

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

**MINUTES OF MEETING
January 21 - 22, 2004**

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, 2004, in Anchorage, Alaska.

January 21, 2004

Start Tape 1, Side A

Agenda Item 1 Call to Order/Roll Call

Chairman Clough called the meeting to order at 1331. The Marine Pilot Coordinator (MPC) conducted roll call.

Members present constituting a quorum were:

Captain Dave Anderson	-	Pilot Member
Mr. Robert Arts	-	Agent Member
Mr. Al Clough	-	Commissioner's Designee (Chair)
Mr. Les Cronk	-	Agent Member
Captain Tony Joslyn	-	Pilot Member
Mr. Jack Poulson	-	Public Member
Mr. Richard Schasteen	-	Public Member

Staff present was: Peter Christensen, Marine Pilot Coordinator (MPC)

Agenda Item 2 Review/Set Agenda

The MPC noted that he had forgotten to include 'Physical Standards' as an agenda item and requested that it be added. He also requested that the Board add an agenda item for an update on the retirement regulation.

On a motion made by Mr. Poulson and carried without dissent, it was

RESOLVED to approve the agenda as amended.

Agenda Item 3 Declaration of Potential Conflicts of Interest/Recusals

Chairman Clough asked whether anyone had a conflict of interest or wished to recuse himself based upon a particular agenda item. No conflicts or recusals were declared.

Agenda Item 4 Investigation/Litigation Update

The MPC noted that the only litigation pending was the SWAPA 2004 rate case.

The MPC stated that one new investigation had been opened since the last meeting of the Board in October 2003.

Agenda Item 5 Review/Approve Meeting Minutes

The Board discussed whether any changes needed to be made to the April 2003 minutes before their approval.

On a motion made by Mr. Cronk and carried without dissent, it was

RESOLVED to approve the April 2003 minutes as amended.

The Board next considered the minutes from its July 2003 meeting.

On a motion made by Mr. Arts, and carried without dissent, it was

RESOLVED to approve the July 2003 minutes.

Lastly, the Board considered the minutes from its last meeting in October 2003.

On a motion made by Captain Joslyn, and carried without dissent, it was

RESOLVED to approve the October 2003 minutes as amended.

Agenda Item 6 Business Items

The MPC briefly reviewed the Board's Budget Report.

The MPC gave a brief overview of the correspondence contained in the Board packet.

The Board agreed to schedule the January 2005 Board meeting for January 27 - 28, 2005 in Anchorage, Alaska.

The MPC reminded the Board of its next scheduled meeting April 14 & 15, 2004 in Juneau, Alaska and the associated examination application deadline of February 16, 2004.

The Board set June 25th as the date for summer teleconference.

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

The MPC announced that Captain Baker had passed his Region 2 Local Knowledge examination that morning.

(The Board held off on going into executive session until such time as it would run into a break for the audience.)

Agenda Item 8 **License Authorizations**

The MPC stated that he had reviewed Captain Schibel's request for a Training Pilot endorsement and found it complete. He recommended that the Board authorize the issuance of a Training Pilot endorsement to Captain Schibel.

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

RESOLVED to authorize the issuance of a Training Pilot endorsement to Captain Schibel.

The Board delayed voting on Captain Baker's license until such time as his oral examination had occurred.

Agenda Item 10 **SWAPA Rate Hearing**

The MPC clarified that he put this item on the agenda so that the issue would continue moving forward. He was asking the Board to determine whether they would be hearing the matter or whether they wished to assign it to Mr. Stebing, the hearing officer.

The Chair invited public comment on the matter. Captain Wright representing SWAPA and Mr. Axelson of ASA addressed the Board jointly regarding the status of their negotiations to avoid a hearing or to limit the issues. The recent decision by the department of law to disallow the Board's adopted retirement regulation has not helped to clarify the issues. Captain Wright indicated that if the issue were to go to a hearing SWAPA would prefer that it be held in front of a hearing officer. Mr. Axelson requested that if the issue were to go to a hearing, ASA would prefer that it be held in front of the Board. Both sides stated that they were still hopeful to reach a resolution in the matter and avoid the hearing.

Chairman Clough asked if there was any further public comment. None was offered.

The Board then discussed the issue.

End Tape 1, Side A
Start Tape 1, Side B

Mr. Cronk moved that the Board hear the matter at its April '04 Board meeting. More Board discussion followed.

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

RESOLVED that the Board would hear the SWAPA rate case at its April '04 meeting in Juneau.

Agenda Item 9

Public Comment on Non-Agenda Items

Captain Baken representing the Marine Safety Task Force (MSTF) addressed the Board regarding the meeting MSTF had held that morning.

Chairman Clough asked Captain Baken what they had heard from the USCG regarding the Flightship operation in Juneau. Captain Baken relayed some of what the USCG Officer from MSO Juneau had related to the task force.

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

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

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

The Board returned from executive session.

Agenda Item 8 **License Authorizations - continued**

The MPC reviewed Captain Baker's qualifications, and recommended that the Board authorize the issuance of a Deputy Marine Pilot license of not more than 25,000 GT.

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

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

The Board then returned to the issue of the hearing scheduled for the Board's April meeting. Mr. Poulson asked when the Board would set the ground rules for the hearing. Chairman Clough stated that it was his intent to contact the Hearing Officer and the Department of Law for further advice on the Board's rights & responsibilities when holding rate hearings.

Agenda Item 11 **SWAPA's Bylaw Amendment**

The Chair invited a representative from SWAPA to explain the intent of their proposed change to their Bylaws. Captain Ward stepped forward and explained the proposed amendment to the Board. Captain Ward answered some questions from the Board.

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

RESOLVED to adopt the proposed amendment to SWAPA's Bylaws.

(Having completed its agenda for the day earlier than anticipated. Chairman Clough recommended addressing one of the next day's agenda items in advance. In accordance with his usual procedure Chairman Clough solicited public comment on each item as it was discussed.)

While waiting for the representatives of the Spasski Island Pilot Station proposal to arrive. Chairman Clough asked for the status of the civil fine against the M/Y LADY LOLA.

The MPC explained that the civil fine had been sent but the Board had not yet received a reply. The MPC briefed the Board on the penalty assessed and the process.

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

Agenda Item 15 **Proposed Establishment of a Seasonal Pilot Station**

The MPC summarized North Pacific Maritime, Inc.'s (NPMI) request to establish a winter seasonal pilot station one-mile from Spasski Island.

The chair asked Mr. Axelson to explain the need for the proposed regulation. Mr. Axelson did so, and fielded several questions from the Board.

Captain Kellogg representing SEAPA addressed the Board regarding the proposal. He stated that SEAPA had not had adequate time to access the proposal, but in order to keep the process moving SEAPA has agreed to not obstruct it from being noticed.

On a motion made by Mr. Cronk, and carried without dissent, it was

RESOLVED to notice the proposed regulation.

1606

The Board recessed for the day.

JANUARY 22, 2004

Agenda Item 12 Call to Order/Roll Call

Chairman Clough called the meeting to order at 0830. The Marine Pilot Coordinator (MPC) conducted roll call.

Members present constituting a quorum were:

- Captain Dave Anderson - Pilot Member
- Mr. Robert Arts - Agent Member
- Mr. Al Clough - Commissioner's Designee (Chair)
- Mr. Les Cronk - Agent Member
- Captain Tony Joslyn - Pilot Member
- Mr. Jack Poulson - Public Member
- Mr. Richard Schasteen - Public Member

Staff present was: Peter Christensen, (MPC)

Agenda Item 13 Public Comment on Non-Agenda Items

Paul Axelson – representing NPMI, informed the Board that SWAPA noticed rates for LNG in its latest rate notice. Although SWAPA's notice complied with the law, Mr. Axelson felt that it was unfair because there are no LNG ships currently working out of Valdez, and thus no agents representing them.

Captain Wright of SWAPA – stated that that the LNG rate was put in place so that the LNG operators would know what the rates were should the LNG transport ever occur in PWS. He stated that SWAPA investigated pilotage rates for LNG worldwide and that the rates they noticed were in general compliance with those rates.

Agenda Item 14 Facility Approvals for Simulator Based Marine Pilot Evaluations

End Tape 2, Side A
Start Tape 2, Side B

The MPC briefed the Board on the proposed guidelines for approving Simulator Based Marine Pilot Evaluations.

In reviewing the proposed guidelines, the Board decided that former Alaskan pilots should not be barred from being allowed to perform as

evaluators. Accordingly, the language prohibiting former Alaskan pilots performing as evaluators will be deleted.

Mr. Poulson raised the issue that personnel changes and other subsequent changes at a facility should be subject to the Board's approval. The Board agreed that the issue needed to be addressed.

Chairman Clough opened the item to public comment.

Captain Antonsen representing SEAPA – local knowledge is good

Captain Winter – quality control over time, local knowledge is good, establish a committee to work on simulator issues.

Captain Moreno – raised the issue that the proposed guidelines do not address ARPA or BRM. The MPC explained that they had been purposely dropped from the program because pilots wanted to be able to choose where they took those courses.

Jim Herbert representing AVTEC addressed several issues. AVTEC is very interested in providing simulator based marine pilot performance evaluations.

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

The Board further discussed the issue.

Captain Moreno of AMP

Mr. Bush

Captain Luck

Following the public comment, the Board augmented the existing simulator committee by adding a pilot member to represent each pilotage region.

Agenda Item 16

Proposed Regulations for Rate Hearings

The MPC briefly described the proposed regulation.

Chairman Clough invited Mr. Bush who had drafted the proposal to address the Board. Mr. Bush briefed the Board regarding the draft

End Tape 3, Side A
Start Tape 3, Side B

regulation. He concluded by asking the Board to notice the draft regulation and then responded to questions from the Board. An amendment of part 12 AAC 56.260(b)(2), (b)(2)(E) was discussed as well as adding a new section 12 AAC 56.260(e) with the remaining sections being redesignated.

Captain Kellogg of SEAPA asked the Board to clarify with the Department of Law whether the proposed language is in compliance with the APA.

Captain Ward of SWAPA stated that SWAPA supported the rate hearing proposal as originally drafted.

Mr. Bush made the Board aware of the hearing requirements in the APA in part AS 44.62.350.

End Tape 3, Side B
Start Tape 4, Side A

Agenda Item 17

Physical Standards

The MPC stated that the issue of physical standards was the third part of the mandate for the committee that was working on a mandatory retirement age and a retirement plan. He noted that he had not received any documents on this issue and that he hoped someone from the audience would make present the issue to the Board.

Mr. Bush stepped forward to address the issue. He handed out a copy of USCG NVIC 2-98, USCG form 719-K (Merchant Mariner Physical Examination Report), and a summary of his presentation.

He recommended that the Board adopt the Coast Guard Physical Examination Guidelines.

Captain Luck recommended that a physical board be used to review any questionable physical examinations.

Captain Kellogg brought the committee up to date on his progress in developing physical standards for the Board's consideration. He detailed the Coast Guard procedures for physical examinations that are questioned by the Coast Guard REC. He pointed out that the Coast Guard has a requirement for an annual physical for all federally licensed pilots.

Following Captain Kellogg's comments, the Board discussed various approaches and issues regarding establishing physical standards.

The Board indicated that it would like to have ASPA continue their effort with the inclusion of Mr. Cronk and Mr. Poulson on the committee. The Board indicated that it would be happy to consider a proposed regulation on this subject at the April meeting if one could be drafted by then.

Recess for Lunch

Agenda Item 18 Retirement Regulation Update

The MPC briefed the Board on the status of the Board's current regulation project regarding mandatory retirement age and retirement plans. He explained that the Board's adopted regulation failed legal review for two reasons. The first problem was a procedural one in that the Board took more public comment following the noticed written comment period before it acted to adopt the regulation. The second problem noted was that the regulation improperly delegated the responsibility to set the mandatory retirement age to the pilot organizations.

On a motion made by Mr. Cronk, seconded by Mr. Poulson, and carried without dissent, it was

RESOLVED to withdraw the Board's current regulation project regarding mandatory retirement age and retirement plans.

Chairman Clough asked if there was any public comment.

Mr. Bush came forward, passed out copies of ASPA's proposed regulation to reinstate the regulation process for a mandatory retirement age and retirement program. He led the Board through the proposed regulation and then fielded several questions from the Board.

End Tape 4, Side A
Start Tape 4, Side B

Mr. Bush noted that the language in the proposed regulation was very similar to the language used with the San Francisco and Puget Sound pilots.

The Board then engaged in an extended discussion regarding the wording of the newly proposed 12 AAC 56.310(e).

On a motion made by Captain Joslyn, seconded by Captain Anderson and carried on a vote of 5 to 2, it was

RESOLVED to notice ASPA's proposed regulations with the Board's amendments to the proposed 12 AAC 56.080(g) and 12 AAC 56.310(e).

The MPC reminded everyone that the Board's next meeting was scheduled for April 14 – 15, 2004 in Juneau at the Westmark Baranof Hotel.

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

RESOLVED to adjourn the meeting.

Respectfully submitted:

Peter D. Christensen
Marine Pilot Coordinator

Approved this _____ day of _____, 2004.

Al Clough
Deputy Commissioner