

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

**MINUTES OF MEETING
January 21 - 22, 2003**

By the authority of AS 08.01.070(2), AS 08.62.030, and in compliance with the provisions of provisions of AS 44.62, Article 6, a meeting of the Board of Marine Pilots was held January 21 - 22, 2003, in Anchorage, Alaska.

January 21, 2003

Start Tape 1, Side A

Agenda Item 1 Call to Order/Roll Call

Chairman Bush called the meeting to order at 1336. The Marine Pilot Coordinator (MPC) conducted roll call.

Members present constituting a quorum were:

Mr. Jeff Bush	-	Commissioner's Designee
Captain Tony Joslyn	-	Pilot Member
Captain Dave Anderson	-	Pilot Member
Mr. Les Cronk	-	Agent Member
Mr. Robert Arts	-	Agent Member
Mr. Jack Poulson	-	Public Member

Members absent but excused:

Ms. Barbara Huff Tuckness - Public Member

Staff present was: Peter Christensen, MPC

Agenda Item 2 Review/Set Agenda

No amendments to the agenda were proposed.

On a motion made by Captain Anderson, seconded by Mr. Cronk and carried unanimously, it was

RESOLVED to approve the agenda.

Agenda Item 3 **Declaration of Potential Conflicts of Interest/Recusals**

Chairman Bush gave an explanation of the conflict of interest guidelines to the new Board members in attendance. No conflicts or recusals were declared.

Agenda Item 4 **Investigation/Litigation Update**

The MPC updated the Board regarding the Renwick litigation. The January 13, 2003, Superior Court decision in that case was distributed to the Board and the public in attendance.

The MPC stated that one new investigation had been opened since the last meeting of the Board in October 2002.

Agenda Item 5 **Review/Approve Meeting Minutes**

The Board discussed whether any changes needed to be made to the October 2002 minutes before their approval. Two typographical errors were noted.

On a motion made by Mr. Poulson, seconded by Captain Anderson and carried unanimously, it was

RESOLVED to approve the October 2002 minutes as amended.

Agenda Item 6 **Business Items**

The MPC briefly reviewed the Board's Budget Report and Legal Expense Report contained in the Board book.

The MPC gave a brief overview of the correspondence contained in the Board packet. Chairman Bush provided some background regarding Mr. Christy's letter.

The MPC gave the Board an update on the pilot ID badges project.

The Board agreed to schedule the January 2004 Board meeting for January 21-22, 2004 in Anchorage, Alaska.

The MPC reminded the Board of its next scheduled meeting April 16 & 17, 2003 in Juneau, Alaska and the associated examination application deadline of February 17, 2003.

Agenda Item 7 **Exam Results/Oral Examination (Executive Session)**

The MPC announced that Captain Moore had passed his Southeast Alaska Regional Local Knowledge examination that morning.

On a motion made by Mr. Poulson, seconded by Captain Joslyn and carried unanimously, it was

RESOLVED to move to executive session for the purpose of conducting Captain Moore's oral examination.

The Board returned from executive session and recessed for a break.

Agenda Item 8 **License Authorizations**

The MPC reviewed Captain Moore's qualifications, and recommended that the Board authorize the issuance of a Deputy Marine Pilot license.

On a motion made by Captain Joslyn, seconded by Mr. Poulson and carried unanimously, it was

RESOLVED to authorize the issuance of a Deputy Marine Pilot license of 25,000 GT or less to Captain Moore.

The MPC stated that he had reviewed Captain Luck's application for Marine Pilot and found it complete. He recommended that the Board authorize the issuance of a Marine Pilot license to Captain Luck.

On a motion made by Captain Joslyn, seconded by Captain Anderson and carried unanimously, it was

RESOLVED to authorize the issuance of a Marine Pilot license to Captain Luck.

The MPC stated that he had reviewed Captain Hagerup's application for endorsement as a Training Pilot and found it complete. He recommended that the Board approve the issuance of a Training Pilot endorsement for Captain Hagerup.

On a motion made by Mr. Poulson, seconded by Captain Anderson and carried unanimously, it was

RESOLVED to authorize the issuance of an endorsement as a training pilot to Captain Hagerup.

Agenda Item 9

Public Comment (On Issues other than the Noticed Regs)

Mr. Jim Herbert – reiterated his request for a sample of Dania's geographic database and stated that AVTEC Seward would very much like to pursue the Board's approval to conduct simulator based pilot performance evaluations.

Captain Baken – announced that the Marine Safety Task Force had met that morning to discuss changes/improvements to the current S.E. Alaska Voluntary Waterway Guide.

Captain Adkison – spoke in support of Captain Herbert's request.

(The Board completed its agenda for the day earlier than anticipated. Chairman Bush recommended addressing two of the next day's agenda items in advance. Since public comment had not necessarily been given on these items he solicited public comment on each item as it was discussed.)

Agenda Item 14 **Legislative (Sunset) Audit of the Marine Pilot Board**

End Tape 1; Side A
Start Tape 1; Side B

Chairman Bush opened the discussion by giving a brief summary of the Division's written response to the audit report. He then led a discussion of each recommendation contained in the report. The results of the discussion are summarized below:

Audit Recommendation No. 1 – *“The Board of Marine Pilots (BMP) should take action to ensure regional pilot associations administer random drug testing programs in a manner consistent with established regulator standards....*

Specifically, the BMP should ensure that each association's program meets the requirement that at least 50 percent of covered association members are selected for random testing on an annual basis.”

Board member comments indicated that the pilot association's drug programs are currently being administered consistent with established regulatory standards. Current regulatory standards require that 50 percent of a pool be tested annually. There is no prohibition to belonging to a pool larger than your own immediate association; accordingly the odds of 50 percent of the association being tested decline in that circumstance. If regulations are adopted that require 50 percent of each association to be tested annually, that requirement will exceed current federal requirements. However, notwithstanding the above, the Board does agree that this is a laudable goal. The associations agreed to look into the availability and cost of meeting the recommendation for mandatory 50 percent testing annually.

Audit Recommendation No. 2 – *“The BMP should establish more informative and comprehensive reporting requirements so the Marine Pilot Coordinator (MPC) can confirm that an appropriate number of licensed pilots are consistently being subjected to random testing.”*

Board member and public comments stated that the consortium conducting the drug-testing program for the pilot associations currently reports this information to maintain their federal approval. This is part of the consortium's responsibilities as a federally approved drug-testing consortium. Hence, it is redundant to have the pilot associations also report this information. Nonetheless, the Board determined that compliance with the recommendation would not be very burdensome and accordingly it tasked the MPC with drafting a regulation to implement audit recommendation No. 2.

Audit Recommendation No. 3 – *“The legislature should consider amending current statutes in order to extend mandatory drug and alcohol testing to pilot organization trainees and apprentices.”*

The Board agrees with this recommendation and is looking into how it should be implemented. At least one pilot association has already drafted proposed changes to its rules that would implement this recommendation.

Audit Recommendation No. 4 – *“The Board of Marine Pilots should seek statutory authority to allow the board the discretion to grant waivers of pilotage requirements to large pleasure craft.”*

Since it does not yet have a consensus on the issue, the Board seemed unwilling to seek a change in statutory authority as outlined in the Audit recommendation. However, if a proposal for statutory change were introduced in the legislature, the Board would willingly provide comment if requested.

Agenda Item 12 **SWAPA - Proposed Changes to the Regulations**

Captain Stone presented SWAPA’s proposed amendment to the training requirements. Public and Board comment was solicited. No one voiced any objection to the proposal. Further action by the Board on this item was postponed until the next day.

1540 The board recessed for the day.

End Tape 1; Side B
Start Tape 2; Side A

JANUARY 22, 2003

Call to Order/Roll Call

Chairman Bush called the meeting to order at 0837. The Marine Pilot Coordinator (MPC) conducted roll call.

Members present constituting a quorum were:

Mr. Jeff Bush - Commissioner's Designee
Captain Tony Joslyn - Pilot Member
Captain Dave Anderson - Pilot Member
Mr. Les Cronk - Agent Member
Mr. Robert Arts - Agent Member
Mr. Jack Poulson - Public Member
Ms. Barbara Huff Tuckness - Public Member (via teleconference)

Staff present was: Peter Christensen, (MPC)

Agenda Item 10 **Public Comment on Proposed Regulation Changes**

Mr. Bill Sharp, Director of Port Operations, Holland America Cruise Lines: addressed the mandatory retirement age/retirement plan draft regulation. He stated that the current proposed regulation does not address the original issue raised by industry of pilot physical or mental fitness to continue piloting. In addition the proposed retirement plan requires each association to develop a plan, possibly allowing three different plans to be in effect, thus causing additional difficulty for industry. Lastly, he said he felt that any retirement plan developed by the associations should be submitted to the Board for approval. He then responded to several questions from various Board members.

End Tape 2; Side A
Start Tape 2; Side B

Mr. Bob Berto, Cruise Lines of Alaska: noted that none of the written comments submitted by the pilots dealt with the age issue. He stated that he felt this is more of a physical competency issue than a mandatory retirement age issue. He then responded to several questions from various Board members.

Paul Axleson, North Pacific Maritime: stated that the proposed regulation ineffectively attempts to meld two separate ideas together into one regulation. He stated he did not support the idea of a mandatory retirement program, rather he supports the use of a physical standard. His opinion is that the contracts he has negotiated included retirement contributions even though retirement costs were not listed as part of the rate. He then responded to several questions from various Board members.

Dan Blackmore, Alaska Maritime Agencies: questioned the purpose of the retirement plan. In recent contract negotiations with a pilot association, he offered to increase his rate offer if the association dropped its retirement

plan line item. The result was a five-year contract. He then responded to a question from the Chair.

David Grobschmit, ASPA: spoke in favor of the “mandatory retirement age/retirement plan” regulation as proposed. He feels that it will help keep Alaska competitive in competing for new pilot trainees and in retaining existing pilots. He also mentioned that a mandatory retirement age would aid pilot associations in planning for an efficient pilotage system. He invited Board members to review the Washington and California programs that were included in the written comments he submitted. He then responded to several questions from various Board members.

End Tape 2; Side B
Start Tape 3; Side A

Captain Dale Collins, Southeast Alaska Pilot Association: commented that he supported the proposed regulation. He stated that he felt it was good public policy. He pointed to Captain Wright’s written comments as an excellent summary of the benefits of a funded and an un-funded retirement plan. He also mentioned that a mandatory retirement age would aid pilot associations in planning for an efficient pilotage system. He then responded to several questions from various Board members.

Break

Captain Mike Stone, Southwest Alaska Pilot Association: endorsed the current language of the proposed regulation. The retirement plan is needed for pilots that reach retirement age and/or are disabled. SWAPA does not now have a retirement plan.

Captain Frank Didier: stated his personal support of the proposed regulation. He noted that no one becomes a pilot at a young age and that a retirement plan is a necessary component of the system. He concluded that there is no potential risk that outweighs the benefits of this proposed regulation.

Captain Jim Wright: noted that all the relevant points had already been given but he wanted to note the inherent value in the simplicity of the current proposed regulation. To delay this regulation will only serve to replace it with a more complex, cumbersome version down the road.

Jim Taro, Southeast Stevedoring & AMAK Towing: noted that it was obvious from comments before the Board that this proposed regulation was viewed as a way to increase pilotage rates. He also stated that he feels the Board needs to address pilot physical competency and drug and alcohol testing. The Board will be remiss if it does not address these safety issues.

Captain Bob Winter, Southeast Alaska Pilot Association (SEAPA): stated that SEAPA had no objection to the current proposed amendment to the "Training Pilot" regulation, however SEAPA intends to continue to maintain in their training plan the current five year requirement for a training pilot.

11:15

After checking to make sure no other persons wished to comment, Chairman Bush closed public comment on the noticed regulations.

Agenda Item 11 Board's Consideration of Proposed Regulations

The Board proceeded to discuss the written and oral comment they had received on the noticed regulations.

Following a short discussion a motion was made to adopt the proposed "training pilot" regulation.

On a motion made by Captain Joslyn, seconded by Captain Anderson and carried unanimously, it was

RESOLVED to adopt the proposed changes to 12 AAC 56.016(a)(3)(A) & (C).

The Board then began a discussion of the proposed "mandatory retirement age/retirement plan" regulation amongst themselves.

End Tape 3; Side A
Start Tape 3; Side B

On a motion made by Mr. Cronk, seconded by Mr. Arts and carried on a vote of 4-3, it was

RESOLVED to table any further action on the proposed regulation until the April Board meeting.

Agenda Item 12 SWAPA - Proposed Changes to the Regulations

The chair consulted with SWAPA and determined that their proposed amendments to their training requirements could wait till a later date and the Board had additional regulations to notice.

Agenda Item 13 RTM STAR Center Contract Replacement

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The Chair presented his thoughts that the Board might want to “approve” simulator facilities to conduct the simulator based pilot performance evaluations rather than enter into another sole source contract. Chairman Bush stated that lacking any direction otherwise from the Board, that the Department would pursue developing the approval process. The Board did not propose any alternative plan.

On a motion made by Mr. Joslyn, seconded by Mr. Poulson and carried unanimously, it was

RESOLVED to adjourn the meeting.

Respectfully submitted:

Peter D. Christensen
Marine Pilot Coordinator

Approved this _____ day of _____, 2003.

Jeffrey W. Bush
Deputy Commissioner