

**January 20-21, 2009**

PAGE 1 OF 9

**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 20 - 21, 2009**

**Hilton Hotel - Anchorage, Alaska**

**B**y the authority of AS 08.01.070(2), AS 08.62.030, and in compliance with the provisions provisions of AS 44.62, Article 6, a meeting of the Board of Marine Pilots was held held January 20 and 21, 2009 in Anchorage, Alaska.

**January 20, 2009**

**Call to Order/Roll Call**

The meeting was called to order at 1345 by Chairman Austerman. The Marine Pilot Coordinator (MPC) conducted roll call.

Members present constituting a quorum was:

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

Staff present:

Renda Heimbigner, Marine Pilot Coordinator (MPC)  
Gayle Horetski, Department of Law (AAG)

Guests present:

Captain Frank Didier	SEAPA
Captain Richard Gurry	SEAPA
Captain Terry Backen	SEAPA
Tom Rueter	AK Maritime Agencies
Jim Lee	AK Maritime Agencies
Captain Vernon Adkison	SWAPA
Bruce Weyhrauch	SEAPA
Captain Kathy Flury	SEAPA

**January 20-21, 2009**

PAGE 2 OF 9

Captain Greg Styrk	SEAPA
Captain Scott Jones	SEAPA
Kate Tesar	AK Steamship Association
Captain Carter Whalen	AMP
David Zezula	NOAA
Captain Larry Vose	SEAPA
Captain Richard Desautel	SWAPA
Captain Doug Sturm	SEAPA
Captain Mike Stone	SEAPA
Captain David Arzt	AMP
Captain Ron Ward	SWAPA
Captain Doug Hanson	SEAPA
Captain Bob Winter	SEAPA
Gary Messer	Eimskip
Lynn Melin	Shell Oil

**Review / Set Agenda**

The agenda was approved as presented.

**Declaration of Potential Conflicts of Interest / Recusals**

No conflicts or recusals were reported.

**Agenda Item 1**

**Review / Approve Minutes**

Mr. Poulson offered an addition to the minutes for clarification. On his motion, seconded by Mr. Miller, and carried without dissent, it was:

RESOLVED to approve the minutes for September 30-October 1, 2008 with amendment.

**Public Comment on non-agenda items**

A letter from Icicle Seafoods was introduced and read for the record by the MPC. It expressed concern for operating costs in the Togiak area and cited difficult economics for that fishery. The letter referenced the cost of a full time pilot during the herring season as a significant expenditure. Captain Carter Whalen, representing Alaska Marine Pilots Association (AMP), summarized discussions on the issue over the previous three years and clarified the season to be a three to four week time period. Captain Collins questioned the cost difference of transporting a pilot to and from versus a full time pilot.

**Agenda Item 2**

**Business Items**

Financials - The Board reviewed a financial report prepared by the Department representing the first six months of the fiscal year. It was noted that 90% of Direct Contractual Expenses were legal services.

Investigations - The MPC reported one new investigation opened, three cases recommended for closure and one case for Board review in Executive Session. One case, a wake complaint, had been self-published as a 'Letter to the Editor' in a local newspaper and received attention from the Marine Safety Task Force (MSTF). Captain Greg Styrk, co-chair of the MSTF reported their committee made recommendations to the Voluntary Waterway Guide with guidelines for speed in the incident waterway. No additional actions were taken by the Board.

Tentative Meeting & Exam Dates – The Board reviewed and approved tentative meeting dates pending meeting space.

**Agenda Item 3**

**Training Summaries**

**AMP** - Captain Whalen, gave a brief overview to proposed changes in the AMP Training Program, specifically Part III, Selection of Candidates for Hands On Training. The amendments clarified specific requirements for eligibility to begin hands on training. On a motion by Mr. Cronk, seconded by Captain Collins, without dissent, it was

RESOLVED to accept the change to AMP's bylaws.

**SEAPA** - Captain Frank Didier, Training Chairman of Southeast Alaska Pilots Association, presented SEAPA's request for a training pilot endorsement for Captain Tom Dundas. On a motion by Mr. Cronk, seconded by Mr. Arts, without dissent, it was

RESOLVED to approve a training pilot endorsement for Captain Tom Dundas.

Captain Didier gave a summary of training activities and the progress of each trainee/apprentice. He submitted proposed changes to the Training Program consistent with new regulations effective 1/29/09. On a motion by Mr. Miller, seconded by Captain O'Hara, without dissent, it was

RESOLVED to accept the changes to SEAPA's Training Program.

**SWAPA** - Captain Vernon Adkison, Training Chairman for Southwest Alaska Pilots Association (SWAPA), presented a request for substitution of two under-tonnage dockings and one under-tonnage undocking for Captain Donal Ryan. The required tonnage per 12 AAC 56.031(b)(3) is 35,000, however, available

vessel traffic had only allowed maneuvers on vessels of 30,000 gross tons. To ensure adequate training, Captain Ryan had performed two extra dockings and one extra undocking on the lesser ton vessels. On a motion by Captain Collins, seconded by Mr. Cronk, and without dissent, it was

RESOLVED to accept the proposed substitution of maneuvers for Captain Donal Ryan.

Captain Adkison followed with an outline of proposed changes to SWAPA's Training Program to comply with pending regulation for deputy marine tonnage upgrades. On a motion by Mr. Miller, seconded by Mr. Arts, without dissent, it was

RESOLVED to accept the changes to SWAPA's Training Program effective January 29, 2009.

Discussion followed for Deputies Martin and Weston and their pending upgrades effective at the time of new regulation.

#### **Agenda Item 4**

#### **Committee Reports**

Regional Meeting - Mr. Cronk gave a brief summary of the Pilot Commission Regional Meeting in Portland where he, Captain O'Hara and the MPC met with members of the Oregon, Washington, San Francisco, and British Columbia Boards. The meeting had been called to establish improved communication between regulators for information exchange on similar issues. Also attending were several stakeholders from each of the States represented. This included Ms. Tesar and Captain Vose from Alaska. Mr. Cronk felt the meeting was informative and productive, with Alaska being 'in front' of the issues. He felt there were things we gained which was the point of the meeting.

Captain O'Hara felt Alaska had the most experience with performance oversight and been at it for a long time. Mr. Cronk noted the use by some states for retired pilots and mariners during marine investigations. The MPC explained Alaska's investigation process as a function of the State and described how 'experts' were utilized. She informed the Board of her registration at an NTSB Course the following week, recognizing that they would lead any investigation in a major incident and the State would benefit from knowing how to integrate. She added  
a second item of interest from the regional meeting was the holistic approach to rate setting procedures followed by the Canadian participants.

Ms. Tesar gave comment to investigations by other states and perceived that  
they used outside investigators. She said her group discussed this and encouraged it.

**January 20-21, 2009**

PAGE 5 OF 9

Pilot Assessment - Captain Vose reported on behalf of the Pilot Assessment Committee. He explained the consensus drawn supported a 2-part process, the routine procedure to ensure pilot fit for duty and 'for cause.' The committee had given thought to include acknowledgement of duties and responsibilities of the pilot by the certifying physician on the State medical form. Increased requirements for continuing education with a cognitive element had also been discussed. The pilots' function at 'self policing' was seen as important. The next issue before the committee was to define the tools for use by the Board.

Captain O'Hara gave an outline of conclusions by the committee:

- 1) repeal the cognitive testing regulation
- 2) change the State medical form
- 3) imbed cognitive testing into continuing education
- 4) utilize medical professionals for 'red flags'
- 5) increase cognitive testing with age

Mr. Arts asked about assessments by other states. It was noted that BC Pilots currently utilize assessment as a pre-employment screening. Captain Didier explained the SEAPA applicant process contained a medical screening with cognitive. Captain Adkison gave testimony for evaluating the candidates first hand as the best model.

Captain Collins and Mr. Cronk agreed that the Board would see more concrete recommendations from the committee within the year.

Foreign Pleasure Craft - Mr. Poulson explained the two main issues before the Committee were the exemption application and the availability of a Southeast Pilot. Additionally, Jeffrey Lisius, Assistant Area Port Director for US Customs and Border Protection, had expressed an interest in coordinating information for visiting yachts. It was intended the committee would meet again to continue discussion for dispatch constraints.

Captain Bob Winter outlined the recommended revisions to the exemption form with edits to clarify the difference between 'pleasure craft' and 'for hire.' He explained a new paragraph which allowed the vessel to switch from pleasure to commercial with notification to the MPC. Additional language for 'unsworn falsification' was pending. Links to other websites for more information was also added.

Mr. Poulson noted that a change to regulation might be necessary to define the criteria for approval of the application. Ms. Horetski advised the Board of two options to address the criteria, either through regulation or instilled within the application. She encouraged the Board to make their changes to the form and use it as an interim measure while formalizing those changes.

Discussion commenced for the form. On a motion by Mr. Miller, seconded by Captain O'Hara, it was

RESOLVED to accept the edits to the application for Exemption from Pilotage for Foreign Pleasure Craft.

Captain Winter asked if discussion was desired for limited deputy licenses to relieve the strain on seasonal dispatch. Mr. Poulson suggested adding it to the next committee meeting agenda.

Cause Committee - Mr. Miller explained the committee had focused on 12 AAC 56.310(c)(10) which directed the association to not dispatch a pilot upon receipt of written request. A concern was seen for disputes between a pilot and vessel not reaching the level of 'cause' or licensure which might not be addressed. The committee was scheduled to continue their discussion with intent to reach a recommendation for the Board.

#### **Agenda Item 5**

#### **SEAPA Rate Filing**

Captain Richard Gurry, President of SEAPA, gave notice that objections for the current rate filings had been resolved between SEAPA and industry representatives. He summarized the three rates filed, of which two had received objection. He asked the AAG, through the Board, to advise if the Board held jurisdiction for the third rate which addressed service to vessels not required to employ a State-licensed pilot. Discussion among the Board members followed.

Ms. Horetski gave reference to AS 08.62.040 and 08.62.046 which gives authority to the Board and outlines the procedure for setting rates for vessels required to employ a pilot under the chapter. She deemed the statute to be silent on vessels not required to employ a pilot. The Board agreed the third rate filing was outside their authority.

Ms. Tesar, representing ASA, concurred with Captain Gurry that negotiations were close to agreement and asked the Board not take action on the filing.

#### **EXECUTIVE SESSION**

On a motion by Mr. Poulson, seconded by Mr. Miller and without dissent, it was

RESOLVED to move to Executive Session to review confidential information concerning a licensee.

Captain O'Hara asked to be recused and departed.

The Board recessed to Executive Session at 1625 and reconvened at 1750.

**January 20-21, 2009**

PAGE 7 OF 9

On a motion by Mr. Miller, seconded by Mr. Cronk, with Captain O'Hara recused, and without dissent, it was

RESOLVED to order Captain Richard Desautel submit to a physical and mental examination as directed by the Marine Pilot Coordinator to determine his fitness for duty as a Marine Pilot. [AS 08.62.040(c)]

On a motion by Captain Collins, the Board recessed at 1755.

## **January 21, 2009**

Chairman Austerman reconvened the meeting at 0840.

Members present constituting a quorum was:

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

Staff present was:

Renda Heimbigner, Marine Pilot Coordinator (MPC)  
Gayle Horetski, Department of Law (AAG)

Guests present were:

Greg LeBeau	AK Maritime Agencies
Captain Greg Styrk	SEAPA
Lynn Melin	Shell Oil
Jeff Johnson	BP Shipping
Captain Doug Hanson	SEAPA
Captain Terry Backen	SEAPA
James McMahan	USCG
Marilyn Crockett	AK Oil & Gas Association
David Zeazula	NOAA
John Davis	Western G Company
Captain Kathleen Flury	SEAPA
Captain Doug Sturm	SEAPA
Captain Frank Didier	SEAPA
Captain Scott Jones	SEAPA
Captain Vincent Tillion	SWAPA
Captain David Arzt	AMP

Captain Ron Ward	SWAPA
Cmdr. Mark Hamilton	USCG
Jacob Sonneborn	Ashburn & Mason, P.C.
Mike Terminel	Edison Chouest
Portia Babcock	Conoco Phillips
Captain Vernon Adkison	SWAPA
Kate Tesar	AK Steamship Association
Gary Ness	Energy - PTI
Captain Jim Wright	SWAPA (retired)
Captain Rick Desautel	SWAPA
Pete Hendrickson	self
Captain Carter Whalen	AMP
Captain Rick Murphy	AMP
Don Habeger	Royal Carribean Lines

Mr. Miller explained the 'Cause' Committee was continuing their work on 12 AAC 56.310(c)(10) and with another meeting, it was hoped to have recommendations for the Board.

The Board took a break at 0850 to distribute revisions prepared by the Department of Law for proposed changes to regulation of compulsory waters.

The Board reconvened at 0855.

## **Agenda Item 6**

### **Regulations**

Ms. Horetski, AAG, explained the document presented was a reflection of changes discussed by the Board at their October meeting. Discussion of the document ensued.

A question arose whether a drill rig would be considered a port. Ms. Horetski suggested it be referred to directly in the new arctic paragraph 12 AAC 56.095.

Discussion for 'innocent passage' commenced and it was agreed that those definitions could be added following public notice.

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

RESOLVED to public notice the amended language for 12 AAC 090, 12 AAC 56.095, 12 AAC 56.100 and 12 AAC 56.990 as presented by AAG Gayle Horetski.

On a motion by Mr. Miller, and carried unanimously, it was



**January 20-21, 2009**

RESOLVED to adjourn the meeting.

Meeting was adjourned at 1030.

Respectfully submitted:

\_\_\_\_\_  
Renda Heimbigner  
Marine Pilot Coordinator

\_\_\_\_\_  
Joe Austerman, Chairman  
AK Board of Marine Pilots