

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

**MINUTES OF TELECONFERENCE MEETING
July 16, 1998**

By the authority of AS 08.01.070(2), AS 08.62.030, and in compliance with the provisions of AS 44.62, Article 6, a meeting of the Board of Marine Pilots was held July 16, 1998, via teleconference with public sites located at Ketchikan LIO, Juneau SOB, Anchorage LIO, and Dutch Harbor, Alaska.

7/16/98

Examinations were conducted from 0830 - 1200 as listed below:

Captain Terrence Backen	-	Region 3 Local Knowledge
Captain Michael George	-	Region 1 Local Knowledge
Captain James Stith	-	Sitka Sound
Captain David Gray	-	Klawock
Captain Robert Hendricks	-	Western Entrances of P.W.S.

Start Tape 1, Side A

Agenda Item 1

Call to Order/Roll Call

The Marine Pilot Coordinator (MPC) related that Chairman Bush was unable to attend the meeting and asked Captain Spence to Chair the meeting in his absence. Captain Spence called the meeting to order at 1334. The Marine Pilot Coordinator (MPC) conducted roll call.

Members present constituting a quorum were:

Captain Pete Garay	-	Pilot Member	(Naknek, AK)
Captain Michael Spence	-	Pilot Member	(Juneau SOB)
Mr. Bernie Smith	-	Agent/Vessel Mgr Member	(Juneau SOB)
Ms. Barbara Huff Tuckness	-	Public Member	(Anchorage LIO)
Mr. Michael White	-	Public Member	(Tacoma, WA)

Staff present were:	Peter Christensen, MPC	(Juneau SOB)
	Mr. Ken Truitt, AAG	(Juneau SOB)

Guests present at the LIO and other sites are noted below:

Juneau SOB - Mr. Joe Kyle, Mr. Richard Monkman, Captain David Gray,

Captain Terrence Backen, Captain Michael George, Captain Ted Kellogg,
Captain Hans Antonsen, Captain Dave Anderson.

Sitka - Captain Joe Homer

LIO Anchorage - Captain O'Hara, Mr. Walt Parker

Dutch Harbor - Mr. Rick Kniazowski

Agenda Item 2 **Review/Set Agenda**

The agenda was accepted as written with the following amendments:
Review and adoption of the minutes of the April Board meeting were added as Item 4a. Agenda Item 10 was moved and renumbered as Item 5a. The report of the BMP budget and legal costs were moved from Item 12 and renumbered as Item 9a and was designated to include a discussion of the renewal fees to be set for next year. An Item numbered as 12a was added to note the regulation proposals listed in the minutes of the April Board meeting on page 12. Lastly, Item 13 was added to discuss the status of the initiative to establish a national marine safety incident reporting system.

The MPC announced that Mr. Walt Parker who was attending the teleconference at LIO Anchorage, had been hired as a consultant by the Division of Legislative Audit to conduct the Board's Sunset Audit.

On a motion made by Mr. Smith, seconded by Captain Garay and carried unanimously, it was

RESOLVED to approve the agenda as amended.

Agenda Item 3 **Review Agenda for Potential Conflicts of Interest and Declarations of Recusal.**

Captain Spence asked whether any of the Board members had anything they wished to discuss regarding the possible recusals. When none of the other Board members responded to his question Captain Spence addressed a couple questions of his own to Mr. Truitt.

Captain Spence (a member of Alaska Coastwise Pilots, ACP) asked Mr. Truitt for advice on whether he could participate when the Bylaw changes for ACP were discussed and also whether he could participate in the Board's oral examination

of Captain George, who will become a member of ACP upon issuance of his license.

Mr. Truitt responded by addressing the issues one at a time. In each case a short discussion occurred between Mr. Truitt and Captain Spence in which he referred to the statute and asked Captain Spence whether he thought he had a personal or financial interest in the issue. In each case Captain Spence responded that he didn't feel that he had a personal or financial stake in the outcome of the issue. Mr. Truitt then told Captain Spence that since he was acting as Board Chair and consequently the ethics supervisor, the Board would have to vote on whether they felt Captain Spence should recuse himself from participating on any issue. Board members discussed the issues briefly before each vote. In the first instance, on the matter of whether Captain Spence should recuse himself during the Board's consideration of ACP's Bylaws Mr. Smith made a motion.

On a motion made by Mr. Smith, seconded by Ms. Huff Tuckness and carried unanimously by roll call vote, it was

RESOLVED to not have Captain Spence recuse himself during the Board's consideration of the amendments to ACP's Bylaws.

1352

Board member Mr. Bob Berto (Agent/Vessel Mgr Member) announced that he had joined the meeting from the Ketchikan LIO and voted in agreement with the rest of the Board on the preceding motion.

On a motion made by Mr. Smith, seconded by Ms. Huff Tuckness and carried unanimously by roll call vote, it was

RESOLVED to not have Captain Spence recuse himself during the Board's oral examination of Captain Michael George.

Agenda Item 4 **Investigation/Litigation Update**

The MPC related the following to the Board:

The Proteus litigation is still in the discovery phase.

Captain Skovoth's hearing was held last week with Captain Skovoth, Mr. Truitt and the hearing officer present. The hearing officer decided to request written final arguments from both sides which are due July 28, 1998, with a decision expected maybe within a month following that.

Captain Renwick's Supreme Court case is pending a decision. Also, the Department of Law has asked Captain Renwick's counsel to determine Captain

Renwick's desires regarding continuation of the Board's hearing in this matter. So far, we have not received any reply to that question.

Regarding investigations the MPC related that since the Board last met, he had closed several cases and that none of the cases that had occurred before he came onboard were still open. He said he didn't have an exact count but he estimated that 5-6 cases remained open.

Captain Spence asked Mr. Truitt about the status of the Board's regulation package that it adopted at it's last meeting. Mr. Truitt stated that they had not yet been reviewed by the Department of Law and that he hoped to get to them soon.

Agenda Item 4a **Review/Approve Past Meeting Minutes**

The Board discussed whether any changes needed to be made to the minutes before their approval. Captain Spence requested the following changes: On page 3, item 7 he requested that the spelling of Captain Pawlowski's name be corrected. On page 5, item 9 he requested the title of the item be changed to more accurately reflect the project such as "Simulator Based Marine Pilot Performance Evaluation Project". On page 6, item 10a he requested that the spelling of CDR Eley's name be corrected.

On a motion made by Mr. Smith, seconded by Ms. Huff Tuckness and carried unanimously, it was

RESOLVED to adopt the April 1998 minutes as amended.

Agenda Item 5 **Exam Results/License Approval/Endorsements**

The MPC reported to the Board that Captain Backen took and passed the Local Knowledge Examination for Region 3 and that the Board needs to hold an oral examination for him.

The MPC reported to the Board that Captain George took and passed the Local Knowledge Examination for Region 1 and that the Board needs to hold an oral examination for him.

The MPC reported to the Board that Captain Stith took and passed the Extension of Route Examination for Sitka Sound.

On a motion made by Ms. Huff Tuckness, seconded by Mr. Smith and carried unanimously, it was

RESOLVED to grant Captain Stith an extension of route endorsement for Sitka Sound.

The MPC reported to the Board that Captain Gray took and passed the Extension of Route Examination for Klawock.

On a motion made by Mr. Smith, seconded by Ms. Huff Tuckness and carried unanimously, it was

RESOLVED to grant Captain Gray an extension of route endorsement for Klawock.

The MPC reported to the Board that Captain Hendricks took and passed the Extension of Route Examination for the Western Entrances of Prince William Sound.

On a motion made by Ms. Huff Tuckness, seconded by Mr. Smith and carried unanimously, it was

RESOLVED to grant Captain Hendricks an extension of route endorsement for the Western Entrances of Prince William Sound.

Agenda Item 5a Oral Examinations

1410
Tape off.
End of Tape 1, Side A

Following the clearing of the LIO's and other non-Board members from the teleconference, the Board conducted the oral examinations of Captain Backen and Captain Michael George while in executive session.

Note: The last part of Tape 1, Side A is blank. A portion of the executive session was inadvertently taped and later erased.

1440
Begin Tape 1, Side B
Tape back on.
Due to power problems the first few minutes of Side B did not record.

The Board returned from executive session.

The MPC reported to the Board that Captain Backen was qualified in all respects for licensure as a Deputy Marine Pilot.

On a motion made by Ms. Huff Tuckness, seconded by Mr. Smith and carried unanimously, it was

RESOLVED to grant Captain Backen a Deputy Marine Pilot license for Region 3.

The MPC reported to the Board that Captain George was qualified in all respects for licensure as a Deputy Marine Pilot.

On a motion made by Mr. Smith, seconded by Ms. Huff Tuckness and carried unanimously, it was

RESOLVED to grant Captain George Deputy Marine Pilot license for Region 1.

Agenda Item 6 **Public Comment**

The following persons commented during the public comment period.

Beginning of the portion of Tape 1, Side B that is audible.

Captain Hans Antonsen: Addressed the issue of whether item #6 on the list of regulation projects to be considered in the future (pg. 12 of April minutes), should be a regulation initiative or something the Board should define in a policy. Secondly, he related that SEAPA would prefer all the Anchorage meetings to be held at the Captain Cook Hotel.

Captain Kellogg: Would like to have fees added as an agenda item and petition the Board to review the fees for the upcoming renewal period. He also inquired into the status of the project to develop a performance monitoring form.

Captain O'Hara: Commented that section 3(c)(i) of the ACP amended Bylaws before the Board for approval were poorly written in that they seemed to conflict with 12 AAC 56.080(f).

Mr. Kyle: Reserved his comment on Item 9 regarding the proposed draft regulation for Region 3.

Agenda Item 7 **Project Updates**

The MPC updated the Board on the following projects:

Examination Database: The questions for Regions 2 & 3 will be sent out shortly for review by the Captain O'Hara and Captain Garay respectively. Captain Spence is already reviewing the questions for Region 1. The goal is to complete the examination database by the next meeting (October 28, 1998). The MPC also stated that he wanted to develop an comprehensive policy regarding exam generation and administration for the Board's approval.

Electronic Quarterly Reports: The MPC reported that he has been able to get the database up and working on his machine and soon he hopes to send out to the associations a paper printout of a page so that they can see the format they need to

follow. It looks like the easiest way to submit these reports will be by disc through the mail. If any association will be using Filemaker Pro to produce their reports, the MPC said he would be happy to send out discs pre-formatted with the report format for the associations use.

RFP for a Simulator Based Marine Pilot Performance Evaluation: Responses to the RFP were due the day of the meeting. So far, the Board has received two proposals and at least one other is on its way. The proposals received to date were from MITAGS and the California Maritime Academy. The RTM Star Center in Dania, Florida has submitted a proposal that has not yet arrived. The MPC said that Marine Safety International showed some early interest in the RFP so the selection committee could have somewhere between 2 - 4 proposals to review.

Performance Monitoring Forms: This project has proceeded slowly due for several reasons. The MPC has been busy with other commitments, he has not yet gathered all the sample forms the committee wished to review and summertime is a difficult time of year to hold meetings of committees largely made up of very busy pilots. The MPC made a commitment to get this project moving again. August 14th or the third week of September were two possibilities mentioned as possibilities for the next teleconference meeting of the committee. The MPC said he would call each committee member to set a date that allows the greatest amount of participation.

1530 Mr. Smith departed.

Agenda Item 8 **ACP Amended Bylaws Submitted for Approval**

Mr. Richard Monkman presented ACP's amended bylaws for the Board's approval. In addition to the problem noted by Captain O'Hara earlier during the public comment period, an inconsistency with section 3(d) was also noted. Section 3(d) states that it applies to part-time members as well as new members but in the subsequent paragraphs the bylaws only specifically mention part-time members. Mr. Monkman's response was that new members would follow the same process as that outlined for part-time members.

End of Tape 1, Side B
Begin Tape 2, Side A

Public comment was received, and the Board discussed whether the amended bylaws were actually flawed, and if so how could they be corrected and/or approved by the Board. Eventually, the consensus seemed to be that the Board could approve the bylaws with the intent that they be corrected by January 1, 1999 to be in compliance with the regulations that go into on that same date.

On a motion made by Mr. Berto, seconded by Ms. Huff Tuckness and carried unanimously, it was

RESOLVED to approve the amended ACP Bylaws as submitted with the condition that references in Section 3(c)(i) to limited licenses will be deleted to come into conformance with regulation 12 AAC 56.082(f) which will be implemented January 1, 1999.

Agenda Item 9a **Report of BMP Budget and Legal Costs & Discussion of Renewal Fees**

The MPC led the Board through a review of their legal costs through March of 1998 and then on to a review of the Board's overall costs for the year. Currently the Board has spent approximately \$150,000 less than it did over the previous biennial period. This figure is still subject to change because three months of legal costs have not yet been reported, nor some miscellaneous costs of overhead. However, the missing costs are not expected to significantly change the figures and the Board should spend much less than it did in the previous biennial period.

1541 Catherine Reardon
joined the meeting.

Ms. Reardon joined the meeting at the request of the Board to discuss whether the fees for the upcoming renewal period may be lowered. Captain Kellogg was invited to pose his questions to Ms. Reardon. He asked whether the fees for the upcoming biennial period might be lowered in view of the much lower legal fees that the Board had experienced this biennial period. Ms. Reardon responded that although all the costs are not yet in, she definitely expected marine pilot fees to be lower for the upcoming biennial period. She went on to respond to several of the fee setting proposals that were received during the setting of the fees for the 1997 - 1998 biennial period and to discuss why she felt that they could not be used either due to statute or regulation prohibitions or matters of equity.

Captain Spence asked Ms. Reardon whether there were any changes to how expenses or costs would be apportioned in the future. Ms. Reardon responded that she did not expect any significant changes to occur in apportionment of the costs, however the Division often has to respond to legislative changes and creeping inflation of overhead and other costs. She stated that the Division continues to refine its methods for tracking costs to ensure that they are attributed to the Board or group that generated them. Since no more questions were forthcoming, Captain Spence thanked her for taking the time to join the meeting and addressing the subject of fees.

1554 Ms. Reardon left
the meeting.

Agenda Item 9 **Proposed Draft regulation Change for 12 AAC 56.205(b) & (d)**

The MPC presented the amended version of regulations 12 AAC 56.205(b) & (d) he drafted to bring Region 3 in compliance with Regions 1 & 2 and noted that he had made a mistake in drafting the changes. As drafted, they would actually give Region 3 a much better deal than either Region 1 or 2. He went on to discuss how the draft should be corrected. The Board requested that a corrected version of the draft amended regulations be presented at the next meeting.

On a motion made by Ms. Huff Tuckness, seconded by Captain Garay and carried unanimously, it was

RESOLVED to table consideration of the proposed draft amended regulations.

Agenda Item 10 **Oral Examinations**

This item was moved and renumbered as Agenda Item 5a.

Agenda Item 11 **Exam Results/License-Endorsement Approval**

This item was taken care off following the Board's oral examinations which were rescheduled as item 5a.

Agenda Item 12 **Business Items**

The MPC led the Board through the correspondence contained in the Board packet. The next meeting was announced as October 28-29, 1998 in Anchorage.

Agenda Item 12a **A List of Regulation Projects for Future Consideration**

(pg. 12 of April minutes)

Captain Spence stated that the reason he added these possible regulation projects to the agenda was not so that they could be acted upon or even discussed. His whole purpose was to ensure that these possible future regulation projects not be lost or forgotten. He requested that they be added to the next meeting's agenda.

Agenda Item 13 National Marine Safety Incident Reporting System - Update

The MPC related that he attended a meeting in Oakland, CA hosted by the Coast Guard that was designed to solicit support and acceptance of their initiative to implement a national marine safety incident reporting system. The Coast Guard has been holding meetings on this initiative all over the country. At this meeting they met with industry representatives, labor representatives and the San Francisco Bar Pilots. Additionally, the Coast Guard brought a representative from Battelle Laboratories who runs the FAA near miss program. In that structure, the FAA asked NASA to run the program for them. NASA in turn contracted with Battelle labs who actually receive the reports, de-identify the data and manage the database.

The Coast Guard is working hard to get this initiative off the drawing board. The Society of Naval Architects and Mechanical Engineers (SNAME) is hosting a meeting in Washington, D.C. in late July to try and lay the groundwork for the system. Members from the top levels of marine industry, labor and others will be in attendance. The Coast Guard's goal is to implement the system for one segment of marine industry by the end of this year, and to have a system in place for all of marine industry by the end of next year.

End of Tape 2, Side A or To get the system running the Coast Guard is looking for some entity of industry labor to step forward and lead the project. They are also seeking an entity or a
Begin Tape 2, Side B group of entities to fund the project. The feedback they have received at the meetings they've been holding, is that the project will never be accepted by the marine public without statutory prohibitions in place prohibiting the Coast Guard from using the information submitted for law enforcement purposes. The Coast Guard is more than willing to accept that limitation, however they are unable to lobby Congress. They hope that the marine industry can get that legislation passed. The legislation that established the FAA's near miss reporting system provided that same kind of protection for the airline industry. In actuality, the information that would be submitted to such a reporting system would generally be of very little use to the Coast Guard for investigation or enforcement work, since the system is designed to receive reports of incidents that are not required to be reported or investigated under the system currently in place.

The MPC told the Board and the public audience that in his opinion the initiative to get the national marine safety incident reporting system implemented was probably going to successful. With that in mind he encouraged anyone who had concerns or wanted to make sure it was implemented correctly to get involved with the project at some level.

Motion to Adjourn

On a motion made by Ms. Huff Tuckness, seconded by Mr. Captain Garay and carried unanimously, it was

RESOLVED to adjourn the meeting.

Respectfully submitted:

Peter D. Christensen,
Marine Pilot Coordinator

Approved this _____ day of _____, 1998.

Jeffrey W. Bush,
Deputy Commissioner