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STATE OF ALASKA, DEPARTMENT OF COMMERCE,
COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
BOARD OF MARINE PILOTS

MINUTES OF MEETING
January 24, 2007
Hotel Captain Cook, Anchorage, AK

By the authority of AS 08.01.070(2), AS 08.62.030, and in compliance with the provisions of AS 44.62, AS 44.62, Article 6, a meeting of the Board of Marine Pilots was held January 24, 2007, in Anchorage, Alaska.

Call to Order/Roll Call

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

All members were present, constituting a quorum:

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

Staff present were:

Renda Heimbigner, Marine Pilot Coordinator (MPC)

Review / Set Agenda

Chairman Clough addressed the meeting agenda and offered two additions under 'Business Items' [Pilot badging and the Board of Marine Pilots reauthorization bill HB108]. Item 8, [SWAPA Pilotage Rates] was moved forward in the agenda and an Executive Session was added just prior to lunch. On a motion from Mr. Cronk, and without dissent, it was:

RESOLVED to approve the agenda as amended.

Declaration of Potential Conflicts of Interest / Recusals

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No conflicts or recusals were declared.

Agenda Item 1 **Review / Approve Minutes**

Mr. Poulson asked that the October minutes make mention of Mr. I.H. Kim of Transports International attending the meeting. No further changes were offered. On a motion by Mr. Cronk and seconded by Mr. Arts, it was:

RESOLVED to approve the October 2006 minutes as amended.

Public Comment on non-agenda items

No comments were offered.

Agenda Item 2 **Business Items**

Budget – The MPC presented an expenditure and revenue report drawn January 11th. By comparison, expenses year-to-date measured 36% of previous year overall and revenues were reflective of a licensing renewal cycle.

Correspondence – The Board acknowledged a letter from Captain Tom Dundas which spoke to the comments presented at the October 2006 Pilot Board meeting by representatives of Pacific Reefer Services and Trident Seafoods. Captain Dundas, in his letter, expressed concern that the Board could imply sympathy for economics over safety if it allowed attempts for relief to come before them. He called upon the Board to stand behind the Alaska Marine Pilots in their attempts to support protection of life, property and the marine environment of the State of Alaska.

Recognition – The Board recognized the retirements of Captains Wright, Johnson and Hendricks from Region II. Chairman Clough noted it was a reminder of the struggle which Associations found themselves in to replace retirees with new trainees. Captain Joslyn felt that revisions to training programs would begin to reflect this challenge.

Core Exam Audit – As directed by the Board, an audit of the Core examination had been initiated and was scheduled to progress under the direction of psychometric psychologist, Dr. Norman Hertz. The MPC provided details of Dr. Hertz's credentials, experience with pilot associations, and the intent of the contract. Captain Joslyn shared his observations of the current questions and the challenges created for each of the applicants. Through the efforts of representatives from each Association in support of Dr. Hertz, the audit/review was scheduled for completion in April 2007.

The Board took a short break to address the audio equipment.

Licensing Waivers – The MPC reported on action taken by the Board, after a mail vote in December 2006, to issue licensing waivers for Klawock, Kaasan Bay/Port of Hollis and

Yakutat Bay. The waivers were granted after considering good cause for federal pilotage omissions to eight Pilots from Region One, thus enabling each of those Captains to apply for their State of Alaska biennial license renewal. A letter from Southeast Alaska Pilots Association (SEAPA), dated November 29, 2006, requesting waivers and outlining good cause was provided in the meeting packets. Captain Larry Vose, President of SEAPA, added that SEAPA was also addressing this issue in their training program, requiring the omissions to be satisfied by December 31, 2007. He also noted the US Coast Guard was reviewing federal pilotage in that region and changes in federal endorsements might be forthcoming.

Tentative Exam and Meeting Dates – Tentative dates for 2007 meetings were reviewed and approved as follows:

| <u>Exams</u> | <u>Meeting</u> | <u>Location</u> |
|--------------|----------------|-----------------|
| 4/11/07 | 4/12/07 | Ketchikan |
| 7/11/07 | 7/12/07 | Teleconference |
| 10/17/07 | 10/18/07 | Anchorage |

Badging – The MPC provided representation of badges selected for State of Alaska Pilots and noted for the Board that New York Harbor and the Port of Miami had already badged their Pilots in the wake of 911. On a motion by Captain Joslyn, and approved without dissent, it was:

RESOLVED to approve the ordering of badges.

Pilot Reauthorization Bills – Chairman Clough provided an update on SB15 and HB108 which would each reauthorize the Board of Marine Pilots an additional eight and six years respectively. The bills were in the initial stages of review by legislative committees.

Agenda Item 8

2007 SWAPA Pilotage Rates

Mr. Bryce Brockway, Vice President of Operations for Cruise West, addressed the Board and announced their formal withdrawal of objection for recently-published SWAPA rates for pilotage. It was noted that each of SWAPA’s published rates for 2007 had received objection, resulting in two of the rates being withdrawn, then re-published, and objections to the remaining three withdrawn, leaving the new rates as published. Chairman Clough summarized the activities as follows:

| <u>Rate</u> | <u>Objecting Party</u> | <u>Item Withdrawn</u> | <u>Result</u> |
|----------------|------------------------|-----------------------|-----------------------|
| Cook Inlet | ASA | Rate | Rate Re-filed |
| Cook Inlet LNG | ASA | Objection | Published Rate Stands |
| Outports | ASA | Rate | Rate Re-filed |
| Cruise Ships | ASA – CW | Objections | Published Rate Stands |
| Non-Standard | ASA | Objection | Published Rate Stands |

No Board action was required per governing statute 08.62.046.

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Mr. Poulson asked if District Court Judge Collins had been notified of resolution to SWAPA's 2004 rate filing as requested in her remand to the Board. Chairman Clough directed the MPC to verify with AAG David Brower.

Agenda Item 3

Bylaw Amendments

SWAPA – Captain Jeff Pierce, President of Southwest Alaska Pilots Association, spoke to SWAPA's Bylaw amendments before the Board and requested their approval. He explained the changes reflected an increase in rates of pay for member shares in the hopes of attracting new members. On a motion by Captain Joslyn, and seconded by Mr. Cronk, it was

RESOLVED to approve SWAPA's Bylaw amendment to 'Determination of Member Shares.'

[Note: The vote was later rescinded for Captain Joslyn to recuse himself from making the motion and voting on this monetary issue. Captain Collins re-introduced the motion, which was seconded by Mr. Cronk and passed unanimously.]

SEAPA – SEAPA President, Captain Larry Vose, reviewed an addition to SEAPA Operating Rules for the Board. The subject addressed supernumeraries who wished to accompany a licensed pilot on assignment. On a motion by Mr. Cronk, and without dissent, it was

RESOLVED to approve Paragraph O of SEAPA's Operating Rules.

Chairman Clough called the Board's attention to Item N of SEAPA's document and explained that under recent scrutiny, AAG David Brower has advised the Board of their lack of authority to act on all cases described in Paragraph N. Captain Collins offered an objection to the AAG's ruling, stating it was the State that wrote 'cause' in 56.310(c)(5) and by not addressing referrals by the associations, the Board was not doing its job. He professed it was the Board that maintained discipline. Discussion followed.

Chairman Clough suggested the Board seek additional discussion with AAG Brower on the issue. The Board concurred.

Agenda Item 4

SWAPA Training Program

Captain Jeff Pierce presented SWAPA's training program for Board review, outlining changes to wording consistent with State Regulation and introducing a new paragraph to address drug testing. In response to questions concerning compensation, Captain Pierce added that SWAPA had indeed introduced a stipend for trainees in order to stay competitive with other Associations. On a motion by Captain Joslyn, and carried without dissent, it was

RESOLVED to approve SWAPA's amendments to their training program.

Agenda Item 5

Drug Testing

The MPC noted for the Board that Legislative Audit, following their report to the Board, had met with the US Coast Guard representative responsible for auditing and compliance with drug testing in accordance with CFR. Leg Audit had not been aware of the Coast Guards auditing functions prior to finalizing their report and was in discussion internally on how this would impact their previous assumptions. Captain Collins commented that the Coast Guards attention to test standards was why the State required compliance with federal rules. He added this was not the first time this point was overlooked by Legislative Audit.

Chairman Clough clarified the remaining agenda schedule and counseled the audience on the order of topics. The proposed regulation for regional requirements in Region Two would come forward, followed by an Executive Session, then adjournment for lunch. Captain Vince Tillion, representing Southwest Alaska Pilots Association was invited to address the Board on the proposed regulation.

Agenda Item 7

Proposed Regulation

Captain Tillion explained the purpose behind proposed changes to 56.028(b) which removed certain ports and waterways from regulated requirement, and adjusted others. It was planned that the Training Committee would work with individual trainees on a case by case basis to structure their training on a needs basis, expediting their training without compromises. Captain Tillion indicated a letter from the Association would be provided at the beginning of training to provide an expectation. Reporting would remain the same.

Captain Joslyn added there were difficulties in obtaining maneuvers in ports of changing traffic and suggested the proposal could be taken as a minimum with additional prescribed. Captain Collins expressed concern for oversight by the Board. He suggested moving the requirements into their Training Program, which allowed the Board their oversight and ability to move quickly when changes were proposed. Captain Tillion responded they planned to visit their Training Program after this change was adopted in regulation. He emphasized the plan was to maintain the training regiment and only alter it when it becomes unattainable or it is expeditious to substitute a maneuver.

Mr. Arts suggested the Board receive a training report from Training Committees at each Board meeting. Captain Collins reiterated the importance of Board oversight. Discussion ensued.

Mr. Cronk expressed support of the Boards oversight of training and concern for individuals on a ship piloting a route they had never seen before, or not gained adequate number of trips into a port. Captain Tillion acknowledged minimum in-house clearances in their Training Program to prevent hazardous circumstances from coming up and expressed a willingness to work with the Board to resolve any concerns.

Chairman Clough suggested that in view of moving regional requirements out of regulation, a regional status report be made to the Board at each meeting. The MPC asked for clarification. Discussion followed.

It was noted that Region One was vetting an adjusted evaluation form for supervised maneuvers which utilized a tighter grading scale, i.e. substituting “unsafe,” “effective,” “highly effective” for “satisfactory,” “good,” “very good.” Both Captains Tillion and Collins pointed to challenges in the training process. Discussion followed.

On a motion by Captain Collins, without dissent, it was

RESOLVED to move the proposed changes to 12 AAC 56.028(b) for public comment.

Chairman Clough directed the MPC to work with the Associations to begin issuing training reports to the Board at each scheduled meeting. The MPC asked for clarification to the criteria for the report. It was acknowledged this would be defined during the process. Discussion ensued.

Agenda Item 6

Litigations / Investigations - Executive Session

On a motion by Mr. Arts, seconded by Mr. Cronk, it was

RESOLVED to move to Executive Session to hear a report on licensing action.

The Board moved to Executive Session at 1037.

The Board returned from Executive Session at 1055. No action was taken.

On a motion by Mr. Poulson, seconded by Mr. Arts, it was

RESOLVED to adjourn for LUNCH.

The Board adjourned at 1056.

[Note: As reported in the meeting packets, Case #1950-04-01 was dismissed and closed. Case #1900-04-05 received licensing action.]

Agenda Item 7

Public Comment on Noticed Regulation

The Board reconvened at 1305.

The Chairman opened the floor to public comment on 56.110 and 56.120.

Paul Axelson of North Pacific Maritime demonstrated on a map the position of the proposed Hawk Inlet pilot station. Because the station was designated in 1999 regulation, then repealed, he felt the issue was merely a re-opening of a previous designation.

Justin Wick, representing Kennicott Greens Creek, testified to his company’s interest of re-opening the Hawk Inlet pilot station. He felt that the proposed station would offer more opportunities to receive a pilot and reduce their port costs. Mr. Wick estimated his

company's traffic was 12 to 14 ships per year and re-opening the pilot station would present a savings of \$20,000 annually. Questions ensued.

SEAPA President Captain Larry Vose reminded the Board that following discussion in 1999 and 2000, the Board chose not to open the location for pilot transfer. He felt moving the pilot station inward into compulsory waters represented a less-safe option to address the issue and exploring others would allow for a well-thought decision. An alternative option was already listed in regulation, specifically Guard Island. He pointed to competing traffic for the waterway and noted federal pilotage was under consideration for Chatham Straits. Foreign vessels traveling that far into compulsory waters was neither safe, nor secure. It was SEAPA's position that safety should be considered foremost and Hawk Inlet was not a favorable option.

Captain Joslyn directed the Board's attention to 12 AAC 56.090 which defined compulsory pilotage waters for the State of Alaska. He expressed concern for the protection of those waters and felt the proposed station would not allow that.

Mr. Axelson felt the proposed station offered efficiency and economic savings, but acknowledged that no missed sailings had occurred for lack of a pilot. It was pointed out that a solution for alternative pick-up point was already identified in existing regulation.

Captain Collins summarized a historical review of the proposed station and compared it with other stations, adding examples of personal experience. He cautioned that everyone was going to say "me to" for the proposed station, in view of Kake listed as the most expensive station in Southeast. Captain Joslyn commented that making more pilot stations to protect compulsory waters did not make it more efficient, nor safer. Mr. Cronk pointed to environmental concerns for cruise ships, not cargo ships, as factor for previous decisions and with those concerns abated, the station could be considered for a small facet of the shipping world. Discussion continued.

Chairman Clough pointed to existing options already in place and the Board's responsibility to protect State waters. Mr. Arts offered the lack of incident in Chatham and the need to support a limited industry should be considered. Discussion ensued.

Captain Larry Vose reminded the Board of Guard Island, the designated substitute in regulation. It allowed for transfer in any weather, no float plane required, reduced overall cost to the customer and compulsory waters considered. He felt no change was needed to address the needs of Greens Creek. Discussion followed.

Mr. Poulson felt the Board should review pilot transfer stations even after deciding on this proposed station, citing pilot deaths during transfer as his major concern. Captain Collins stated the pilot will find an alternative if the weather is tough and better pilot boats were desired.

A motion by Mr. Cronk to consider the proposed pilot station was followed by discussion. Mr. Schasteen asked for definition to the motion, specifically availability and use.

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Mr. Cronk amended the motion for re-establishing the Hawk Inlet Pilot Station to include traffic in or out of Hawk Inlet only during the seasonal period. Mr. Arts seconded the motion and by a roll call vote 4-3, it was,

RESOLVED to establish the Hawk Inlet Pilot Station for use limited to only traffic bound in or out of Hawk Inlet for the purpose of servicing the ore trade, during the period October 1 through April 30, under 12 AAC 56.110 EXCLUSIONS FOR ENTERING COMPULSORY PILOTAGE WATERS OF ALASKA and 12 AAC 56.120 PILOT STATIONS OR PICKUP POINTS

| | |
|-----------|-----|
| Schasteen | Yes |
| Poulson | Yes |
| Joslyn | No |
| Cronk | Yes |
| Collins | No |
| Arts | Yes |
| Clough | No |

New Business

Captain Collins addressed the concept of Senior Evaluating Pilots for the purpose of evaluating fully licensed pilots to assist with issues of continued competence and volunteered to draft regulation for Board review. Discussion followed.

Chairman Clough asked Captain Collins to contact the Pilot Associations and form a committee to explore the concept of Evaluating Pilots. Mr. Cronk agreed that third party recommendations would be valuable in situations of need.

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

RESOLVED to adjourn the meeting at 1700.

Respectfully submitted:

Renda Heimbigner
Marine Pilot Coordinator

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Jack Poulson, Vice-Chairman
Board of Marine Pilots