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STATE OF ALASKA  
Board of Marine Pilots

Minutes of Meeting  
May 24, 1982

By authority of AS 08.01.070(2) and AS 08.40.040, and in compliance with the provisions of AS 44.62, Article 6 and AS 44.62.310, a scheduled meeting of the Board of Marine Pilot Examiners was held in Anchorage at the MacKay Building, Room #426.

Present, and constituting a quorum of the board were:

Ed Eboch, Chairman (designated by Commissioner Webber)  
William Barrington  
Captain Jack Maroni  
Captain Donald Oldow  
Ken Peavyhouse

Mr. David George and Mr. Marvin Taylor were unable to attend the board meeting.

Also present, from the Department of Commerce & Economic Development, Division of Occupational Licensing, were:

Harry D. Treager, Director  
Chuck Ward, Investigator  
Nancy Ferguson, Licensing Examiner

Guests present were:

Captain Elsensohn, SEAPA  
Captain Michael D. O'Hara, SWAPA  
Captain Fred Hicks, Aleutian Pilots  
Captain Anthony Joslyn, President, SWAPA  
Joe Merrill, Business Manager, SWAPA  
Dick Monkman, Assistant Attorney General  
George Trefry, Holland & Trefry

The board meeting was called to order at 9:05 a.m. A delegation of authority memorandum from Commissioner Webber was read into the record. Commissioner Webber appointed Ed Eboch, Deputy Commissioner, as his designee for the meeting. Mr. Eboch will be chairing this and future meetings. Mr. Treager has chaired the past several meetings and attended this meeting to give advice if needed.

The board reviewed the attached agenda and there were no additions or changes.

Old Business

Minutes of December 14 & 15, 1981 Meeting: The board reviewed the minutes from the December 14 & 15, 1981 meeting. Captain Oldow noted that the December meeting minutes were not received in a timely manner. The board made three corrections to page 4.

On a motion duly made by Mr. Peavyhouse, seconded and passed unan-  
imously, it was:

RESOLVED, to accept the minutes as corrected.

Investigative Staff: The board unanimously passed a motion at their  
previous meeting noting that they would submit a letter to the chair-  
man of the Finance Committee of each House endorsing an additional  
investigator. To date, this letter has not been written by the board.  
Captain Maroni asked the licensing examiner to remind him to write  
the letter this fall.

On a motion duly made by Mr. Peavyhouse, seconded, and passed unan-  
imously, it was:

RESOLVED, that the board recommend to the Commissioner of the  
Department of Commerce and Economic Development that the strong-  
est efforts be made to acquire adequate investigative staff to  
make timely investigations of the State Pilotage Act.

#### New Business

Valdez Trip: The Southwest Alaska Pilots Association invited the  
board to spend the second day of their meeting in Valdez. Mr.  
Merrill has arranged an air charter to leave at 8:00 a.m. and return  
to Anchorage at 4:00 p.m. There will be a tour of the U. S. Coast  
Guard Station; and Alyeska pipeline terminal. The tugboat operators  
will allow the board to be on board during the docking operations.

The State of Alaska will pay the cost of the air charter and will  
also pay the board members per diem for the second day of the meet-  
ing. The Southwest Alaska Pilots association wished to pick up the  
cost of the air charter.

The board agreed to table their decision until 2:00 p.m.

Later that afternoon, the board agreed that they would be able to  
finish the agenda items that day. It was noted that there were no  
exam candidates for initial licensure or extension of route.

The board agreed to go to Valdez for the second day of its meeting.  
Captain Maroni and Mr. Barrington are unable to attend because of  
pressing business. Mr. Treager designated Mr. Ward to attend in his  
place. Chairman Eboch, Mr. Peavyhouse, Captain Oldow, Mr. Merrill,  
and Nancy Ferguson will be going on the Valdez trip.

Memo of Understanding: Captain Oldow initially sent the Oregon Memo of Understanding to the board office.

Mr. Treager presented a draft of the Oregon Memo of Understanding as applied to the Alaska Board of Marine Pilots authority by statute.

Captain Maroni noted that the Memo of Understanding would lay the basic framework for cooperation between the Coast Guard chain of command and the board. It is considered top-of-the-line policy by the Coast Guard. They have not completed their investigation or issued a response.

The board reviewed the Oregon and Alaska Memos of Understanding, but were unable to proceed further until the U. S. Coast Guard responds to the Oregon Memo.

Captain Spoltman, USCG, was invited to the board meeting, but was unable to attend.

Goals and Objectives - FY '83 & '84:

- 1) Review the effects of new U. S. Coast Guard licensing on State pilotage licenses.

This was an objective for FY '82 and '83 and will be continued for FY '83 and '84.

This objective is pending because the U. S Coast Guard is still working up the geographic area changes. Captain Spoltman felt that the geographic area changes may be open for public comment by fall, 1982.

- 2) Review and amend, where necessary, regulations to increase the safety of vessels in Alaskan waters and allow maximum protection of fisheries and coastal resources.

New Objectives:

- A) Establish guidelines for agent responsibilities and reporting of activities.
- B) Print Alaska Marine Pilot statutes in Japanese (need approximately 1,000). Captain Joslyn noted that printing in Japanese can be done in Seattle or Hawaii.

Pursue a method of distribution to all shipping companies in Japan. It was suggested that the statutes could be sent to each Alaska registered agent who, in turn, could send them to the various shipping companies.

SWAPA has a letter of introduction, a list of pilot stations, a pamphlet in Japanese, and other information that they give to Japanese officers.

Captain Maroni felt that SEAPA should do a similar letter noting pilot stations and other applicable information.

- 3) Review other states' licensing laws and consider seeking statutory amendments limiting pilot liability.

- A) This objective will be continued for FY '83 and '84.

This objective was discussed by Captain Clough at the December 1981 meeting. The board has also received statutes from Oregon and Washington.

- B) A new objective will be to review the Oregon statutes as they apply to pilot liability in Alaska.

The Assistant Attorney General, Dick Monkman, will work with the Division of Occupational Licensing and the board to formulate regulations (if applicable) upon review of the Oregon statutes.

- 4) Adopt regulations defining "fishing vessel," making a clear distinction between fishing vessels and processing vessels.

This objective was completed at the May 1982 board meeting.

On a motion duly made by Mr. Peavyhouse, seconded and pass unanimously, it was:

RESOLVED, that on page 26 of the Marine Pilot Regulations, 12 AAC 56.190, Definitions, we add #5 to read "fishing vessels" means a vessel primarily engaged in the harvesting of fish, shellfish, marine animals, pearls, shells, or marine vegetation for commercial purposes.

- 5) Review present licensing requirements and examinations and update them to avoid duplicating U. S. Coast Guard licensing requirements.

The board is unable to receive examinations from the U. S. Coast Guard.

The examinations for Southwest Alaska are current and up-to-date. Captain Oldow will be formulating a new exam for Clark Point, Nushagak, and Dillingham. He may be formulating a new temporary examination for people who wish to be examined for five ports only.

The examinations for Southeast Alaska are 98% correct. Captain Maroni needs to review the exam for the west coast of Prince of Wales Island and update the aids to navigation section.

- 6) Seek legislation allowing that a study be done to determine the economic feasibility of, and need for, an in-State marine academy.

Letters were sent to both finance committees of the Legislature. No response from either committee to date.

FY '84, Budget Recommendation

- 1) An additional investigator for the Marine Pilots Board.
- 2) The board currently meets twice a year and they would like funding for one additional board meeting per year.

They would like the first day of their meeting to be an informal work session with discussion off the record. The second day would be their regular meeting when they would formalize the previous day's activities.

The board would like to hold their spring meeting in either Ketchikan or Valdez. It is unfeasible to hold the meeting in either place during the winter months because of weather problems.

SWAPA Trainees: The board reviewed the SWAPA trainees' instructions for dockings and undockings. There were no comments from board members.

Dick Monkman, Assistant Attorney General: Mr. Monkman is with the Anchorage Attorney General's office. Peter Froehlich asked Mr. Monkman to appear before the board to discuss the memorandum, dated March 18, 1982, asking for three legal opinions on the following questions:

- 1) Licensed marine pilots' liability in the course of their employment (nongovernmental).
- 2) Board of Marine Pilots' responsibility to become involved in civil litigation?

The board does not have the authority or responsibility to enter into civil litigation on behalf of an individual pilot. The board should not become involved in civil litigation.

The Attorney General's office will intervene on behalf of the board if the constitutionality of the board is being challenged.

- 3) Can tariff amendments be made to include the cost of pilot insurance?

The board does have the authority to include insurance premiums in the tariff rate base if it is a legitimate cost of doing business. It is a board policy decision.

Captain Maroni noted that, in the past, pilots were covered under the ship's insurance as servants of the vessel, but now pilots are being sued as individuals.

Mr. Monkman will review the Oregon statutes regarding pilot liability (one-trip premium) and will check to see what ship insurance does cover. He will work with the Division of Occupational Licensing and the board to formulate regulations if applicable (this is a board objective for FY '83 and '84).

General discussion followed between Mr. Monkman and the board. Mr. Monkman suggested that there should be a regulation amendment to 12 AAC 56.160(c), whereby the accident reports would not go before the board until they were in the hearing process. Mr. Monkman noted that virtually everything on file with State government is open to the public. He felt that an individual suing a pilot could possibly receive the pilot's accident report because it may be considered public information.

Captain Maroni asked Mr. Monkman to determine if pilot accident reports are considered public information and, if so, can they be released to the public or the suing party during civil litigation?

Captain Elsensohn felt that submitting a complete accident report could be used against a pilot upon receipt by the suing parties.

Agents: Captain Oldow asked Mr. Monkman what the agents' responsibilities are.

Mr. Monkman noted that, basically, agents just have to register. The board may enact regulations stating what agents can or cannot do, and may be punishable by losing their registration.

George Trefry: Mr. Trefry appeared before the board at 1:30 p.m. Mr. Trefry represents the fish processor M/V ALASKA I. The M/V ALASKA I was built outside the United States and is not an enrolled vessel. It does, however, carry the U. S. flag and is registered as a miscellaneous fish processor. It is owned by two Alaska corporations. Mr. Trefry felt that there is a problem getting pilots to the tenders or fish processors because fishing falls during the tourship season.

Captain Maroni felt that the processor would have time to hire a pilot to move the vessel to the fishing grounds while unloading fish.

Captain Oldow mentioned that there is a pilot boat and captain available in Southwest Alaska that could meet the ship on an hour's notice

and may be contacted on Radio Channel 16. The vessel is currently on the fishing grounds in the Dillingham area.

Mr. Barrington suggested that Captain Bailey (skipper for M/V ALASKAN I) should apply for his marine pilot's license. It appears that he would be able to meet the requirements for licensure.

The board was opposed to making special considerations for one vessel.

12 AAC 56.190(5): The definition of a fishing vessel was discussed by the board once again. Captain Oldow did not concur with the "300 gross tons" amendments because he felt that the gross tonnage of a vessel does not have anything to do with the definition of a fishing vessel.

On a motion duly made by Mr. Peavyhouse, seconded and passed unanimously, it was:

RESOLVED, that, on page 26, 12 AAC 56.190, Definitions, we add number 5 to read "fishing vessels" means a vessel primarily engaged in the harvesting of fish, shellfish, marine animals, pearls, shells, or marine vegetation for commercial purposes.

Investigations Report: Chuck Ward appeared before the board to give his report.

The board made a motion to go into Executive Session to receive Mr. Ward's report and the motion was seconded.

The board dealt with the accident reports of Captains Herring, Clough, McReynolds, and Maroni during Executive Session.

The board moved to come back on the record and the motion was seconded.

On a motion duly made by Captain Oldow, seconded and passed unanimously, it was:

RESOLVED, to continue Nos. 1 and 5. Close, reluctantly (because the District Attorney has refused to prosecute) the following cases: MP 82-013, MP 82-010, MP 82-003, MP 82-002, MP 81-071, MP 81-041.

Extension of Routes: Captain Michael Spence took and passed the exam for Klawock.

Captain Timothy Christy took and passed the exam for Sand Point/Popof Straits.

Captain Robert Hendricks took and passed the exams for Whittier, Akutan, and Cordova.

On a motion duly made by Mr. Barrington, seconded and passed unan-  
imously, it was:

RESOLVED to approve the extension of routes for Captains Spence,  
Hendricks, and Christy.

On a motion duly made by Captain Oldow, seconded and passed unanimously,  
it was:

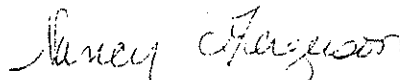
RESOLVED, to accept the vessel agent applications for five agents  
from Marvin H. Parker, Inc.

Items Tabled: The following agenda items were tabled until the  
December 1982 meeting:

- 1) geographic areas (awaiting USCG determination);
- 2) amendment to the definition of "agents" awaiting an  
Attorney General's opinion on agent responsibility; and
- 3) Discussion of dockings and undockings.

Meeting adjourned: There was no further business and, on a motion  
duly made, seconded and passed unanimously, the meeting adjourned at  
4:50 p.m.

Submitted by,



Nancy Ferguson, Licensing Examiner

Approved by:

Ed Eboch, Chairman