motion:	Move to approve the extension requests from captains Dan Butts and David Mesdag (First: Cronk; Second: Harris).	
Recorded Votes (roll call):	Cronk - Yes	Harris - Yes
	Hasenbank - Yes	Tougas - Yes
	Sinclair - Yes	Cunningham - Yes
	Thayer - Yes	
12. Adjourn		
Brief Discussion:	With nothing left on the agenda, the board adjourned.	
Motion:	Move to adjourn (First: Harris; Second: Sinclair).	
Recorded Votes (roll call):	Cronk - Yes	Harris - Yes
	Hasenbank - Yes	Tougas - Yes
	Sinclair - Yes	Cunningham - Yes
	Thayer - Yes	
Adjourn:	12:00 p.m.	

Date Final Minutes Approved by the Board: <input checked="" type="checkbox"/> Meeting <input type="checkbox"/> OnBoard	07/12/2023
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