

**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 30, 2014

Anchorage, Alaska

By 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 Alaska Board of Marine Pilots was held on January 30, 2014, in Anchorage, Alaska.

Call to Order/Roll Call

The meeting was called to order at 1:17 pm by Chairman Curtis Thayer. The Marine Pilot Coordinator (MPC) conducted roll call.

Participant Members constituting a quorum were:

Hans Antonsen	- Pilot Member
David Arzt	- Pilot Member
Richard Erickson	- Agent Member
Robert Richmond	- Public Member
Tom Rueter	- Agent Member
Tylan Schrock	- Public Member
Curtis Thayer, Chair	- Commissioner's Designee

Staff present:

Crystal Dooley	Marine Pilot Coordinator (MPC)
Sara Chambers	Admin Operations Manager I (telephonically)
Martha Hewlett	Admin Assistant II (telephonically)
Harriet Milks	AAG (joined telephonically during Executive Session)

Members of the public present:

Ed Sinclair	Southeast Alaska Pilot Association (SEAPA)
Rich Preston	Southeast Alaska Pilot Association
Doug Sturm	Southeast Alaska Pilot Association
Jenni Zielinski	Southwest Alaska Pilot Association (SWAPA)
Ron Ward	Southwest Alaska Pilot Association
Andrew Wakefield	Southwest Alaska Pilot Association

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Ron Hildebrand	Trident Seafoods
Mike Tibbles	Alaska Steamship Association (ASA)
Clay Christie	Alaska Marine Pilots (AMP)
Paul Axelson	North Pacific Maritime

There were no public subscribers to the teleconference.

Agenda Item 1 **Review and Set Agenda**

Hearing no objections to the set agenda, it was:

RESOLVED to approve the agenda.

Declarations of Potential Conflicts of Interest/Recusals

Board members made no declarations of potential conflicts of interest.

Agenda Item 2 **Public Comment**

The Chair opened the floor to general public comment. There was no comment from the public.

Chair Thayer was interested in hearing the Board Quarterly Review and Expense report; however Ms. Chambers and Ms. Hewlett were not available. The Chairman directed the Board to stand by while the MPC called Ms. Chambers and Ms. Hewlett to brief them that the meeting was ahead of schedule. Once the MPC reached Ms. Chambers and Ms. Hewlett, the meeting continued at 1:25.

Agenda Item 3 **Review/Approve Minutes**

On review of the October 30, 2013 meeting minutes, there were no objections to the content or convey of Board minutes.

Motion: Approve October 30, 2013 minutes

Moved by: Unclear

Seconded by: Unclear

Board APPROVED the Minutes unanimously.

Agenda Item 4 **Business Items**

The Chair said that the Board Quarterly Revenue and Expense Report would be addressed at a later time. Chair Thayer said that Mr. Erickson had been appointed

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for another four year term and would be subject to legislative confirmation this year. The Chair thanked him for volunteering to serve another four years.

a) Correspondence: Chair Thayer reviewed correspondence included in the Board packet that was received from the last meeting. The Chair directed the Board as a point of record to note that SEAPA had given paperwork consisting of license categories and drug and alcohol testing of members who had participated. Chair Thayer said that the rate change published for cruise ships was in the correspondence section, he believed there were no objections, and that there would be further discussion under the pilot organization reports section of the agenda. Captain Sinclair, the president of SEAPA, confirmed that there were no objections to that rate change.

The Chair said the next item was a rate change on bulk cargo vessels between ASA and SEAPA. The Chair requested representation from both organizations to give a brief if a hearing was needed. Captain Sinclair said that the organization was still in negotiations concerning the pilot rate but was hopeful that within a week there would be resolution. Mr. Tibbles from ASA confirmed that he agreed with Captain Sinclair and believed that the organizations were close to agreeing upon rates. The Chair said that if, by chance, they were unable to agree on rates to let the MPC know to get on the docket with the Administrative Law judge since the judge needed six to ten weeks to hear cases.

The Chair deferred to the MPC to discuss the two SEAPA pilots that had upgraded. The MPC stated that two pilots upgraded from Deputy to Unlimited pilots on January 13. The MPC said that Captain Sam Daniels and Captain Christian Biagi's paperwork was included in the Board packet. The Chair said the Board had previously voted on the upgrade via electronic voting but wanted the information on record.

The Chair said that the Board would now hear information on the expense report and House Bill 184. Ms. Hewlett said that she had informed Ms. Chambers that the meeting was running ahead of schedule and that Ms. Chambers was in a different meeting. The Chair asked if Ms. Hewlett was prepared to discuss the Board Expense Report or if she recommended waiting for Ms. Chambers. Ms. Hewlett said she was prepared to answer questions but was unable to discuss House Bill 184. The Chair recommended that Ms. Hewlett contact Ms. Chambers and both would telephone in when available.

The Chair asked about new business and there was none.

Agenda Item 5

Association Reports

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- 1:31 a) SEAPA: Captain Sinclair said there was nothing to add aside from what was contained in the Board packet. The Chair asked if there were any questions from the Board and there was none.
- b) SWAPA: Chair Thayer invited SWAPA to speak. Captain Ward said there was a total of four trainees and one new deputy that was working on his first tonnage increase. He stated that one deputy marine candidate was finished with charts and completing supervised dockings. Captain Ward believed he would be finished with supervised dockings within a year. Captain Ward stated that there were two apprentices doing dockings and coming on line in 2015 and 2016, with another pilot coming on line in 2017. The Chair asked how many pilots were scheduled to retire and if the training pilots would replace the retiring pilots. Captain Ward stated that two pilots retired this year and that they expected one pilot to retire each year for the next three years. Captain Ward said that business was down and there was no rush to replace pilots. The Chair said he understood and asked for questions from Board members. There were none.
- c) AMP: Captain Christie said he had nothing to report as far as new business. He said that there is one trainee involved in hands-on training and one apprentice. Chairman Thayer asked if there were any questions and there were none.

Agenda Item 6 Regulation Change to 12 AAC 56.115 (2) (d)

Chairman Thayer requested a discussion concerning a current regulation about magnetic compasses. He stated that there is no professional standard to be a professional magnetic compass adjustor per the State of Alaska or the U.S. Coast Guard. He said, therefore, there is no professional standard for the deviation card, there are few magnetic compass adjusters in America, and limited adjustors in Canada. The Chair stated that this became an issue when one of the compass adjustors in Canada died and there was no one to replace him. He stated that the U.S. Coast Guard regulates magnetic compasses as a backup to GPS and gyro compasses. Chair Thayer stated he wanted to discuss a possible amendment to the regulation and remove from 12 AAC 56.115 (2) (d) “ a magnetic compass with a deviation table issued not later than one year before the date of the application of the exemption”. He stated that compass adjusting is an old art form and that there is no one going into that field, and that the people who went into that field are dying off. Chairman Thayer stated that this was a requirement that was difficult to fill for foreign yachts coming to Alaska. Captain Arzt said he did not read anything in the regulations that specified professional services and thought that the language should be changed. Captain Arzt said that after 30 years of sailing, magnetic compasses should always have a table associated with it and that a mariner could do it themselves. Captain Arzt stated he performed that when there

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wasn't anyone available. Captain Arzt suggested that a simple solution may be changing the language from "issued" to "performed". Captain Arzt thought that anyone could create a deviation table, and that anyone who came onboard would be able to look at the card or use the device and need a reference. He stated that it wasn't onerous. Captain Antonsen said he agreed with Captain Arzt and that creating a deviation card was something most mariners did themselves. He stated that every mariner would want to know how close his compass was. He stated that it's important to know the difference between True and Magnetic headings, so if the power or gyro fails, someone could steer by magnetic. He stated every master would want to know the deviation, and that all vessels should have compasses. He stated that all countries required compasses onboard and that the time varied between how often the deviation tables were created. Captain Antonsen stated that this did not seem to be a pressing issue and that any crewmember could do it. He did not believe it should stand in the way of commerce. He stated that it was not restrictive because only certain people could do it, but wide open because anyone could do it. Captain Antonsen asked if any pilot associations had any feedback and that it did not need to be fixed since it wasn't a real obstacle.

Chairman Thayer stated that it may be an interpretation and requested the MPC to clarify. The MPC stated that she receives pilotage exemption packets and checks for the date the compass deviation table was issued. If it is outside the one year mark, she kicks the paperwork back to the agent, who kicks the paperwork back to the vessel. She stated that there were multiple boats, for whatever reason, that couldn't get a professional compass swinger before coming to Alaska. The MPC said that she was contacted by a vessel that couldn't get their compass adjusted because the professional adjustor had died, they couldn't make an appointment with the second one, and contacted her asking what they should do. The MPC said that started this conversation. Captain Arzt said that the answer is for mariners to update their own deviation card because he thought the standard was askew and that they didn't need a professional. Captain Arzt suggested that it should even say that a professional adjustor is not needed. Chairman Thayer said that "issued" means a third party had issued it and "perform" means that it needs to get done within the one year timeframe.

Chairman Thayer asked if any SEAPA pilots had feedback since that was the area that primarily received yacht traffic. Captain Sinclair said that he agreed with Board members about relaxing the issue about professional services since he believed that professional mariners should know how to create a deviation card and he would hate to think that a professional mariner wouldn't know how to do it

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and come up to Alaska. Captain Sinclair did not recommend the requirement should be relaxed but the wording should be changed so mariners could do it themselves. Chairman Thayer asked if there was any other public comment. Paul Axelson from North Pacific Maritime said he thought the solution would be putting the issue back on the master and that the issue didn't require a professional service or a document from a third party.

Mr. Erickson questioned what happened if the compass was swung within one year of applying for exemption. The MPC read the regulations that the deviation table issued later than one year before the date. Mr. Richmond asked if it was possible to substitute the word "updated", but Captain Arzt thought that "performed" was a better word choice and that no professional standard or stamp was required. Captain Arzt stated that the compass could be thirty degrees off and the mariner wouldn't know it because they placed devices onboard the ship. He said that the deviation table needed to be fairly accurate. Mr. Rueter asked if the Board was reviewing the regulation or giving the MPC better guidance in how to interpret the regulation. Chair Thayer stated that he thought it would be helpful to change "issue" to "perform" so it's clear in regulation and clear in the minutes what the definition is in case of further conflict. Mr. Schrock said that this was not a matter of clarifying the process but changing the regulation. Chairman Thayer said he thought "issued" would be read by others and others would think they needed a third party. Mr. Schrock moved to strike the word "issued" and replace it with the word "performed". The Chair qualified that was a change in regulation 12 AAC 56.115 (2)(d). Captain Arzt seconded the motion. Chair Thayer asked for discussion. There was none. Chair Thayer requested a roll-call vote.

Motion: Strike "issued" and replace with "performed" in 12 AAC 56.115 (2)(d).

Moved by: Mr. Schrock
Seconded by: Captain Arzt

Captain Antonsen	yes
Captain Arzt	yes
Mr. Richmond	yes
Mr. Erickson	yes
Mr. Rueter	yes
Mr. Schrock	yes
Mr. Thayer	yes

Mr. Thayer called for a roll-call vote and the Board APPROVED the motion. Chair Thayer requested that the minutes reflect that it could be completed by vessel personnel.

Agenda Item 7

Board Expenditures and Reports & House Bill 187

a) Board Expenditures and Reports: Ms. Hewlett and Ms. Chambers made contact telephonically with the Board. Chairman Thayer stated that Ms. Chambers was the Operations Manager and Ms. Hewlett was the Administrative Assistant for the Division of Corporations, Business, and Professional Licensing. Ms. Chambers thanked the Board for their time. She stated that the second quarter board report was the schedule of costs and revenue through the second quarter. Ms. Chambers explained that it was a cumulative document and showed first and second quarter, and she pointed out that second quarter of FY13 showed that revenue was fairly low. She said that it was to be expected this time of year, especially during a non-renewal year. She recommended comparing the column to another non-renewal year, such as FY12. She stated again that the Board was halfway through without foreign yacht revenue and other revenue entered. She asked the Board if there were any questions. There were none. Ms. Chambers said that the account code details were also included so the Board could see the direct expenditures attributed to the Board. Captain Arzt asked clarification about the foreign pleasure craft information. Ms. Chambers explained that foreign yacht information was tracked through an expenditure code and that her division tracked that information separately for internal accounting. She stated that it was all the Board expenditures that the Board covers. Chair Thayer asked why the account code 29175 was for the ASA Legal Trust. Ms. Chambers asked Ms. Hewlett, and Ms. Hewlett clarified it was the legal trust for the bargaining union's legal trust. The Chair spoke that the MPC was a partially exempt employee and was not in a bargaining unit. The Chair stated that the MPC was not in a union. It was clarified that the Chair was saving the Board \$8 over time. Ms. Chambers wondered if there was another employee providing assistance to the Board that may have gotten an accounting line in the past. The Chair requested if Ms. Chambers and Ms. Hewlett could double-check on the \$8 going into that accounting code. Ms. Hewlett confirmed that she thought it was another employee who assisted the program at a different time. The Chair asked if there were any further questions from the Board and there were none.

Ms. Chambers asked if there were any questions on indirect costs. She stated that the indirect cost methodology was distributed in October. Ms. Chambers said she didn't remember discussing the information in October, and she said that many Boards were interested in how finances were shared within the division and to different agencies. The Chair requested Ms. Chambers to give an overview of what indirect costs were and how those are administrated proportionally through other Boards. She stated that indirect costs are the costs of doing business and

can't be directly attributed to the any particular board. She said what Boards see on quarterly basis is direct expenditure solely bore by the Board of Marine Pilots, but that the division had other operations that can't be quantified and tracked at that level, such as the pool of administrative people that complete receipting, to the director, to all the 39 licensing program. She stated that indirect allocation is a methodology to distribute those expenses to all the licensees and licensing programs, as well as share the portion for pooled resources. Ms. Chambers stated there were two key areas. She stated the Division of Administrative Services performs all the HR functions, travel, processing, fiscal, budget, and IT work. She also stated that lots of work goes through the Office of the Commissioner, and that these are not revenue generating agencies themselves so that other agencies within Commerce support it through allocation. She stated that those are the two ways that indirect expense is funneled down to the licensees. She stated that if the indirect costs are thought of as 100%, either generated internally or through the department, Professional Licensing is 84% of the division. She stated that CBPL takes on 84% of the indirect expenses with the 16% taken on by business and corporation units. She stated that within that 84%, the costs are allocated to the licensees, which, statutorily, is how money is recouped to cover the cost of doing business.

b) House Bill 187: Ms. Chambers said she would discuss House Bill 187. She stated that 84% of the indirect costs of the division are parceled out on an even or equal basis to each licensee. She explained that, while the Board has a particular number in the indirect line, the number is the accumulation of all the indirect costs that licensees had borne. If there are more licensees, there will be a higher number in the indirect column. If there are fewer licensees, there will be a lower number in the indirect column. Ms. Chambers stated that, essentially, each licensee pays the same amount regardless of what profession they are or what licensing program they are part of. Chair Thayer said that from FY 12 and FY 13 combined, the indirect costs were \$14, 318.00, and that there was approximately \$7,000 per year. Ms. Chambers said that was correct and that costs were averaged since the costs could only be known at the end of the fiscal year. Ms. Chambers stated that costs were averaged throughout the year so information for second quarter of FY 14 is really the first half of FY 13 and that costs would be trued up at the end of the fiscal year. She stated that the costs were on track and trending to be about \$7,750. Chair Thayer stated that the Board budget is approximately \$370,000 and change, and of which \$14,000 is the indirect cost. Ms. Chambers confirmed he was correct.

Ms. Chambers said that House Bill 187 had been mentioned to the Board, and that at the end of last Session the house bill was moved out of House Labor and Commerce and moved into House Finance. She said the bill had not been scheduled for hearing yet at House Finance. The Chair asked if Ms. Chambers could explain what the bill did. She said that the bill is a proposal through the

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administration to change how licensing fees are analyzed and set. She said that the division spends a lot of time reviewing the process and creating recommendations that go in front of the legislature. She said one of the recommendations was to consolidate certain fee types within a program. Ms. Chambers stated that some programs have many, many license types and also have administrative fees. She said that the Board of Marine Pilots doesn't have those fees but some boards do. She said that the division would like the flexibility in law for consolidation methods to provide more efficiency to the Board and customer service, so that customers did not feel like they were being nickel-and-dimed. Also, she said that this bill would give the division flexibility to advertise the cost of licensure over time. She said that many programs have a hike and valley effect when smaller boards have license or administrative hearing costs and that some of the costs can run upwards of tens of thousands of dollars in legal fees. She stated that amount can really increase a licensee fee dramatically to a small group of licensees and can be difficult for those licensees to budget for their businesses. This would give the division the opportunity to smooth out those costs. Ms. Chambers said that one of the most attractive pieces of House Bill 187 is a proposal to encourage the public to share in the costs of their public protection, and to take the personal services of the investigator – the cost to keep an investigator on the payroll – and fund that through general appropriation. She stated that investigations can be one of the most volatile areas of change in a Board's budget, and this would give the cost to the public to fund. She said that this would take out an expense cost and smooth out the ragged edges that a board can experience. She said that she was hoping the bill would stay alive through April and be heard and adopted. She stated that boards are being made specifically aware of this bill so that boards are comfortable with the concept and can ask any questions that they have and also can pass a resolution in support by writing a letter or directing a staff member to write a letter so that the division can go into hearings armed with the knowledge of how boards are leaning for or against, provide that information to legislature, and address concerns if there were any. Chair Thayer asked who the sponsor of the legislature was, and Ms. Chambers said it was sponsored by the House Labor and Commerce Committee. Chair Thayer asked if the administration was in favor of the bill and Ms. Chambers said yes. The Chair thanked Ms. Chambers for the information and asked for questions. There were none.

The Chair requested if it was the will of the Board to take a recess before moving on to other business. The Chair recessed the Board for ten minutes.

Agenda Item 8

Next Meeting

The Chair discussed when the next meeting would be. The Chair stated that at the October meeting the Board decided the spring meeting would be in Juneau for one or two weeks after Session. Chairman Thayer said that Session ended on Easter Sunday and he believed it was April 20. Chairman Thayer said the next meeting would be during the week of April 21 or the week of April 28 and if the Board had a preference. Mr. Richmond requested the week of April 20-21 since the industry members would have meetings in Vancouver the following week. The MPC mentioned that the Boston Marathon was April 21 and confirmed she was competing in it. The Board asked if Thursday April 24 in Juneau would work for the Board. The Board said this would be the target date. The Chair stated that this Board meeting started in the afternoon to allow members in Seward and Homer more drive time. Chair Thayer asked if the Board would prefer the afternoon in Juneau. Mr. Richmond asked when the first flight to Juneau arrived that time of year. Chair Thayer stated it landed around 9:30 am or 10:00 am so Board members could catch the morning flight, have lunch be brought in to the meeting, and depart on the evening flight around 8:00 pm. The Chair asked the Board members from Ketchikan and the Board members said they would have to travel the previous night regardless. Chair Thayer stated that they would target the afternoon and target the Baranof and work out the start time and perhaps lunch so members can make the evening flight out. The Chair asked if there was any other business. Captain Arzt asked if there was any update on the fee imposed on Greenpeace. Chair Thayer said that would be discussed in Executive Session.

Captain Antonsen said that other pilots were scheduling other conventions and meetings around Board dates and it would be helpful to plan Board meetings a year out. Captain Antonsen requested the Board consider tentatively scheduling board meetings like this year, in the last week in October and the last week in January so that there were targets to hit on so that other Board members could schedule other activities. The Chair said he would prefer that. Captain Antonsen asked if he could propose sometime in the middle of the last week in October and the middle of the last week in January and have those times blocked out. The Chair said he would like to continue rotating the Spring meeting and that the Board had been to Homer and Ketchikan, but he was unsure how far the Board would like to venture out. The Chair stated that Kodiak and Valdez had also been suggested before. Captain Antonsen made the motion, seconded by Mr. Schrock, and it was unanimously decided to move the Board into Executive Session under AS 44.62.310 Open Meetings Act for the purpose of subject's undue prejudice, reputation, and character of any persons provided the person may request a public discussion.

Agenda Item 9 Executive Session

4:00 The Board came out of Executive Session at 4:00 pm.

Motion: Close Case 2013-001863 with no recommendation.

Moved by: Mr. Schrock
Seconded by: Captain Arzt

The Board APPROVED the closure of the case unanimously.

The Chair said the other item was an issue that had been previously discussed with the Board involving Greenpeace. The Chair stated that the Board fined Greenpeace for a violation of compulsory pilotage waters for \$15,000. The Chair stated that the Board had cited Greenpeace \$15,000 for a first offence; Greenpeace countered they did not want the offense on record and countered that they wanted to resolve the issue for \$5,000. The Chair asked what the pleasure of the Board in this matter.

Motion: Last letter to Greenpeace and \$15,000 and a first offense stands. The Board does not accept Greenpeace's offer of \$5,000 and no offense.

Moved by: Captain Antonsen
Seconded by: Mr. Erickson

Captain Antonsen	yes
Captain Arzt	yes
Mr. Richmond	no
Mr. Erickson	yes
Mr. Rueter	yes
Mr. Schrock	yes
Mr. Thayer	yes

Chair Thayer called for a roll-call vote and the Board APPROVED the motion 6-1.

Chair Thayer said the next Board of Marine Pilots meeting was tentatively scheduled for Thursday April 24. The Chair asked if there were any other matters that needed to come before the Board and there were none.

On a motion by Mr. Thayer, seconded by Mr. Erickson, and carried without dissent, the Board RESOLVED to adjourn at 4:04 pm.

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Respectfully submitted:



Crystal Dooley

Marine Pilot Coordinator



Curtis Thayer

Chairman