

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

MINUTES OF MEETING
OCTOBER 1-2, 1991

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 October 1-2, 1991 at the University of Alaska Southeast Campus, Paul Building, Forum Room A, Ketchikan, Alaska.

TUESDAY, OCTOBER 1, 1991

Agenda Item 1 Roll Call/Call to Order

The meeting was called to order at 9:03 a.m. by Ann Boudreaux, director of the Division of Occupational Licensing and temporary board chairperson. Those present and constituting a quorum of the board were:

Mr. Russell Sell
Mr. Keith Greba
Mr. Bob Watt
Captain Dale Collins
Ms. Ann Boudreaux
Mr. Bill Lorch
Captain Michael O'Hara

Also present from the Division of Occupational Licensing was JoAnne Cummings, Licensing Examiner. Guests present on the first day of the meeting were:

Doug MacPherson, Alaska Coastwise Pilots (ACWP)
Michael Spence, ACWP
Jeff Pierce, Southwest Alaska Pilots Assoc. (SWAPA)
Terry Bennett, ACWP
Archie Diment, Southeast Alaska Pilots Assoc. (SEAPA)
H. K. Elsensohn, SEAPA
George Porter, SEAPA
Steve Yoshida, SWAPA
Hans Antonsen, SEAPA
Stuart Mork, Alaska Marine Pilots (AMP)
Will Anderson, AMP
Tom Dundas, AMP
Bob Evans, AMP
Ed Creasey, SEAPA
Bill Sharp, Southeast Stevedoring/AK Steamship Operators
Pete Amundson, Alaska Tug & Barge

Richard Gurry, SEAPA
Arnt Antonsen, SEAPA
John Baldry, SEAPA
Werner Sund
John Larsen
Peter Lie-Nielsen, ACWP
Kelly Steward, South Coast, Inc.
C. L. Cloudy, SEAPA
Brad Pierce, Office of Management and Budget
Rod Maurant (via telephone), Senator Pearce's Office
Wayne Carnes
Ted Kellogg
Dennis Lodge, Prince Wm. Sound Regional Citizens' Advisory
Council
Linda L. Bonewell, Cook Inlet Regional Citizens' Advisory
Council
Tony Chadwick, SEAPA
Dan Grausz, Holland America Line
Bob Berto, Southeast Stevedoring

Agenda Item 2 Election of Chairperson

On a nomination by Captain Collins, seconded by Captain O'Hara, Bob Watt was elected as board chairperson by a vote of 5 to 2 with Mr. Lorch and Mr. Sell voting no.

Agenda Item 3 Review Agenda

Two changes were made to the agenda. The time scheduled for agenda item 5, the proposed decision on Kurt Petrich's appeal, was moved forward 10 minutes to begin at 9:30 a.m. Also, the executive session listed on agenda item 6, investigative report, was deleted as the investigator will not be making a report to the board at this meeting.

On a motion made by Ms. Boudreaux, seconded by Mr. Sell and carried unanimously, it was

RESOLVED to accept the agenda as amended.

Agenda Item 4 Approve Minutes

- a. April 3-4, 1991 - Captain O'Hara pointed out that a decision of the board made at the April, 1991 meeting to hold the next exam in November, 1991 was later reversed by the board.

On a motion made by Captain Collins, seconded by Mr. Sell and carried unanimously, it was

RESOLVED to accept the minutes of the April 3-4, 1991 meeting.

- b. June 27, 1991 Teleconference - Captain O'Hara noted that the decision made at this teleconference to give a temporary exam in July was a reversal of the board's exam schedule determined at the April 1991 meeting.

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

RESOLVED to accept the minutes of the June 27, 1991 teleconference.

- c. July 9, 1991 Teleconference - On a motion made by Mr. Lorch, seconded by Captain O'Hara and carried unanimously, it was

RESOLVED to accept the minutes of the July 9, 1991 teleconference.

- d. July 30, 1991 Teleconference - On a motion made by Captain Collins, seconded by Ms. Boudreaux and carried unanimously, it was

RESOLVED to accept the minutes of the July 30, 1991 teleconference.

The board took a short recess from 9:20 to 9:28 while waiting for the Hearing Officer from the Division of Occupational Licensing to be hooked up by telephone.

Agenda Item 5

Kurt Petrich Appeal - Proposed Decision

Frank Flavin, hearing officer for the Division of Occupational Licensing, recommended that the board deny the appeal of Kurt Petrich.

On a motion made by Ms. Boudreaux, seconded by Mr. Lorch and carried unanimously, it was

RESOLVED to accept the proposed decision of the hearing officer in its entirety.

Kurt Petrich - Oral Exam

Captain Collins reported on the oral exam given to Kurt Petrich on July 25, 1991. Mr. Watt and Captain Collins gave the exam in Ketchikan and recorded it for the board's review. Successful completion of this exam was required by the board before upgrading Captain Petrich's license to Limited, Step 1.

On a motion made by Captain Collins, seconded by Mr. Sell and carried unanimously, it was

RESOLVED to accept the oral examination of Kurt Petrich.

Captain O'Hara is in the process of writing oral exam questions for the future.

Agenda Item 6

Investigative Report

The investigator has requested the board define the terms "misconduct" and "incompetent" as used in AS 08.62.150 to assist him in focusing his investigations. The board wishes to defer this request to the Attorney General's office.

Agenda Item 7

Enforcement Authority - Mandatory Employment of Pilots

Ann Boudreaux reported on the history of problems with enforcing the mandatory employment of pilots without the authority to issue citations. Presently, participation of the state troopers is needed if a citation is to be issued.

Suggestions for correcting this problem included making the vessel agent bear more responsibility for insuring a pilot is used, amending regulations to give the Occupational Licensing staff enforcement authority over the vessel's owner, or making arrangements with Coast Pilot to shade or overlay in red the mandatory pilotage waters of Alaska.

A brief recess was taken from 10:30 to 10:45.

The board discussed the continuing problem of vessels transiting Icy Strait/Cross Sound without a pilot and the possibility of moving the pilot station to correct this. Ms. Boudreaux was asked to report to the board at the November 13-14, 1991 meeting as to the progress the division has made in investigating the documented cases of vessels without pilots in these waters.

Agenda Item 8

Public Comment

Terry Bennett, ACWP, stated his objection to lack of representation on the Board of Marine Pilots for Alaska Coastwise Pilots. He also objected to the reordered agenda and urged the board not to accept the proposals of SWAPA or SEAPA for recognition or maximum tariffs.

Ed Creasey, SEAPA, reported that a substantial tariff

increase is needed to attract qualified pilots to Alaska. The annual pay for qualified pilots in Alaska is 30% less than the pay of other pilots on the west coast while the cost of living is 40% higher.

George Porter, SEAPA, commented that maximum tariff rates haven't changed since 1979 and that there is no stability with the competitive nature of pilotage in Southeast Alaska.

Steve Yoshida, attorney for SWAPA, urged the board to use safety as the benchmark for its decisions. The application for recognition submitted by SWAPA may be helpful to the board in determining standards for recognition. On the subject of tariffs he stated that there has been no rate increase for 11 years. The last increase was 4% while the cost of living increased 120%. In a comparison with other states, especially on the west coast, SWAPA is charging 100 - 350% less than the amount charged for comparable ports. The tariff established by the board will be the maximum and not the actual tariff charged.

Doug MacPherson, ACWP, stressed that in training programs the pilot organizations must provide training without favoritism.

Art Murphy, independent tug operator, questioned the requirement of a 1600 ton federal license prior to state licensure especially when new pilots are needed in the state.

John Larsen, contract pilot in Southeast Alaska, pointed out that the qualifications for a Deputy Pilot license exclude Alaska state ferry employees.

Dan Grausz, counsel for Holland America Line, commented that the board should not be accepting applications regarding recognition of pilot organizations or tariffs until guidelines for those proposals are established by the board. He also said the legislature did not intend to sanction exclusive pilot organizations and included a statement in the legislation forbidding the board to act in an anti-competitive manner.

H. K. Elsensohn read a letter to the board giving his opinion that in order to be competitive a pilot must be in a position to control total costs and not just the pilot fees.

Peter Lie-Nielsen, ACWP, feels that competition is good for any industry and a monopoly is not in the state's best interest.

Jeff Pierce, SWAPA, wants the board to address regional differences before considering regulations. He also spoke briefly in favor of increased tariffs and gave the example of Cook Inlet where there are dangerous conditions, no tugs, and a minimal tariff.

Bill Sharp, Southeast Stevedoring, encouraged the board to allow substantial public comment while it is constructive; however, the board should not hold a tariff hearing until the board establishes which expenses are covered by the tariff. He stated that there is no incentive for pilot groups to charge less than the maximum tariff unless there is competition. He would prefer the board miss the statutory deadline for establishing tariffs rather than rush through the process.

The board recessed at 11:58 a.m. for lunch and reconvened at 1:12 p.m.

Agenda Item 10

Marine Pilot Coordinator

Ann Boudreaux briefly explained the provision in the new Marine Pilotage Act for hiring a marine pilot coordinator. The position was originally listed on the pay scale between a range 18 and a range 22 but was cut back to a range 12 by the Office of Management and Budget.

Representative Cherie Davis reported to the board that during the course of the legislative hearings the Marine Pilot Coordinator position was intended to be a key part of the bill and not a bookkeeping position. The position was to be funded by the licensees with a one-time assessment between renewal years and thereafter by higher licensing fees. The pilots did not state any objection to the higher fees during the course of the hearings.

The overlap between the duties of the Licensing Examiner and those proposed for the Marine Pilot Coordinator were discussed. The coordinator would work in partnership with the divisions' investigator.

The Board reviewed a tentative job description for the Marine Pilot Coordinator which is shown in Attachment 1.

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

RESOLVED to adopt the job description for the Marine Pilot Coordinator with the additional listing of other duties as assigned.

BE IT FURTHER RESOLVED that Ann Boudreaux will narrow the field of applications and present the final three to the board at its November, 1991 meeting.

The board took a short recess from 2:15 p.m. to 2:23 p.m.

Agenda Item 11 Work Session - Drafting Regulations

PILOTAGE REGIONS

Captain O'Hara suggested three regions: Southeast, South Central, and Western. Mr. Lorch suggested that the state remain in two regions, Southeast and Southwest, and that the issue of regions be handled by the endorsements appearing on pilots' licenses.

The Board went off the record at 3:35 p.m. for pilot organizations' representatives to meet together and discuss the regional dividing lines. The meeting went back on the record at 3:50 p.m.

Southeast Alaska Pilots Association and Alaska Coastwise Pilots agreed that the line for the Southeast region should be drawn west of Yakutat at 141 degrees west. Alaska Marine Pilots and Southwest Alaska Pilots Association were not able to agree on a dividing line between South Central Alaska and Western Alaska. The major areas of disagreement are Dutch Harbor and Kodiak.

Agenda Item 12 On a motion made by Captain Collins, seconded by Mr. Sell and carried unanimously, it was

RESOLVED to recess until 8:00 a.m. on October 2, 1991.

WEDNESDAY, OCTOBER, 1991

Agenda Item 13 Reconvene/Roll Call

The meeting reconvened at 8:06 a.m. Present and constituting a quorum of the board were:

Mr. Russell Sell
Mr. Keith Greba
Mr. Bob Watt
Captain Dale Collins
Ms. Ann Boudreaux
Mr. Bill Lorch
Captain Michael O'Hara

Also present from the Division of Occupational Licensing was JoAnne Cummings, Licensing Examiner. Guests present on the second day of the meeting were:

Doug MacPherson, ACWP
Michael Spence, ACWP

Jeff Pierce, SWAPA
Terry Bennett, ACWP
H. K. Elsensohn, SEAPA
Steve Yoshida, SWAPA
Hans Antonsen, SEAPA
Stuart Mork, AMP
Will Anderson, AMP
Tom Dundas, AMP
Ed Creasey, SEAPA
Bill Sharp, Southeast Stevedoring/AK Steamship Operators
Peter Lie-Nielsen, ACWP
C. L. Cloudy, SEAPA
Brad Pierce, Office of Management and Budget
Wayne Carnes
Ted Kellogg
Linda L. Bonewell, Cook Inlet Regional Citizens' Advisory
Council
Tony Chadwick, SEAPA
Arnt Antonsen, SEAPA
Jim Hodgman, SEAPA
Dennis Lodge, Prince Wm Sound Regional Citizens' Advisory
Council
John Baldry, SEAPA
Kirby Day, Cruiseline Agencies of Alaska
Kris Geldaker, Cruiseline Agencies of Alaska
Dan Grausz, Holland America Line
Bob Berto, Southeast Stevedoring

Agenda Item 14

Public Comment

Tony Chadwick read a letter into the record stating he plans to leave the area soon and feels there will be a shortage of qualified personnel in Alaska in the future. His three most pressing concerns are (1) the exposure of a pilot when relieved by the Master in order to perform questionable maneuvers; (2) commercial pressures exerting too much influence on safety aspects of pilotage; and (3) compromise of safety by allowing competition. He suggests the board take firm control of pilotage and establish a clear policy.

Dan Grausz, counsel for Holland America Line, submitted written suggestions on the criteria for recognizing pilot organizations.

Dennis Lodge, Alaska Vocational Technical Center in Seward, reported on marine training opportunities, specifically simulator training available in Seward.

Doug MacPherson, ACWP, remarked on the pilotage situation in San Francisco where competition between pilot groups was allowed for a period of time. He feels the situation there differs significantly from the present situation in Southeast Alaska.

Tom Dundas, AMP, reported on the attempt to establish a dividing line between the South Central and Western Alaska regions. AMP suggests putting the line back to Valdez with an overlap where AMP and SWAPA would operate in competition.

Jeff Pierce, SWAPA, commented that the board must draw a line to divide South Central and Western Alaska that will be based on geography and not on economics.

Terry Bennett, ACWP, stated there has been no agreement between ACWP and SWAPA concerning a dividing line. He also stated that regions should be established for administrative purposes and not for exclusive control by one pilot group.

Will Anderson, AMP, suggested another meeting of the board to resolve the regional divisions, and he suggested beginning the discussion of maximum tariffs before the conclusion of this meeting.

Steve Yoshida, attorney for SWAPA, told the board SWAPA is withdrawing its proposal for the line dividing South Central and Western Alaska.

The board took a short recess at 8:45 a.m.

At 9:00 a.m. Gary Amendola, Assistant Attorney General, Kevin Henderson, Regulations Specialist for the Division of Occupational Licensing, and Rod Mourant, representing Senator Pearce's office, joined the meeting via the legislative teleconference network.

Gary Amendola agreed to work with the division investigator to define the terms "misconduct" and "incompetent."

In response to questions from the Board regarding the regionalization issue, Mr. Amendola stated that the board may consider geographic, economic or any other factors when establishing regions as long as the end result is regionalization that promotes safe and efficient pilotage. Overlapping regions are not prohibited by the new law, and regional boundaries were intended by the legislature to be licensing boundaries and not association boundaries.

Captain O'Hara made a motion which was seconded by Captain Collins to establish three regions in the state: 1. Dixon Entrance to 141 degrees west; 2. 141 degrees west to 156 degrees west, and south of 65 latitude north; and 3. the rest of the state.

Board Discussion: The division lines create three regions which are significantly different throughout the state and will promote safety through training. An alternate suggestion was to create only one state-wide region but define a pilot's area of work by stricter endorsements on each license. The possibility of sharing Kodiak among two regions was also discussed. A pilot organization will be able to operate in more than one region, but it must meet the requirements for a pilot organization in each region.

Mr. Greba relinquished his board seat to Will Anderson representing Alaska Marine Pilots. Captain Anderson proposed an amendment to the above motion to move the line dividing South Central and Western Alaska to the east side of Kodiak Island and delete the line at the 65th parallel.

Specifically the line would be drawn on the east side of Kodiak Island along 152 north to a point opposite Cape Douglas then due west to 156, then 156 north to the Arctic Ocean which would put Kodiak Island and all of the Arctic (Chuckchi Sea and Beaufort Sea) into the Western Region.

The amendment was seconded by Russell Sell and passed by a vote of 3-2 with Ms. Boudreaux abstaining and Captain Collins and Captain O'Hara voting against the amendment.

Ms. Boudreaux felt she was not familiar enough with the economic, geographic and safety issues involved to vote on this amendment.

The board took a short break at 10:37 a.m.

Captain O'Hara proposed a second amendment to the main motion made above that a fourth region be added to include all the area north of 65 degrees north. Captain Collins seconded the amendment and it passed by a vote of 5 to 2 with Mr. Lorch and Mr. Sell objecting.

The board then passed the main motion as amended. By a vote of 5 to 2, with Lorch and Sell objecting, it was

RESOLVED to create four pilotage regions within the state. 1. Southeast Region: Dixon Entrance to a meridian at 141 degrees west. 2. South Central Region: 141 degrees west to a line drawn on the east side of Kodiak at 152 degrees west north to a point due east of Cape Douglas, due west to 156 degrees west, then north to 65 degrees north. 3. Western Region: The area west of 152 degrees and 156 degrees to 65 degrees north. 4. Arctic Region: North of 65 degrees north.

The precise latitudes and longitudes will be supplied later for the drafting of the proposed regulations.

The board would like to meet again to pursue work on drafting regulations prior to the meeting scheduled for November 13-14, 1991.

Criteria for Recognizing Pilot Organizations

The board reviewed material submitted by the public and suggested standards for recognizing pilot organizations. The board requested division staff and Mr. Amendola to work with the suggested list and provide a draft of the proposed regulation. The board's proposed criteria are listed in Attachment 2.

Russell Sell was excused from the meeting at 3:00 p.m. The board took a short break from 3:05 to 3:17 p.m.

Upgrading Existing Licenses

The board agreed that until new regulations are adopted, the current regulations for upgrading licenses will be followed for all pilots who held Channel or Limited licenses when the new legislation became effective.

Deputy Pilot Application Requirements

Members of the board and representatives of the four pilot groups broke into groups to discuss the requirements for Deputy Pilot applicants by region. The meeting was off the record during these discussions from 4:05 until 5:00 p.m.

SEAPA and ACWP proposed requirements for the Southeast Region which are listed in Attachment 3.

SWAPA and AMP submitted a proposal for all regions outside of Southeast which is shown in Attachment 4.

The board discussed the documentation required to accompany an applicant's request for examination. The applicant must show:

- a. evidence of meeting the federal license requirements and the seatime requirements in AS 08.62.093;
- b. a satisfactory physical examination including evidence of a negative result on a test for illegal drug use;

- c. a notarized statement from the applicant that he or she has not been convicted of a felony nor any repeat minor offenses involving excessive use of drugs or alcohol within the five years preceding the date of application;
- d. documentation of education, employment, and other special qualifications;
- e. names and addresses of Coast Guard licensed master mariners who may be contacted for a recommendation.

Agenda Item 18

Adjourn

The board discussed possible dates for a meeting in the near future. If funding for another meeting is approved, it will be scheduled for the week of October 14-18, possibly in Juneau.

The meeting was adjourned at 6:52 p.m.

Respectfully submitted,



Bob Watt, Chairman



JoAnne Cummings, Licensing Examiner

Approved on Oct. 16, 1991

DEPARTMENT OF COMMERCE
& ECONOMIC DEVELOPMENT

JAN 15 1992

DIVISION OF
OCCUPATIONAL LICENSING