

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

**MINUTES OF MEETING**

**June 7, 2007**

**Teleconference**

**B**y 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 June 7, 2007, by teleconference.

**Call to Order/Roll Call**

Acting Chairman Jack Poulson called the meeting to order at 1105 and the Marine Pilot Coordinator (MPC) conducted roll call.

All members were present:

Mr. Robert Arts	- Agent Member	Anchorage
Mr. Joe Austerman	- Commissioner's Designee	Anchorage
Captain Dale Collins	- Pilot Member	Ketchikan
Mr. Les Cronk	- Agent Member	Ketchikan
Mr. Joe Miller	- Public Member	Fairbanks
Captain Mike O'Hara	- Pilot Member	Anchorage
Mr. Jack Poulson	- Public Member	Juneau

Staff present were:

Renda Heimbigner, Marine Pilot Coordinator (MPC)	Anchorage
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Guests present:

Captain David Artz	Trainee / AMP	Anchorage
Captain Clayton Christy	Trainee / AMP	Anchorage
Captain Tim Christy	Pilot / SWAPA	Anchorage

**Executive Session**

Mr. Poulson reviewed the telephonic procedure for open and executive sessions, and on a motion made by Mr. Miller and seconded by Captain O'Hara, it was:

RESOLVED to enter Executive Session to conduct oral examinations of Captains David Arzt and Clayton Christy.

The Board moved to Executive Session at 1110

### **Deputy Pilot Licenses**

The Board returned from Executive Session at 1130. All members were present.

Additional parties present were:

Assistant Attorney General (AAG) Gayle Horetski	- Juneau
Assistant Attorney General (AAG) Robert Auth	- Anchorage
Matthew Crane, Attorney for Richard Seigel	- Seattle

On a motion by Captain O'Hara and seconded by Mr. Miller, it was:

RESOLVED to accept substitutions as presented for regional training requirements for Captain Arzt and Captain Christy.

On a motion by Captain O'Hara and seconded by Mr. Austerman, it was:

RESOLVED to grant Deputy Marine Pilot licenses to Captain David Arzt and Captain Clayton Christy.

### **Litigation**

Mr. Poulson opened the floor to AAG Gayle Horetski for opening remarks in advance to consideration of a Memorandum of Agreement (MOA) for Captain Richard Seigel. Ms. Horetski explained her role as representative of the Division of Corporations, Business and Professional Licensing, and that AAG Robert Auth would be advising the Board since she would be representing a party in the MOA. Ms. Horetski gave a brief history of events leading up to the agreement and covered the details within the document. For the purpose of ending litigation and offer a safeguard to the

goals of the Board per 08.62.040 [Duties of the Board], she asked the Board to consider the MOA.

Captain O'Hara asked about his potential conflict of interest and it was agreed to address his question after the Board heard from Mr. Matthew Crane, attorney to Captain Seigel.

Mr. Matthew Crane addressed the Board and shared the importance in which Captain Seigel held the issue of his license renewal. Crane added that this would be the last renewal period that Captain Seigel planned to work and acknowledged his agreement to restrict the license to vessels of 60,000 gross tons or less. Questions followed.

On a motion by Mr. Arts and seconded by Mr. Miller, it was:

RESOLVED to address the Memorandum of Agreement in Executive Session.

Mr. Poulson reminded the Board that AAG Robert Auth would join the Board in Executive Session. Ms. Horetski and Mr. Crane asked to be present in open session when the Board takes action on the MOA.

Captain O'Hara asked that his conflict of interest be determined before adjourning to Executive Session and shared points that he felt made him vulnerable to conflict, which were financial and historical knowledge of performance by the licensee. Discussion followed. AAG Auth referred to the Administrative Procedures Act which required the Board members to be fair and impartial. Captain O'Hara responded he could do that. Auth continued with the Ethics Statute which required the Board members to disclose potential conflict, which Captain O'Hara had done, and then required a decision by the Board Chair as Designated Ethics Supervisor.

Discussion determined that Captain O'Hara would be impacted financially in a very small manner and it was the Board's collective opinion that Captain O'Hara should participate in the deliberation and vote on the MOA. Mr. Crane admitted no objection. Mr. Poulson, as Ethics Supervisor, determined it was the preference of the Board that Captain O'Hara's level of participation did not rise to a level of inappropriate conflict of interest.

The Board adjourned to Executive Session at 1207, then recessed at 1240.

Mr. Poulson reconvened the Board at 1305. All members were present, plus AAG's Ms. Horetski and Mr. Auth. Mr. Crane joined the meeting at 1310.

On the motion by Captain O'Hara and seconded by Captain Collins, by a roll call vote 5-2, it was

RESOLVED to accept the Memorandum of Agreement as presented.

Arts	No	
Austerman	No	
Collins	Yes	
Cronk	No	
Miller	No	
O'Hara		Yes
Poulson	No	

The motion failed.

Mr. Poulson offered that discussion had occurred indicating an MOA would be acceptable to the Board with certain conditions added. Specifically, he identified those to be observer trips in each of the trades that Captain Seigel would be engaging in. Mr. Cronk added that these observer trips [to refresh his skills in the particular trades to which he would be dispatched] should be on vessels of the class that he would be licensed. Mr. Arts suggested that if Southwest Alaska Pilots Association (SWAPA) would recommend the appropriate observer trips, it would expedite the matter. Captain O'Hara concurred and encouraged Mr. Crane and Captain Seigel to approach SWAPA to make this agreement. Ms. Horetski asked if Captain Seigel should proceed to STAR Center for the ship handling course as proposed in the MOA. Discussion ensued. Mr. Cronk expressed his interest in seeing Captain Seigel follow through on the ship handling course in addition to the recommendation of observer trips from SWAPA. Captain Collins, Mr. Miller and Mr. Austerman agreed.

Mr. Crane asked if the Board would consider returning to Executive Session to make a determination what number and type of observer trips would be acceptable. Mr. Cronk advised he would like to see that recommendation come from SWAPA directly. Mr. Poulson concurred and discussion ended.

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

RESOLVED to adjourn the meeting at 1330.

Respectfully submitted:

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Renda Heimbigner  
Marine Pilot Coordinator

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Jack Poulson, Acting Chairman  
AK Board of Marine Pilots