

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

MINUTES OF MEETING
January 22-24, 1992

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 January 22-24, 1992 at the Egan Center, 555 W. 5th, Space 3, Anchorage, Alaska.

WEDNESDAY, JANUARY 22, 1992

Agenda Item 1 Call to Order/Roll Call

The meeting was called to order at 8:00 a.m. by Bob Watt, Chairman. Those present and constituting a quorum of the board were:

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

Also present and representing the Division of Occupational Licensing was JoAnne Cummings, Licensing Examiner. Gary Amendola, Assistant Attorney General, was expected to be present later in the meeting.

Agenda Item 2 Review Agenda

Two items were added to the agenda: additional public comment regarding pilotage in the Pribilofs was added as agenda item 22a, and a discussion of license fees in conjunction with the funding of the Marine Pilot Coordinator position was added as agenda item 27a.

Agenda Item 3 Review Minutes

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

RESOLVED to approve the minutes of the meeting held November 12-14, 1991 as presented.

Agenda Item 4

Ethics

Captain Collins disclosed that an ethics complaint had been filed against him by Alaska Coastwise Pilots because he conducts the exams of members of an association that competes with the pilot organization of which he is a member. The complaint was also based on his participation in the formulation of a maximum tariff for Southeast Alaska.

Agenda Item 5

Review Correspondence

- A. A letter from Captain Hendsch regarding renewal requirements for pilots working as masters was reviewed. The board determined that this problem would be solved through upcoming regulations changes.
- B. A letter from Southeast Alaska Pilots Association (SEAPA) was reviewed regarding a possible merger with Alaska Coastwise Pilots (ACP). No action was taken.
- C. Correspondence from Southwest Alaska Pilots Association (SWAPA) regarding the transition between regions 2 and 3 was reviewed. Alaska Marine Pilots (AMP) will provide a written response to this communication. No board action was taken.
- D. AMP submitted notification of the working tariff that has been adopted by that organization. Discussion of this notice was tabled pending the arrival of Gary Amendola, Assistant Attorney General.

Agenda Item 6

Public Comment

- A. Michael Spence, ACP, addressed the board regarding the earlier discussion of ethics. His perception of the disposition of the ethics complaint against Captain Collins differs from that reported by Captain Collins. He stated the claim had not been dismissed by the Attorney General, but rather specific recommendations had been made to the chairman of the board.
- B. David Millen, counsel for AMP, commented on the proposed drug and alcohol testing regulations. He suggested the testing should be done under the authority of the Marine Pilot Coordinator rather than the pilot organizations. This would protect the associations from carrying the dual responsibility of reporting offenses and also defending against licensing actions.

- C. Terry Bennett, ACP, requested a copy of the correspondence received from SEAPA discussed by the board earlier. He denied that there were any ongoing negotiations between ACP and SEAPA regarding a merger. He also requested a copy of Captain Elsensohn's letter to the governor.
- D. Arie van Noort, Northwest Cruise Ship Association, distributed additional letters from the membership of the Northwest Cruiseship Association opposing the proposed tariff in the Southeast region.
- E. Steve Yoshida, attorney for SWAPA, spoke on the transition in regions 2 and 3. He stated that SWAPA will operate in conjunction with AMP in Dutch Harbor.

He suggested that, in regard to recognition standards, the board should allow for internal disciplinary actions to be appealed within the pilot organization and then appealed to the board. He also asked that a shipper's request that a particular pilot not be dispatched should be given due process and include a right of appeal to the board.

- F. Will Anderson, AMP, commented on the pilotage regions. He clarified that, though the geographic area of region 3 is larger than the other 2 regions, the actual pilotage areas are quite small and spread out. He urged the board to identify the prevention of accidents as its major criteria for making regional coverage decisions.
- G. Gene Burden, Tesoro Alaska, complained that the board has not done adequate research to establish maximum tariffs. He recommended comparing compensation in equivalent occupations and disclosing the annual income of pilots.
- H. Jeff Pierce, SWAPA, read a statement to the board. Limited geographical regions are necessary to provide the local knowledge required to insure safety. Transitions are necessary to protect the state, and increased tariffs are necessary to bring Alaska pilots' compensation in line with other west coast pilots so that talented pilots will continue to be attracted to Alaska.

- I. Cees Delstra, Holland America Line, spoke about Holland America's attempts to increase efficiency and eliminate double staffing of pilots. The prohibition against a pilot working in both regions 1 and 2 results in additional expense for Holland America. He asked that the board provide for cross-regional service.
- J. Jim Drahos responded to Mr. Delstra's statements by explaining that Holland America is asking for concessions in Alaska that would not be granted in Holland where pilot regions are enforced. In response to questions, Mr. Delstra said Holland America would support a pilot station at Yakutat.
- K. Bill Sharp, Southeast Stevedoring Corp., reminded the board that a pilot station already exists at Yakutat, but the question is whether a suitable pilot boat may be found. On the question of tariffs, Mr. Sharp pointed out that a good deal of public comment was received by the board showing concern over the proposed increase. And regarding regionalization, Mr. Sharp finds it reasonable to let a pilot crossover between regions 1 and 2. The board will allow pilots who are licensed on the east coast to pilot in Alaska during the summer but will not allow a pilot licensed in Southeast Alaska to pilot in Southcentral Alaska.
- L. Dan Grausz, general counsel for Holland America Line, previously submitted written comment on the proposed regulations with alternative proposals. He corrected statements made by SEAPA alleging that Alaska pilots make less than a third mate. According to Mr. Grausz, Holland America captains earn \$70,000 for an 8-month work year. In a time of recession it is incongruous to double the tariff. Cruise ships are not guaranteed to return to Alaska, and the pilot board should be careful not to kill the industry that pilotage depends upon for revenue.

Mr. Grausz also briefly mentioned drug and alcohol testing and said that it is not unusual for an industry to have the conflict mentioned earlier by Mr. Millen.

And finally, Mr. Grausz said that a shipper should have the right to object to a particular pilot being dispatched since the shipper is liable for what happens on the vessel.

- M. Doug MacPherson, ACP, pointed out that SEAPA's earlier tariff comparisons with other states may have included pilot boat fees which are not included in the Alaska tariff.
- N. Hans Antonsen, SEAPA, informed the board that SEAPA wanted to negotiate with cruise ships prior to maximum tariff discussions with the board, but industry declined. He also justified the proposed tariff increase by explaining there has not been a tariff increase in ten years, and the increase is based on officers' pay on American flag ships. SEAPA supports the proposed tariffs, the proposed regions and the prohibition on regional crossover.
- O. Archie Diment, SEAPA, presented a letter suggesting cruise ship companies negotiate contracts separately rather than as a cruise ship association; pilot boats, other forms of transportation to the bridge and tugs should be considered along with pilotage fees in the negotiation for pilot services; and the business practices of Southeast Stevedoring should be closely monitored by the board.
- P. Tom Rueter, North Star Maritime Agencies, spoke in favor of a shipper's right to refuse dispatch.
- Q. Arnt Antonsen, SEAPA, pointed out that the proposed increase in the tariff is only comparable to rates on the west coast; anything less means the board considers Alaska pilots inferior and Alaskan waters unworthy of the same level of protection as other west coast areas. The maximum tariff proposed will allow SEAPA to negotiate a working tariff based on the free market.
- R. David Millen, AMP, suggested a shipper's refusal of dispatch should be channeled through the Marine Pilot Coordinator to relieve the pilot organizations of the responsibility for making decisions which cause a conflict between the pilot organization's responsibility to provide equal dispatch and the shipper's right to refuse the dispatch of a particular pilot.

- T. Terry Bennett, ACP, objects to the proposed regulation which gives the specific circumstances when a pilot may be licensed in more than one region. He referred the board to ACP's handout for comments regarding drug testing regulations, and he asked that the license qualifications be changed to delete the word "entire" when describing the region. He feels licensing by port was the intent of the law.

- U. Bill Sharp, Southeast Stevedoring, explained two situations where a shipper may object to a particular pilot. In one case there may be disharmony between a particular master and pilot and there is usually no problem in avoiding that combination in dispatch. In the other case, a shipper may request a particular pilot not be dispatched to any of its ships. In the latter case a shipper would not object to putting the request in writing.

- V. Arie van Noort, Northwest Cruiseship Association, related the method used by British Columbia for handling refusal of dispatch by shippers. The parties are brought together at the close of the season and a letter is issued. Captain van Noort agreed to provide a copy of the basic letter.

Gary Amendola, assistant attorney general, arrived at 9:50 a.m. A short recess was taken from 10:10 to 10:20 a.m.

Agenda Item 7

Proposed 12 AAC 56.021- Pilotage Regions

Holland America submitted a proposal that regions 1 and 2 overlap in a limited manner to apply to cruise ships traveling between Yakutat and Seward.

A motion was made by Mr. Lorch to accept Holland America's proposal regarding regions. The motion failed by a vote of 2-5 with Mr. Lorch and Mr. Sell voting in favor of the motion.

A discussion of the problem of cruise ships and switching pilots when crossing from region 1 to region 2 followed.

A motion was made by Captain Collins and seconded by Captain O'Hara to adopt proposed regulation 12 AAC 56.021 as noticed. (The proposed regulations which were public noticed are contained in Attachment 1.)

Mr. Amendola advised the board that paragraph (c) of the proposed regulation probably conflicts with statutes because it effectively eliminates overlapping regions. The board discussed whether paragraph (c) is actually an exception or a prohibition to the statutory requirement that a license for more than one region be issued only under narrow circumstances.

Mr. Amendola explained the review process for regulations adopted by the board prior to becoming effective.

A motion made by Mr. Lorch to amend the above motion to delete paragraph (c) from proposed regulation 12 AAC 56.021 failed by a vote of 3-4 with Ms. Boudreaux, Mr. Lorch and Mr. Sell voting in favor of the motion. The main motion passed by a vote of 4-3 with Mr. Lorch, Ms. Boudreaux and Mr. Watt opposed. Therefore, it was

RESOLVED to adopt proposed regulation 12 AAC 56.021 as noticed.

Agenda Item 8

Proposed 12 AAC 56.022 - Transition

The Board reviewed proposals for transitional licensing submitted by AMP and SWAPA and then requested that representatives from the two organizations meet and submit wording agreeable to both parties.

The meeting was recessed for lunch from 12:00 to 1:02 p.m.

Representatives from AMP and SWAPA submitted the following language to address transitional licensing in regions 2 and 3:

All region 2 marine pilots shall maintain their licenses to pilot large container vessels in region 3 until such time, but no later than June 30, 1994 with extension of time allowed upon application and approval of the Board, as the Board is satisfied that members of a region 3 pilot organization have a sufficient number of qualified members to assure the protection of shipping, the safety of human life and property, and the protection of the marine and coastal environment in region 3. This shall be an exception to AS 08.62.080(b) under 12 AAC 56.021(c).

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

RESOLVED to adopt the transitional language submitted by AMP and SWAPA.

Agenda Item 9 Repeal of Existing Tariffs and Charges

On a motion made by Captain Collins, seconded by Captain O'Hara and carried by a vote of 4-3 with Ms. Boudreaux, Mr. Lorch and Mr. Sell opposed, it was

RESOLVED to repeal 12 AAC 56.130 - 12 AAC 56.158

Agenda Item 10a Proposed 12 AAC 56.200 - Expenses in the Tariff

A motion was made by Captain O'Hara and seconded by Mr. Sell to adopted proposed regulation 12 AAC 56.200.

After discussion the board reworded the opening paragraph to read, "The maximum tariff shall be based on the following costs and expenses:"

A motion was made by Captain Collins and seconded by Ms. Boudreaux to amend the above motion to include a rewritten version of paragraph 5 to read, "compensation for overtime (over 8 consecutive hours);" deleting the reference to compensation for holidays. The amendment passed by a vote of 6-1 with Captain O'Hara opposed, and the main motion passed by a vote of 5-2 with Mr. Lorch and Mr. Sell opposed. Therefore, it was

RESOLVED to adopt proposed regulation 12 AAC 56.200 as amended.

Tariff Comparison Panel

A motion was made by Mr. Lorch and seconded by Mr. Sell to delay adoption of maximum tariffs and appoint a fact finding panel made up of two pilots and two industry representatives to research pilot rates in other states.

The board took a short break from 2:20 to 2:35 p.m.

The board chairman invited public comment on Mr. Lorch's tariff panel proposal.

- A. Dave Millen said the proposal is a delaying tactic by industry. Pilot organizations have already presented in-depth information. Industry has had plenty of time to present contradictory documentation. The statutory deadline for adoption of maximum tariffs has already passed, and there is no purpose in proceeding with the proposal.

- B. Jeff Pierce argued that SWAPA has already submitted figures galore and there is no point in doing it over again. SWAPA has already agreed to negotiate with industry again regarding the 1993 tariff.
- C. Bill Sharp has no objection to interim tariffs because industry has had the understanding that renegotiations would take place. Industry had expected to meet with SEAPA and discuss interim tariffs as they had with other pilot organizations, but SEAPA declined.
- D. Dan Grausz agreed that a study is a good idea, but an interim maximum tariff must be implemented. He suggested a 35% interim increase not to be applied to tonnage and passenger berths.
- E. Arie van Noort agreed that a 35% increase (not an across the board increase) should be adopted.
- F. Terry Bennett and Michael Spence submitted a compromise proposal with a 35% across the board increase, a mileage charge for cargo vessels and a winter surcharge of 10%.
- G. Hans Antonsen expressed his agreement with representatives of AMP and SWAPA that it is too late to start the study proposed by Mr. Lorch. The proposed tariffs should be adopted and then the study can be undertaken if the board chooses.

Mr. Lorch recommended the board adopt a 35% interim increase to be valid until December 31, 1992. The results of the panel's tariff comparison should be ready for presentation at the April 1992 meeting of the board.

The motion regarding the tariff comparison panel was tabled.

A break was taken from 3:45 p.m. to 3:55 p.m.

Agenda Item 10b Proposed 12 AAC 56.210 - Southeast Tariffs

Mr. Amendola pointed out the Southeast tariff contains a limit on charges for pilot boat services which is not found in the central or western tariffs.

12 AAC 56.210(1)(A) was amended to change "Yakutat" to "Yakutat Bay"

On page 10 of the proposed regulations, the first sentence of 12 AAC 56.210(3)(E)(i) was rewritten to read,

Charges for a pilot's travel expenses such as airplane and ferry fares, cab fares, telegrams, telephone calls, and other expenses pertaining to ship's business may not exceed actual costs, plus the per diem rate published by the Internal Revenue Service of the U.S. Federal Government for meals and lodging.

On a motion made by Captain Collins, seconded by Captain O'Hara and carried by a vote of 4-3 with Ms. Boudreaux, Mr. Lorch and Mr. Watt opposed, it was

RESOLVED to adopt the tariff in 12 AAC 56.210 as amended.

Agenda Item 10c Proposed 12 AAC 56.220 - Southcentral Tariffs

The following changes were made to the proposed Southcentral tariffs:

On page 14, paragraph (2)(A), the last port charge should be listed as "Icy Bay" deleting the reference to Yakutat.

On page 15, the first sentence of (4)(D)(i) was changed to read exactly as the amended sentence in the Southeast tariff on page 10 dealing with travel expenses and per diem rates as listed above.

On a motion made by Captain Collins, seconded by Mr. Greba and passed by a vote of 6-1 with Mr. Lorch opposed, it was

RESOLVED to adopt proposed 12 AAC 56.220 as amended.

Agenda Item 10d Proposed 12 AAC 56.230 - Western Tariffs

The following changes were made to the proposed Western tariff:

On page 19, the Kivalina charge was listed as \$1270.

On page 20, the first sentence of (3)(D)(i) was changed to read exactly as the amended sentence in the Southeast tariff on page 10 dealing with travel expenses and per diem rates.

On page 21, paragraph (3)(G), the last sentence was rewritten to read, "Anchorage or laying to for loading cargo or discharging cargo or anchoring for any other purpose may be considered as a regular port charge and all fees and tariffs may be assessed as if the vessel was moored."

On page 23, paragraph (3)(R) the surcharges were changed so that the first entry shows a surcharge of zero for length overall of up to 449 feet, the second entry will show a surcharge of 5.0% for length overall of 450 to 500 feet. All other surcharges remain the same.

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

RESOLVED to adopt proposed regulation 12 AAC 56.230 as amended by consensus.

Agenda Item 10e Proposed 12 AAC 56.240 - Expiration of Tariffs

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

RESOLVED to adopt 12 AAC 56.240 as amended so that tariffs for all regions expire December 31, 1992.

Tariff Comparison Panel

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

RESOLVED to solicit and impanel a special tariff comparison study as drafted by Mr. Lorch's submittal. Panel will be comprised of one board member pilot, one board member agent, one non board member pilot, and one non board member agent. The study will not be limited to Mr. Lorch's suggested draft and will publish results to re-evaluate and/or correct the maximum tariff based upon a more accurate assessment of pilot business costs and earnings to be completed by the April meeting with an interim progress report no later than the third week of February, 1992.

Mr. Lorch and Captain O'Hara will represent the industry and pilot facets of the board. Mr. Bill Sharp of Southeast Stevedoring and Captain Thomas Dundas of Alaska Marine Pilots will complete the panel, representing industry and pilots respectively.

Reconsideration of Southeast Tariff

On a motion made by Mr. Sell, seconded by Ms. Boudreaux and carried by a vote of 4-3 with Mr. Greba, Captain Collins and Captain O'Hara opposed, it was

RESOLVED to reconsider the motion to adopt the Southeast tariffs as proposed in 12 AAC 56.210.

A new motion to adopt the Southeast tariffs as proposed in 12 AAC 56.210 failed by a vote of 3-4 with Captain Collins, Mr. Greba and Captain O'Hara voting in favor of the motion.

A motion was made by Mr. Lorch and seconded by Mr. Sell to set the maximum tariff in the Southeast region by increasing the Southeast tariff, as listed in Appendix A of the 1991 Marine Pilot statute booklet, by 35%.

Captain Collins made a motion to amend the above motion to increase the Appendix A charges by 75% across the board. The amendment was seconded by Captain O'Hara but failed by a vote of 3-4 with Captain Collins, Mr. Greba and Captain O'Hara voting in favor of the amendment.

Captain O'Hara proposed an amendment to the above motion to increase the Appendix A charges by 50% across the board. The amendment was seconded by Captain Collins and was carried by a vote of 5-2 with Mr. Lorch and Ms. Boudreaux opposed. Therefore, it was

RESOLVED to set the maximum tariff in the Southeast region by increasing the Southeast tariff, as listed in Appendix A of the 1991 Marine Pilot statute booklet, by 50%.

Agenda Item 12a Proposed 12 AAC 56.300 - Purpose of Recognition of Pilot Organizations

On a motion made by Captain Collins, seconded by Mr. Greba and carried by a vote of 6-1 with Mr. Lorch opposed, it was

RESOLVED to adopt proposed 12 AAC 56.300 as written.

Agenda Item 12b Proposed 12 AAC 56.310 - Standards for Recognition

The board amended page 25 of the proposed regulations so that paragraph (c)(4)(D) will now read, "acknowledging the authority of the board for cause and after notice and a hearing to suspend or revoke the recognition of the organization;" and

paragraph (c)(4)(E) will now read, "bringing to the attention of the Division of Occupational Licensing any credible information regarding a member of the organization that may require the board to act under AS 08.62.150 - 08.62.155;"

On page 26, the phrase "given the size of the membership of the pilot organization" was added to paragraph (c)(9), and paragraph (d)(1) was rewritten to read, "the organization and its members will participate in a continuing education program required by the board;"

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

RESOLVED to adopt 12 AAC 56.310, Standards for Recognition as amended.

Agenda Item 12c Proposed 12 AAC 56.320 - Suspension or Revocation of Recognition

This proposed regulation was amended to read,

In addition to imposing a civil fine under AS 08.62.155(b), the board may suspend or revoke the recognition of a pilot organization that fails to comply with its articles , bylaws or rules in such a manner that it fails to comply with the statutory or regulatory standards for recognition."

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

RESOLVED to adopt 12 AAC 56.320, Suspension of Recognition, as amended.

The meeting was recessed for the day at 7:02 p.m.

THURSDAY, JANUARY 23, 1992

Agenda Item 17 Reconvene

The meeting was called back to order at 8:02 a.m. by Mr. Watt. Present and constituting a quorum of the board were:

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

Mr. Greba was not present. Gary Amendola, Assistant Attorney General was present along with Don Faulkenburry, investigator for the Division of Occupational Licensing, and JoAnne Cummings, licensing examiner.

Agenda Item 15 Drug and Alcohol Testing

Matthew T. Fagnani from Allvest Laboratories, Inc. addressed the board regarding drug and alcohol testing. He recommended mirroring the Coast Guard requirements in CFR 49.40 and 46.16. He also recommended forming a consortium for all pilot organizations and randomly testing a percentage of the entire pool of pilots. Testing for drugs beyond the five for which DOT currently tests would require double testing.

Agenda Item 18 Investigative Report

On a motion made by Captain Collins, seconded by Captain O'Hara, and in accordance with AS 44.62.310(c), it was

RESOLVED to enter executive session to hear the investigative report.

The meeting was conducted in executive session from 8:25 to 8:55 a.m.

On a motion made by Mr. Sell, seconded by Captain Collins and carried by a vote of 4-0 with Ms. Boudreaux abstaining and Captain O'Hara absent for the vote, it was

RESOLVED to close case 1900-91-13.

Mr. Faulkenburry gave a litigation report on case 1900-91-08. An accusation has been served.

Agenda Item 19 Proposed Decision - Captain Skovoth

Frank Flavin, Hearing Officer for the Department of Commerce and Economic Development, presented the proposed decision in case number MP 91-004, in the matter of Michael Skovoth. This case was remanded to the hearing officer at the last meeting. Mr. Flavin did not take any further testimony. His opinion is that the previous agreement is within the regulations; therefore the former decision was resubmitted to the board.

Ms. Boudreaux was excused from the vote and discussion on this issue because of her position as director of the Division of Occupational Licensing.

On a motion made by Captain Collins, seconded by Mr. Sell and passed by a vote of 4-1 with Captain O'Hara opposed, it was

RESOLVED to accept option 1 of the proposed decision, to adopt the decision in its entirety.

Agenda Item 20 License Application Review

- A. Robert E. Lee - On a motion made by Mr. Sell, seconded by Captain O'Hara and carried unanimously, it was

RESOLVED to accept the application of Robert E. Lee for Deputy Marine Pilot under AS 08.26.093(b)(5).

- B. Vic Engstrom - The application must be resubmitted with documentation of combined tonnage, sufficient towing experience and the barges listed.

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

RESOLVED to deny the application of Vic Engstrom under AS 08.62.093(b)(2).

- C. James Drahos - On a motion made by Captain O'Hara, seconded by Mr. Sell and carried unanimously, it was

RESOLVED to grant Captain Drahos a Limited, Step 2, license.

- D. License Rewording - Tom Dundas and Dave Sanders had their licenses reworded to show Western Region authorization.

A brief recess was taken from 10:05 to 10:20 a.m.

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

RESOLVED to reconsider the approval of Captain Lee's application.

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

RESOLVED to defer action on license applications until the pilot organizations submit their recommendations for federal pilotage requirements in each region.

Agenda Item 21 Marine Pilot Coordinator Position

Mr. Sell recused himself from this discussion.

Ms. Boudreaux presented the resume of Karl Luck as the Division's selection to fill the Marine Pilot Coordinator position.

On a motion made by Ms. Boudreaux, seconded by Captain O'Hara and in accordance with AS 44.62.310(c), it was

RESOLVED to enter executive session to discuss the Marine Pilot Coordinator application.

The meeting was conducted in executive session from 10:35 to 10:50 a.m.

On a motion made by Ms. Boudreaux, seconded by Captain O'Hara and carried by a vote of 5-0 with Mr. Sell abstaining, it was

RESOLVED to approve the selection of Karl Luck as the Marine Pilot Coordinator.

Agenda Item 22 Disciplinary Grounds

Ms. Boudreaux presented information from the State of Florida on investigative procedures. The board asked staff to study this issue and make recommendations to the board.

Agenda Item 23 Pilotage in the Pribilof Islands

The board heard the following public comment on compulsory pilotage in the Pribilof Islands:

- A. Don Blackmore, Alaska Maritime Agencies, reported the difficulties with using pilots near St. Paul Island. He suggested there are many questions to be asked before the board takes any action, and all parties should pool information and make a recommendation to the board.
- B. Icicle Seafoods strongly urged the board not to require marine pilots around the Pribilof Islands. There has not been a problem in the past; pilotage cannot be safely and effectively implemented; and it will be a cost the industry cannot bear.

- C. Ken Bowhay, All Alaskan Seafoods, opposes any requirement to use marine pilots in the waters around the Pribilof Islands. Besides the additional cost of pilots, the delays caused by a requirement to use pilots would be an unbearable burden. Many people are dependent upon the industry that might be forced to give up operations if a pilot requirement is imposed.
- D. Tom Dundas, Alaska Marine Pilots, presented a chart showing the area under discussion.
- E. Mike McEwan, Dragnet Fisheries, pointed out the economic and logistical problems with using pilots in the Pribilof Islands. He asked the board to justify the need and expense of this requirement and keep in mind that the season is already underway and rates have already been negotiated by the industry.
- F. Tom Rueter, North Star Maritime, said that though pilotage waters in the Pribilofs have been included in the general definition, in the past pilots were not provided to cover the area.
- G. Doug Donnigan, Trident Seafoods, questioned the need for pilotage. He asked if it would increase safety and stated it would create economic and logistical havoc. The market cannot absorb the extra costs. The shippers need unimpeded off-loading. Also, a requirement to use pilots will mean substantial tax revenues will be lost to the small communities in the area. He recommends a delayed decision after a committee of pilots and industry studies the need for pilotage and the method of implementation if found to be necessary.
- H. Jack Johnson, SWAPA, stated the Pribilof Islands are compulsory pilotage waters.
- I. Steve Moreno, Dave Millen, Will Anderson and Tom Dundas addressed the board on behalf of AMP. Their position is that no law change is needed to enforce pilotage in the Pribilofs. Economics and logistics should not be the basis of a decision that should be based on safety. Use of pilots would improve safety. If a study is made, pilots should be used in the Pribilofs while the study is being conducted.

J. Elwood Peterson said that the concerns expressed by those who have already commented on behalf of industry in the Pribilofs are urgent and valid. Closing an industry is not the way to make it safe. He urges further study.

K. Jeff Pierce, SWAPA, commented that the board needs to guarantee that qualified personnel that have been tested by the board are on vessels in the Pribilofs rather than relying on the qualifications of foreign masters.

L. Hans Antonsen, SEAPA, expressed his agreement with Captain Pierce's comments.

The meeting was recessed for lunch from 12:45 until 1:35 p.m.

The discussion on pilotage in the Pribilof Islands was tabled pending more information on 12 AAC 56.090 from the Attorney General's office.

Agenda Item 28a Applications for Recognition of Pilot Organizations

Alaska Coastwise Pilots presented its application for recognition. The board reviewed the Articles, Bylaws and Rules, made suggestions, and asked ACP to resubmit the application in time for consideration at the April 1992 meeting of the board.

A brief recess was taken from 3:35 to 3:55 p.m.

Agenda Item 23 Pilotage in the Pribilof Islands (continued)

Gary Amendola reported that, based on 12 AAC 56.090 and the Law of the Sea, the waters inside a line drawn from Zapadini Point to Reef Point are compulsory pilotage waters.

On a motion made by Mr. Lorch, seconded by Captain O'Hara and carried by a vote of 5-1 with Captain Collins opposed, it was

RESOLVED to adopt the Attorney General's definition of compulsory pilotage in St. Paul Island, the inland waters from Zapadini Point to Reef Point.

A motion made by Captain O'Hara and seconded by Captain Collins to institute a regulations project to make the waters within 3 miles of St. Paul, St. Matthew and St. George Islands compulsory pilotage waters failed by a vote of 2-4 with Captains O'Hara and Collins voting in favor of the motion.

Agenda Item 28b Applications for Recognition of Pilot Organizations

Southeast Alaska Pilots Association presented its application for recognition. The board reviewed the Articles, Bylaws and Rules, made suggestions, and asked SEAPA to resubmit the application in time for consideration at the April 1992 meeting of the board.

Agenda Item 28c Southwest Alaska Pilots Association presented its application for recognition. The board reviewed the Articles, Bylaws and Rules, made suggestions, and asked SWAPA to resubmit the application in time for consideration at the April 1992 meeting of the board.

Agenda Item 28d Alaska Marine Pilots presented its application for recognition. The board reviewed the Articles, Bylaws and Rules, made suggestions, and asked AMP to resubmit the application in time for consideration at the April 1992 meeting of the board.

All pilot organizations were asked to submit their final Articles and Bylaws to Gary Amendola in time for his review and recommendation to the board at the April 1992 meeting.

The meeting was recessed for the day at 7:00 p.m.

FRIDAY, JANUARY 24, 1992

Agenda Item 31 Reconvene

The meeting was called back to order at 8:04 a.m. Present and constituting a quorum of the board were:

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

Mr. Greba was not present. Mr. Sell arrived at 8:12 a.m.

Agenda Item 13a Deputy Pilot Training Standards - Region 2

Steve Yoshida and Harry Scally presented SWAPA's proposals for Deputy Pilot training requirements and Unlimited training requirements. The deputy program must be completed before a deputy pilot license is issued according to AS 08.62.093(a)(3) and AS 08.62.097. The Unlimited program is entered after the deputy pilot license is issued and must be completed before a full Marine Pilot license is issued under AS 08.62.100.

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

RESOLVED to accept the SWAPA proposal for Deputy and Unlimited training programs to proceed to the regulations stage.

Mr. Yoshida requested that the same standards of training be accepted as part of SWAPA's application for recognition as a pilot organization.

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

RESOLVED to accept the SWAPA training standards as part of the organization's recognition proposal.

On a motion made by Mr. Lorch, seconded by Mr. Sell and carried by a vote of 4-2 with Captains Collins and O'Hara opposed, it was

RESOLVED to rescind the above motion accepting SWAPA's proposal to proceed to the regulations stage.

Representatives from ACP were invited to make comments regarding the training standards in the Southcentral Region.

Captain O'Hara was excused by Mr. Watt, chairman, from the discussion and vote on this issue because of a possible conflict of interests tied to his membership in SWAPA. On a motion made by Captain Collins, seconded by Ms. Boudreaux and passed by a vote of 4-0 with Mr. Watt and Captain O'Hara abstaining, it was

RESOLVED to overrule the chair's decision to excuse Captain O'Hara.

With input from representatives from SWAPA and ACP, the board reviewed again the training standards for deputy pilots in region 2, Southcentral Alaska.

The SWAPA Proposed Deputy Pilot Training Program was used as the reference document. (See Attachment 2). Changes were made based on agreement between SWAPA, ACP and the board.

All parties discussed the federal pilotage prerequisites for admission into the training program.

On a motion made by Captain O'Hara, seconded by Captain Collins and carried by a vote of 4-2 with Mr. Lorch and Ms. Boudreaux opposed, it was

RESOLVED that on page 1, Training Qualifications, item 3 be amended to read, "Have an Unlimited Federal Pilot endorsement for Seward/Resurrection Bay, Cook Inlet, Prince William Sound, and the Kodiak Island Ports of St. Paul Harbor and Woman's Bay."

On page 2, Training Program, the opening paragraph was rewritten to read,

For the purposes of fulfilling the State requirement for dockings and undockings, all vessel movements are to be supervised by a state pilot holding an Unlimited state license with authorization from the Alaska Board of Marine Pilots to supervise the training of marine pilots. Maneuvers may be conducted on vessels under registry or enrollment of not less than 1600 gross tons.

On page 2, Kodiak Island Group, the paragraph titled, "Kodiak/Out Ports:..." was deleted. The paragraph titled, "Afognak Island/Danger Bay" was also deleted.

On page 3, Cook Inlet, the number of supervising pilots required for Homer/Kachemak Bay and for Anchorage was changed from two to three.

On page 3, Prince William Sound, the first sentence under "Whittier" was amended to read,

Three dockings and three undockings under supervision, including one docking and one undocking at the DeLong Pier on vessels of not less than 10,000 gross tons.

On page 4, Cruise Ship Routes, the requirement under Western Entrances was changed to require two round trips through Ellington Passage rather than one. And a new paragraph was added to read,

Approach via Cape Hinchinbrook: Eight round trips under the supervision of three different pilots on ships over 10,000 gross tons.

On page 4, Administration of Deputy Pilot Training Program, paragraph 2 was amended by deleting the phrase, "provided by SWAPA."

Page 5, Dismissal from Deputy Pilot Training Program, was rewritten to read,

1. The State Board of Marine Pilots must be advised within 30 days of the dismissal of a pilot trainee from the training program.
2. Due process must be observed in the dismissal procedure.

The section titled Appeal of Dismissal on page 5 was deleted.

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

RESOLVED to proceed with SWAPA's training program, as amended, as a proposed regulation for the minimum training requirements for region 2.

A short recess was taken from 11:25 to 11:32 a.m.

Agenda Item 13b Deputy Pilot Training Standards - Region 3

The board reviewed the proposed training standards submitted by Alaska Marine Pilots (see Attachment 3), and the following changes were made.

On page 1, under section 08.62.097(1), the proposal was amended to read, "In the Western Region, vessels under enrollment of not less than 1600 gross tons may be used to satisfy training requirements."

On page 2, paragraph (7), titled "Port Moller," was amended to read, "(7) Port Moller/Herendeen Bay: two transits to and from the pilot station to Port Moller, one of which is to Herendeen Bay."

Also on page 2, the number of years allowed to complete the deputy pilot training program was increased from two to three. And in that same paragraph, the statutory reference was corrected to read AS 08.62.097(a)(3).

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

RESOLVED to accept AMP's proposed Deputy training program, as amended by the board, as the board's proposed regulation for training standards in region 3.

A motion was made by Mr. Lorch and seconded by Captain O'Hara to accept AMP's proposed Unlimited Pilot training standards for public notice in regulation form with the deletion of item number 4, "attend a manned ship model course."

An amendment to the above motion was made by Mr. Sell and seconded by Captain O'Hara to include item 4. The amendment passed by a vote of 5-1 with Mr. Lorch opposed. Therefore, it was

RESOLVED to accept the Unlimited Pilot training standards submitted by AMP for processing as a proposed regulation.

Agenda Item 13c Deputy Pilot Training Standards - Region 1

Hans Antonsen, SEAPA, and Michael Spence, ACP, represented their organizations before the board to discuss proposed training standards in region 1.

Mr. Watt, chairman, ruled that Captain Collins should be excused from this discussion because his membership in SEAPA may present a conflict of interests. On a motion made by Mr. Sell, seconded by Captain O'Hara and carried by a vote of 4-0 with Captain Collins and Mr. Watt abstaining, it was

RESOLVED to overrule the chair's decision to excuse Captain Collins from participation in the consideration of training standards in region 1.

The SEAPA proposal (see Attachment 4) was used as a guide for establishing the region 1 training standards and was amended as follows:

On page 1, 12 AAC 56.025(3) was amended by adding the phrase "except for Yakutat" to the end of the paragraph.

Also on page 1, 12 AAC 56.030 and .035 were deleted.

On page 2, 12 AAC 56.040(A) was rewritten to read:

(1) Port transit and experience requirements for Southeastern Alaska are as follows:

Ketchikan - 3 dockings, 3 undockings including the oil dock on a vessel of not less than 10,000 gross tons. One of the dockings and undockings must be at night.

Wrangell City - 2 dockings, 2 undockings

Shoemaker Bay - 2 dockings, 2 undockings

Klawock - 3 dockings, 3 undockings

Ward Cove Pulp Mill - 3 dockings, 3 undockings,
one of which must be at night

Ward Cove Mooring - 1 mooring, 1 unmooring

Metlakatla - 3 dockings, 3 undockings

Skagway - 5 dockings, 5 undockings, 3 of the 5
must be to the Ore Dock, and one of these must
be at night

Haines - 2 dockings, 2 undockings, one of which
must be at night

Sitka Saw Mill Cove - 3 dockings, 3 undockings,
one of which must be at night.

Sitka Inner Harbor - 1 docking, 1 undocking

Hawk Inlet - 5 dockings, 5 undockings

Hydaburg - 2 moorings, 2 unmoorings

Juneau - 5 dockings, 5 undockings, one of which
must be at night

Petersburg - 2 dockings, 2 undockings

Dora Bay - 2 moorings, 2 unmoorings

Hobart Bay - 2 dockings, 2 undockings

Kake - 2 moorings, 2 unmoorings

Hoonah - 3 moorings, 3 unmoorings

Broken Oar Cove/Yakutat - 2 moorings, 2
unmoorings

Long Island - 2 moorings, 2 unmoorings

- (2) The dockings/moorings and undockings/unmoorings must be completed with a minimum of three supervising pilots. A supervising pilot may not supervise more than 40 percent of the total dockings/moorings and undockings/unmoorings.
- (3) The Pilot Board will add or delete facilities as required by the change in ship traffic.

- (4) 40 percent of the dockings/moorings and undockings/unmoorings must be performed between October 1 and April 1.
- (5) Incorporate SWAPA definitions for "docking," "undocking" and "night."
- (6) 75 percent of the above movements must be made with tug assist.
- (7) The supervising pilot will give the trainee pilot a briefing prior to, and a debriefing after each movement.
- (8) The supervising pilot must be approved by the state board and have an Unlimited license.
- (9) The minimum number of trips for the scenic cruising areas are:
Tracy Arm - 6 round trips
Endicott Arm - 6 round trips
Misty Fjords - 12 round trips
- (10) Incorporate the wording under "Dismissal from Deputy Pilot Training Program" in the region 2 training standards.

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

RESOLVED to proceed with proposed regulations for the region 1 training program as amended above.

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

RESOLVED to accept the region 1 training proposal for SEAPA and ACP organization recognition purposes.

Agenda Item 20 License Application Review

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

RESOLVED to accept the Deputy Pilot application of Robert Lee.

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

RESOLVED to deny the Deputy Pilot application of Ted Kellogg because of incomplete federal pilotage.

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

RESOLVED to reconsider the license upgrade application of Anthony Chadwick at the April 1992 meeting.

Agenda Item 32 Unfinished Business

The unfinished business will be placed on the agenda of the April 1992 meeting.

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

RESOLVED to include discussion of a regulations project to require \$250,000 liability insurance prior to licensure on the April agenda.

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

RESOLVED to include a regulations project for medical and physical fitness requirements on the April agenda.

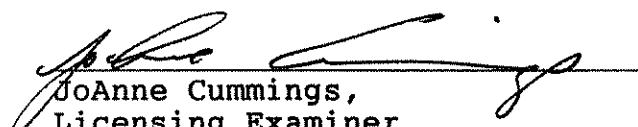
Agenda Item 33 Adjourn

The meeting was adjourned at 1:25 p.m.

Respectfully submitted,



Bob Watt, Chairman



JoAnne Cummings,
Licensing Examiner

Approved on: _____

April 15, 1992