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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

July 23, 2009

Teleconference

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 July 23, 2009 by teleconference.

Call to Order/Roll Call

The meeting was called to order at 1330 by Chairman Austerman and the Marine Pilot Coordinator (MPC) conducted roll call.

Members present constituting a quorum was:

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

Members absent:

- Mr. Joseph Miller - Public Member

Staff present was:

- Renda Heimbigner, Marine Pilot Coordinator (MPC) Juneau

Guests present were:

- Captain Jeff Baken SEAPA
- Captain Norbert Chaudhary SEAPA
- Captain Lou Picton SEAPA
- Captain Larry Vose SEAPA
- Captain Richard Gurry SEAPA
- Captain Bob Winter SEAPA

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Kate Tesar
Captain Pete Garay
Kirby Day
Jim Lee
Captain Lynn Melin
Captain Cees Deelstra
David Fauske

Alaska Steamship Association
AMP
Princess Cruises
AK Maritime Agencies
Shell Exploration
Holland Cruises
North Slope Borough

Declaration of Potential Conflicts of Interest / Recusals

No conflicts or recusals were reported.

Review / Set Agenda

No changes were made to the agenda. On a motion by Captain O'Hara, seconded by Mr. Cronk, and without dissent, the agenda was approved as presented.

Agenda Item 1

Review / Approve Minutes

On a motion by Mr. Cronk, seconded by Mr. Arts, and without dissent, it was

RESOLVED to accept the April minutes as presented.

Board member Joe Miller joined the meeting.

Public Comment on non-agenda items

Captain Richard Gurry, President of SEAPA, asked that he be allowed to comment during public hearing for 12 AAC 56.310.

No additional comments were offered.

Agenda Item 2

Business Items

Budget – The MPC explained that the budget presented was tentatively the last of FY09 figures. Captain O'Hara noted total expenses for the past five years were trending upwards.

15:28

Tentative Meeting & Exam Dates – The next scheduled meeting was set for October 21 and 22, 2009.

Investigation Report – The MPC reported two new investigations opened and two investigations closed. Monitoring of a Consent Agreement was scheduled for the Board to hear in Executive Session.

AVTEC – The MPC reported on the release of the Board’s marine simulator databases to AK Vocational Technical Center in Seward. The proprietary information had been produced in conjunction with AK marine pilots and monies appropriated by the legislature in 2002.

22:42

Correspondence – A letter from Alaska Steamship Association regarding participation on the Board’s Arctic subcommittee was acknowledged and Committee Chairman, Mike Heimbuch gave comment. He listed the members of the committee and codified ASA’s letter as only one of the stated positions of stakeholders in the discussion. He added the committee was just in the initial stages of their efforts and all persons were welcome to submit information regardless of whether they were a committee member.

Agenda Item 3

Public Hearing

AAG Gayle Horetski joined the meeting and the Chairman opened the public hearing for 12 AAC 56.310.

Captain Collins asked Ms. Horetski if the proposed language was a defensible version. She felt it was less so than current regulation for the absence of a due process and reminded the Board her recommendation has been to repeal. Mr. Miller felt the proposed language required communication which was the ultimate goal. Captain Collins felt the issue belonged in contract between the association and customer. Mr. Cronk pointed out this paragraph was only a minimum to be contained within association bylaws for less-than-cause issues. Mr. Heimbuch asked for a definition of ‘reasonable effort’ and whether it wasn’t already a standard practice. Captain O’Hara acknowledged it was standard. Captain Collins reiterated his position that it be a contract item. Mr. Cronk agreed.

Captain Richard Gurry, President of SEAPA, testified the language was a compromise following their original request to repeal. He cited the Hench legal decision which obligates the association for lost wages within a fair and equitable dispatch.

Kate Tesar, ASA, testified to her understanding of committee work and supported the proposed language.

Ms. Horetski inquired if Board understanding of the proposed language included the dispatch of the pilot in question following no resolution of complaint. Mr. Miller acknowledged the language only required communication and did not prohibit dispatch.

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Mr. Cronk motioned the Board accept the proposed language. Mr. Miller seconded the motion.

Discussion continued.

On a roll call vote, it was

RESOLVED to accept the proposed language for 12 AAC 56.310 as public noticed.

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

Therefore, the motion passed.

Ms. Horetski asked if cost by private parties had been given consideration. Mr. Miller stated that it had.

Mr. Heimbuch motioned for a sunset clause of one year be added to the language. Captain Collins seconded the motion.

Discussion followed. Mr. Heimbuch motioned for reconsideration of the previous vote. Captain Collins seconded the motion.

On a roll call vote, it was

RESOLVED to reconsider the vote previously conducted for proposed language of 12 AAC 56.310 as public noticed.

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

The motion passed.

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Mr. Heimbuch re-stated his motion that a sunset clause of one year be added to the language. Captain Collins seconded the motion and offered an amendment of 18 months sunset clause. The amendment was accepted.

Discussion of possible language for the amendment followed.

The Chairman clarified that public comment for 12 AAC 56.310 was closed and the Board continued their discussion.

Ms. Horetski suggested the amendment to repeal be implemented on a specific date. Mr. Heimbuch agreed to the amendment, and on a roll call vote, it was

RESOLVED to amend 12 AAC 56.310(c)(10) as public noticed, then 18 months from the effective date of the revised language, 56.310(c)(10) is repealed

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

The motion passed.

Ms. Horetski departed the meeting.

Agenda Item 4 **SEAPA ByLaws**

01:24:12

Captain Richard Gurry identified changes to SEAPA's ByLaws Section V, Training and Continuing Education with the bulk of the section relocated to Article VI and adjustments made to procedures by the SEAPA Training Committee. Grievance procedures for continuing education requirements were added to Section 4, Article X.

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

RESOLVED to accept the proposed changes to SEAPA's ByLaw.

Agenda Item 5 **SEAPA Training Program**

Review of SEAPA's Training Program was rescheduled to the Board's October meeting.

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Agenda Item 6 Training Pilot Endorsement

The Board reviewed Training Pilot endorsements for Captains Terry Backen, Bob Moore, Glyn Seaberg, Greg Styrk and Larry Vose. On a motion by Mr. Cronk, seconded by Mr. Arts and unanimously approved, it was

RESOLVED to approve Training Pilot endorsements for Captain Backen, Captain Moore, Captain Seaberg, Captain Styrk and Captain Vose.

Agenda Item 7 Committee Reports

01:30:25

Pilot Fitness - Captain O'Hara gave a status on conclusions and recommended continued work on the subject. Captain Vose detailed the conclusions:

- definition for pilot fitness as encompassing the elements of medical, physical and mental performance
- 2 processes which comprise pilot fitness for duty are routine activities for minimum competency and response to red flags
- Intent for committee actions was:
 - 1) enhance State medical form
 - 2) formal recognition of the established pilot job task analysis
 - 3) completion of continuing education at accredited facilities representing a minimum standard of competency
 - 4) proposed language in regulation to establish minimum levels of standard competency

Captain O'Hara outlined the various tests reviewed to-date and requested he be allowed to preview the fitness test developed by Southeast AK Pilots Association, currently available at Healthforce in Seattle. Captain Vose explained the process by which the testing had been developed by pilots of SEAPA in conjunction with the occupational facility. Captain Collins explained cognitive was imbedded into the test. The Board agreed Captain O'Hara should review the SEAPA test.

On a motion by Mr. Cronk, seconded by Mr. Arts, and without dissent, it was

RESOLVED to send Captain O'Hara to Seattle to review the fitness test developed by SEAPA at the Healthforce facility.

Captain O'Hara summarized the objective of the Committee was to provide the Board with a combination physical and cognitive review of all pilots and repeal current regulation for age requirement. He promised an update at the next Pilot Board meeting.

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Foreign Pleasure Craft - Captain Bob Winter gave a report on committee activity in their efforts to delineate requirements by which applications for exemption from pilotage were reviewed. He requested previous records of Board member votes for approving/disapproving applications to better understand considerations to-date. The MPC indicated the information was available and she would coordinate with Captain Winter to provide him with the details.

The Board took a break at 1520 and reconvened at 1530.

Agenda Item 6 **Executive Session**

The Board moved to Executive Session to hear the current status of monitoring for a consent agreement.

The Board returned from Executive Session at 1545.

Captain Collins asked that Captain Vose accompany Captain O'Hara to Seattle to shepherd the assessment at Healthforce as co-chair of the Pilot Fitness Committee. On his motion, seconded by Mr. Cronk, and carried unanimously, it was

RESOLVED to send Captain Vose with Captain O'Hara to Seattle prior to the next Pilot Board meeting.

On a motion by Captain Collins, seconded by Captain O'Hara, it was

RESOLVED to adjourn the meeting.

Meeting was adjourned at 1355.

Respectfully submitted:

Renda Heimbigner
Marine Pilot Coordinator

Joe Austerman, Chairman
AK Board of Marine Pilots