

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
BOARD OF MARINE PILOTS

MINUTES OF MEETING
DECEMBER 17, 1990

By authority of AS 08.01.070(2) and AS 08.62.030 and in compliance with the provisions of AS 44.61, Article 6, and AS 44.62.310, a scheduled meeting of the Board of Marine Pilots was held on December 17, 1990 at the Frontier Building, 3601 C Street, Suite 336, Anchorage, Alaska.

Agenda Item 1

Call to Order/Roll Call

The meeting was called to order at 9:00 a.m. by Chairman Paul Taylor. Those present and constituting a quorum of the board were:

Captain Harold K. Elsensohn
Captain Michael O'Hara
M. Paul Taylor, Chairman
William Lorch
Russell Sell
Randall Burns, Commissioner's Designee

Mark Foster arrived at 9:02 a.m.

Also present from the Department of Commerce and Economic Development, Division of Occupational Licensing, was JoAnne Cummings, Licensing Examiner.

Guests present were:

John Baldry, Southeastern Alaska Pilots' Association (SEAPA)
George Quick, International Organization of Masters, Mates and Pilots
Dale O. Collins, SEAPA
C. C. Cloudy, SEAPA
W. E. Murphy, Southwest Alaska Pilots Association (SWAPA)
G. R. Porter, SEAPA
Arnt Antonsen, SEAPA
Joseph Merrill, Alaska Marine Pilot Dispatch Service (AMP)
C. J. Cary, C. J. Cary Marine
Tom Rueter, North Star Maritime
Judith Brogan, Regional Citizens' Advisory Council
Steve K. Yoshida, SWAPA
Bill Sharp, North Pacific Maritime

Review Agenda

One topic was added to the agenda as item 6.1. A discussion of the Red Dog/Cominco pilot station was scheduled for discussion after the lunch break.

On a motion made by Elsensohn, seconded by Sell and carried unanimously, it was

RESOLVED to approve the agenda as amended.

Agenda Item 2

Approve Minutes of November Meeting

On a motion made by Burns, seconded by O'Hara and carried unanimously, it was

RESOLVED to approve the minutes of the November 8-9, 1990 meeting as presented.

Agenda Item 3

Public Comment

Members of the audience were invited to speak on the proposed rewrite of the Marine Pilotage Act.

Captain Murphy, Southwest Alaska Pilots' Association:

1. Establish in the legislation the independent nature of state pilotage free from industry control.
2. Entry standards need to be higher with a provision that pilots be properly trained.
3. Limit pilot liability.
4. Limit the number of licenses issued.

John Baldry, Southeastern Alaska Pilots' Association:

1. Use examples from other jurisdictions, comments from authorities and literature available to make proposal for legislation.
2. Limit number of licenses issued, or at least include authority in statute to set these limits.

Dale Collins, Southeastern Alaska Pilots' Association, read a letter into the record:

1. Limit number of licenses issued.
2. Sanction one exclusive pilot association per region.

George Quick, International Organization of Masters Mates and Pilots:

1. Recognize pilot association as operating entity for pilotage services.
2. Limit number of licenses issued.

Captain Quick responded to questions from the board regarding other pilot areas in the world, the methods of regulation used, and the problems experienced.

Joseph Merrill, Alaska Marine Pilots Dispatch Service:

1. Make areas of board authority clear.
2. Limit liability of dispatchers and individual pilots.
3. Recognize differences due to regions and types of vessels when formulating training and qualification requirements.
4. Clarify and regionalize the tariff (requires sanctioning of a pilot group per region).

Bill Sharp, North Pacific Maritime/Cruise Line Agencies of Alaska:

1. Need for changes in the law stems from internal problems of pilots rather than industry.
2. Legislation should include industry and its ability to have input into daily operations of the business.
3. Exclusive associations should not be sanctioned by the board.

The meeting recessed briefly from 10:15 to 10:35 a.m.

Agenda Item 6.1

Red Dog/Cominco Pilot Station

A committee of the board, consisting of Captain Elsensohn, Mark Foster and Paul Taylor, met with representatives from Navios Corp., Cominco Ltd., North Pacific Maritime and the U.S. Coast Guard on December 16, 1990 to discuss the compulsory pilotage waters in the Red Dog Mine area.

The committee recommended establishing compulsory pilotage waters from Cape Prince of Wales to outboard of the reefs (latitude and longitude to be supplied), to 12 miles off of Cape Espenberg, to Cape Krusenstern, to Point Hope. The pilot station will be at the intersection of the shipping lane and the line of compulsory pilotage waters, approximately 12-14 miles from the harbor site. (See Attachment 1)

On a motion made by Elsensohn, seconded by Burns and carried by a vote of 4-2 with Foster and Sell objecting, it was

RESOLVED to accept the proposal of the subcommittee to resolve the Cominco/Red Dog Mine pilotage difficulty.

On a motion made by Burns, seconded by Elsensohn, and carried unanimously, it was

RESOLVED to adopt the subcommittee's proposal for publication as a proposed regulation, invite public comment and schedule discussion regarding adoption of the regulation for the April, 1991 meeting.

Agenda Item 4

Proposed Marine Pilotage Act Amendments

Brad Pierce and Marilou Madden from the Office of Management and Budget joined the meeting along with Gary Amendola, Assistant Attorney General.

A discussion of the draft legislation followed. (See Attachment 2)

Section 1 - INTENT. Changes to other sections of the draft legislation may require changes to this section also.

Section 2 - CREATION AND MEMBERSHIP OF THE BOARD. Action on this section was postponed.

Section 3 - APPOINTMENT AND TERM OF OFFICE. No changes to this section.

Section 4 - MEETINGS. No changes to this section.

Section 5 - POWERS AND DUTIES. Action on this section was postponed.

Section 6 - MARINE PILOT COORDINATOR. No changes to this section.

Section 7 - LICENSE REQUIREMENTS. Action on this section was postponed.

The board recessed for lunch at 11:45 a.m. and reconvened at 1:09 p.m.

Section 8 - APPLICATION. No changes to this section.

Section 9 - ENTRY LEVEL QUALIFICATIONS. A definition of one year of service will be included in the legislation. The Coast Guard standard will be used.

On a motion made by O'Hara, seconded by Sell and carried by a vote of 4 to 3 with Burns, Foster and Lorch objecting, it was

RESOLVED to delete section 9(b)(5) from the proposed legislation.

On a motion made by Elsensohn, seconded by O'Hara and carried unanimously, it was

RESOLVED to replace the deleted section (b)(5) with wording proposed by SWAPA:
"Three years of experience as a member of an organized professional pilots' association during which period the candidate was actively engaged in piloting while holding a minimum license as a master of freight or towing vessels of not more than 1,600 gross tons."

The board noted that the tonnage minimum in section 9(b)(4) should read 1,600 rather than 1,000 gross tons.

Section 10 - RENEWAL. Action on this section was postponed.

Section 11 - LAPSED LICENSES. Action on this section was postponed.

Section 12 - ENFORCEMENT AUTHORITY. On a motion made by Elsensohn, seconded by O'Hara and carried unanimously, it was

RESOLVED to approve proposed 08.62.150
(section 12) as written.

Section 13 - DISCIPLINARY SANCTIONS. On a motion made by Elsensohn, seconded by Burns and carried unanimously, it was

RESOLVED to approve proposed 08.62.155
(section 13) as written.

Section 14 - MANDATORY EMPLOYMENT OF PILOTS. On a motion made by Foster, seconded by Burns and carried by a vote of 4-2 with Elsensohn and Sell objecting, it was

RESOLVED to approve section 14 as written.

The board took a short break from 2:47 to 3:00 p.m.

Section 15 - ALLOCATION OF LIABILITY. A motion was made by Elsensohn, and seconded by Burns to accept section 15 as written.

A motion was made by Elsensohn and seconded by Sell to amend the above motion to add the phrase, "per incident;" and to add "cargo" to paragraph (b) after "Nothing in this section exempts the vessel, . . ." The motion to amend was carried unanimously, and by a unanimous vote it was

RESOLVED to accept section 15 as amended.

Section 16 - PILOT ORGANIZATIONS. On a motion made by Foster, seconded by Burns and carried unanimously, it was

RESOLVED to accept section 16 as written.

A motion to amend the above motion to include wording proposed by SWAPA failed by a vote of 2-4 with Elsensohn and O'Hara voting in favor of the motion. (See SWAPA proposal AS 08.62.175(b) in Attachment 3)

Section 17 - PENALTIES. On a motion made by Burns, seconded by Foster and carried unanimously, it was

RESOLVED to adopt the wording proposed by SWAPA under the penalties section changing the penalties under paragraph (a) to "not less than \$5,000 nor more than \$15,000" and under paragraph (b) to "not less than \$1,000 nor more than \$5,000."

On a motion made by Elsensohn, seconded by Burns and carried unanimously, it was

RESOLVED to delete the phrase "when a licensed pilot is available" from section 17(a).

The definitions under 08.62.200 need to be expanded to include a definition of chemical impairment and the standard for measuring time served.

Section 18 - SHORT TITLE. On a motion made by Burns, seconded by Foster and carried unanimously, it was

RESOLVED to approve section 18 as written.

The board took a short break from 4:15 to 4:25 p.m. before taking up discussion of sections of the proposed legislation which were postponed.

Section 5 - POWERS & DUTIES. Section 5(a)(4) was amended to delete the phrase "provided that the board may adopt different tariffs within a region if justified." Section 5(a)(7) was amended to add "or individual" after "audit a pilot association."

On a motion made by Burns, seconded by Foster and carried by a vote of 5-1 with O'Hara objecting, it was

RESOLVED to approve section 5 as amended.

Section 7 - LICENSE REQUIREMENTS. A motion was made by Foster and seconded by Burns to adopt section 7 as written.

A motion was made by Elsensohn, seconded by Burns and carried by a vote of 4-2 with Foster and Lorch objecting, to amend the above motion to substitute the following wording for section 7(b) and (c):

- (b) A pilot may not be licensed at any one time in more than one of the pilotage regions established by the board.
- 1) Those pilots who, on the effective date of this act, have more than one region on their license will be grandfathered, but must meet the requirement for each region at renewal time."

By unanimous vote, it was

RESOLVED to adopt section 7 as amended.

Section 2 - CREATION AND MEMBERSHIP OF THE BOARD.
On a motion made by Lorch, seconded by Sell and carried unanimously, it was

RESOLVED to keep the board in its present form.

LIMITATION OF LICENSES (SWAPA proposal 08.62.105 in Attachment 3). A motion to adopt the SWAPA proposal to limit the number of licenses issued failed by a vote of 2-4 with O'Hara and Elsensohn voting in favor of the motion.

TRAINING (SWAPA proposal 08.62.117 in Attachment 3). Specific training requirements will be given in regulation rather than statute and may differ by region.

Section 10 - RENEWAL. The board changed paragraph (b) to require a pilot to work in the region for which he is licensed for a minimum of 60 days during the two years prior to a request for renewal of the license.

Section 11 - LAPSED LICENSE. The board agreed to change the time requirement for reexamination under paragraph 2 from five years to one year.

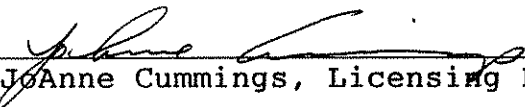
In response to a question raised by Dale Collins, Gary Amendola advised that according to regulations, those providing pilotage services must abide by the published tariffs. The tariff may not be cut but may be raised by agreement of the parties.

A motion to reopen the discussion of training requirements proposed by SWAPA failed by a vote of 1-4 with Elsensohn abstaining and O'Hara voting in favor of the motion.

At 5:30 p.m., the meeting was adjourned.

Respectfully submitted,


M. Paul Taylor, Chairman


JoAnne Cummings, Licensing Examiner

Minutes Approved on 4/2/91.