

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

DRAFT MINUTES OF MEETING

January 28, 2016

Anchorage, Alaska

These draft minutes have been prepared by the staff of the Division of Corporations, Business and Professional Licensing. They have not been reviewed or approved by the Alaska Board of Marine Pilots.

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 28, 2016 in Anchorage, Alaska.

Call to Order/Roll Call

The meeting was called to order at 8:45 AM by Chairman Shirley Marquardt. The Marine Pilot Coordinator (MPC) conducted roll call.

Participating members constituting a quorum were:

Hans Antonsen	- Pilot Member
David Arzt	- Pilot Member
Richard Erickson	- Agent Member
Tom Rueter	- Agent Member
Shirley Marquardt	- Public Member, acting Chair

Staff present:

Crystal Dooley	Marine Pilot Coordinator (MPC)
Martha Hewlett	Administrative Officer II (teleconference)
Shalane Cedaberg	Boards and Commissions

Members of the public present:

Ed Sinclair	Southeast Alaska Pilot Association
Paul Merrill	Southeast Alaska Pilot Association
Rich Preston	Southeast Alaska Pilot Association
Scott Jones	Southeast Alaska Pilot Association
Jenni Zielinski	Southwest Alaska Pilot Association
Ron Ward	Southwest Alaska Pilot Association

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Michael O'Hara	Southwest Alaska Pilot Association
Keith Austin	Alaska Marine Pilots
Bill Gillespie	Alaska Marine Pilots
Bob Poe	Alaska Marine Pilots
Daniel Buchsbaum	AIR LLC
Bob Arts	ALAMAR
Jim Lee	Alaska Maritime
Mike Tibbles	Alaska Steamship Association
Ron Hildebrand	Trident Seafoods
Paul Axelson	North Pacific Maritime Institute- Yacht Services of Alaska
Gary Messer	Pacific Reefer Logistics

Bruce Wyrock from Southeast Alaska Pilot Association and Governor's Designee Chris Hladick attended via 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 Review/Approve Minutes

On review of the October 27, 2015 meeting minutes, there were no objections to the content or convey of Board minutes.

Agenda Item 3 Safety Brief

The MPC briefed the Board and the audience on the muster location if the building needed to evacuate.

Public Comment for 12 AAC 56.990(a)(40) Definition for Length Overall

The Chair opened the floor to public comment pertaining to addition to regulation 12 AAC 56.990 (a)(40) Definition of Length Overall. There were none.

Discussion Concerning Regulation 12 AAC 56.990(a)(40) Definition for Length Overall

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Mr. Erickson stated that based on the public comment received and the comments during the last Board meeting, he moved to table the vote and recommended sending the language to the Foreign Yacht Committee. Mr. Rueter seconded the motion.

The Chair asked about the yacht committee. Captain Preston stated that he and Mr. Axelson were the co-chairs and that information could be forwarded to the Board. Captain Antonsen asked if the yacht committee would like be involved. Captain Preston stated that he thought there was a split vote with the Board and the time to send the regulation to the yacht committee had past. He stated that he thought if it went to the yacht committee, it would be the same conversation that the Board would have and he believed the vote would be delayed. Captain Preston stated that the written comments were effective and the yacht committee would not be. Mr. Axelson stated he thought it would be better at the yacht committee. He stated that Captain Winters did a good job creating the yacht committee and he didn't believe the time had passed. The Chair asked what was used in the past, and the Board had previously discussed dive platforms and swim ladders.

Captain Antonsen stated that the ship's regulations were used to determine fees. He stated that not every registry had length overall and that it's not defined or easy to determine, and there was a lot of discrepancy between vessels. Mr. Antonsen stated that this was in response to a formal complaint and there is a lack of clarity in the regulation. Mr. Erickson stated that back in 2012 the issue was addressed that the MPC would use the registry to use the overall length for billing purposes. He thought that, even though it's not in writing, the Board should use the ship's registry LOA. He stated that one vessel had the length of the registry within exemption guidelines but was transmitting a LOA on AIS above the registered length and shouldn't count for exemption. Mr. Rueter stated that the current definition of LOA affects all vessels subjected to pilotage, not just to yachts. By review of the tariffs, he stated the tariffs give a LOA component and the Board could adopt regulations that affect all of the shipping within the state, specifically in how they are charged in that LOA is used in fee-setting. He stated that this may be seen as only a solution to foreign yachts, the Board should broaden the discussion so it doesn't cause another issue.

The Chair asked if the new definition was conclusive of anything that might need fees. She asked if the concern was over swim-steps and things that extend. Mr. Rueter asked that there would be discussion about what was considered the hull. Captain Arzt states that the Board isn't hamstrung since the statute uses LOA but regulation hadn't defined it accurately. He stated he was not opposed for the yacht

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committee taking this on. He stated the Coast Guard gave a good example of a definition, the Board hadn't reached a consensus, and he personally disagreed with using the intent of the 2012 letter to extend into this conversation.

The Chair asked how insurance companies calculated yacht insurance. Mr. Rueter stated that he didn't believe there was anyone with an expert opinion, but that each flag state established their own method of determining LOA. He stated that he'd like to hear from someone in charge of setting that measurement for the particular flag state. Captain Antonsen stated there hasn't been tariffs for years, they are now published rates and are different from tariffs, and stated that the Board should ask the pilot association what they thought. Captain Sinclair stated that rates do include a formula with LOA, and those documents have a LOA definition approved by the Board. The Chair asked how the Board felt about using the registration documents for LOA. Captain Arzt stated there are certificates of documentation, and in the case of the British certificate of registry, some used to have lines for Length and Overall Length. He stated that British registry only supplies one measurement for Length and it's based off a tonnage calculation. Mr. Erickson said he agreed that using LOA on registry for fees and that past practice hadn't defined using the registry for the actual length. He stated that the Board was here to simplify it and to bring this business into the State so vessels knew they wouldn't get into trouble when they got here. He stated that the Board could determine if a swim ladder was part of the hull. Captain Antonsen stated that if Mr. Erickson's motion went through, this regulation change wouldn't be included for definitions section but under the exemption section with "Under this section, the definition for LOA is..." so that it only applied to yacht exemptions and not all vessels. He stated that, for simplicity sake, using the registry length is simple but is still ambiguous. He stated tabling the regulation would mean more public comment, and then the definition could be easily applied to a different section. Mr. Erickson stated the regulation should be public commented into 12 AAC 56.90 instead of the definition section. Captain Arzt stated he wanted to submit it to the yacht committee for public comment. The Chair stated that summer was approaching and to give the yacht committee some direction. Mr. Erickson asked the Board if they could add some language that the registered length for the summer. The MPC stated the Board could vote down the regulation, kick it to committee, and then start the process again.

Captain Antonsen stated that he would vote yes for the proposed regulation change and this would remove ambiguity. He stated that he agreed with the commerce side not to change anything in the middle of the summer. Captain Arzt

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stated that using the CFR definition under chapter 46 would give one measurement for the exemption and another measurement for fees. The Chair stated that the purpose of tabling this motion would be to send it to the yacht committee for further discussion at the Spring meeting. Captain Arzt stated that the Board was already past the timeline, and that the yachts have already made their plans and it would take about two months to make a regulation the deadline for the 2016 yacht season was already missed. Captain Arzt stated the Board could add an effective date. The Chair asked why the pilots would have an issue with that definition would apply to all vessels. Captain Arzt stated that the Associations should be asked. The Chair suggested the Board vote to table the motion to give to the yacht committee. She stated that the memberships could have internal discussions about pilotage and that the Board was looking for clarification. Captain Antonsen asked if there would be proposed public comment to put out in April to take action in October. Mr. Erickson stated if this were to be voted to table so that LOA would be used registry from the paperwork as a policy decision. Mr. Erickson asked what the process this summer would be for yachts. Captain Antonsen stated he wasn't comfortable with a policy statement. Mr. Erickson stated that nothing would change for the MPC. The MPC described the exemption application process to the Board and that registry length was used for collecting fees only, and that the LOA written down by the owner was used for exemption determination. Captain Arzt asked if an application is processed, and there is a definition yes or no, no one can change their vote after the exemption is granted. He stated that challenges had come up and thus topic needed discussion. He stated he didn't think it was up to the Board member to do research to see if it met the threshold to the MPC.

The Chair asked if in adding the definition would bow sprints, swim ladders and other objects count towards LOA. Mr. Reuter stated the yacht committee would discuss that point. Captain Antonsen stated the Board was concerned about removing ambiguity. He stated that Mr. Erickson stated that lack of ambiguity was making it more difficult for those planning their trips and didn't want something to change in the middle of the summer. The Chair stated that the Board may have to take action in April based on a Coast Guard regulations. Mr. Erickson stated he still wanted the motion to table and send along to the yacht committee for them to come up with the definition to be placed under the definitions for pleasure craft exemptions. The Chair stated that tabling the regulation would take it off the table completely.

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The Chair asked to clarify the motion with a friendly amendment and called for a roll call vote:

Motion: Table the action of purposed changes to regulation for the definition of LOA for exemptions in order for the language to go to the yacht committee for further deliberation for options and suggested changes and back to the State before the April meeting.

Moved by: Captain Arzt

Second: Mr. Rueter

Captain Antonsen – No

Captain Arzt - Yes

Mr. Rueter – Yes

Mr. Erickson - Yes

Ms. Shirley – No

The motion carried. Mr. Hladick joined the conversation at 0940. The Board took a break from 0940 to 1000.

Agenda Item 4

Business Items

a) Correspondence: The MPC directed the Board to the letter she wrote in response to redaction questions from the following meeting. The Chair stated that it was up to the MPC , and if there are no further or comments, and Board would move on. Captain Antonsen asked the Board for clarification in how the Board was supposed to communicate about these issues outside of a traditional meeting. The MPC directed the Board not to use “reply-all” when replying to the MPC on votes and that discussion over email is illegal. Mr. Rueter asked if the yacht committee was considered to be a component of the Board and subject to open meeting act. The Chair asked the MPC for guidance. The MPC read from the Boards & Commissions Manual that subcommittees such as the foreign yacht committee were considered committees and needed to properly notice all meetings.

b) Formal recognition of pilots receiving endorsements: The Chair announced that Captain Tomi Marsh had received her Marine pilot license, and the Chair knew her from when Captain Marsh was in charge of the F/V SAVAGE with an all-woman crew. The Chair stated that Captain Marsh was very responsible, steady as they come, and the Chair was delighted Captain Marsh was joining the ranks and sent her personal congratulations. The Chair thanked Mr. Richmond for his past service to the Board and to the State, and that in March the Board would be welcoming Mr. Andrew Mack to the Board to take that seat.

c) Introduction of Daniel Bushsbaum, Alaska Incident Response LLC: The MPC invited Mr. Bushsbaum to introduce himself to the Board. The MPC stated that Mr. Bushbaum was interested in serving as an expert witness for investigations, should the Board ever need his expertise. Mr. Bushbaum stated he recognized faces from the Coast Guard, and that he really enjoys professional mariners and the marine industry. He stated that the Board has his resume and CV, and that he's worked for both civilians and the Coast Guard, and he currently works for a private company as a marine investigator. He stated he started a company doing independent consulting and would appreciate helping the Board at any point. The Chair thanked Mr. Bushsbaum.

Agenda Item 5

Association Reports

a) SEAPA: Captain Paul Merrill, President of SEAPA, stated that very little had changed since the Fall meeting. He stated that SEAPA had 48 full pilots and seven trainees, and that one was expected to be licensed this Spring.

b) SWAPA: Captain Mike O'Hara, President of SWAPA, stated that SWAPA had 14 Unlimited Pilots, three deputies and a couple apprentices and observers. He stated that SWAPA expected 16 pilots by the summer.

c) AMP: Captain Bill Gillespie, representing AMP, stated that Captain John Schibel had retired, Captain Keith Austin was a new member, there were eight full pilots and one Deputy marine pilot with the one trainee entering the hands-on phase.

Proposed change to regulation 12 AAC 56.205 Availability of Pilots: Captain Gillespie stated the issue was the 48 hour and 96 hour notification to get a pilot to an outpost. He stated AMP was asking for more notification in that they've seen change in the traffic, there are more locations to dispatch pilots to, and AMP is having more problems flying into different ports. He said that if AMP can't provide a pilot, the ship can sail without a pilot. He stated that Togiak is currently a 48 hour notice, and under the best conditions, a pilot can get there with maybe six hours before the ship wants to sail. He states that most ships will wait a few hours, but if there is weather involved, the vessel will sail without the pilot. He stated that vessels leaving Togiak are most likely tankers carrying cargo and fuel. He stated that it's a 3.5 hour transit through pilotage waters and that it's an extremely environmentally sensitive place. He stated that it's an important fishery three seasons a year. He stated that, with one more day notice, AMP can stop

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these situations arising where ships could sail without a pilot. Captain Gillespie stated that many ships choose not to wait past the 48 hour notification window.

The Chair stated that there are many locations close to Unalaska but people have to travel to Anchorage, and that many flights can be booked two weeks ahead. Captain Arzt asked if any of the vessels were draft restrained or tidally restricted. Captain Gillespie stated that there can be under keel clearance issues. Mr. Rueter stated that there are two points of dispatch, in Anchorage and Dutch Harbor. Mr. Rueter asked if there had been any vessels that sailed without a pilot, and if AMP was trying to prevent a future issue or address a past issue. Captain Gillespie stated that it was a potential issue that would get bigger with different traffic. Captain Gillespie confirmed that a tanker has not sailed without a pilot; however fish vessels have sailed without a pilot. He stated there was more business in Kuskokwim Bay and Togiak. Mr. Rueter said this was to address a preventable issue. He asked how far the Board needed to go to approve dispatch times. Mr. Gillespie stated that one extra day would help all points. He stated that the Western Aleutians would be one timeframe and other places would be another. Mr. Reuter stated that AMP could also divide up the State by latitude/longitude. The MPC stated this would follow the same regulation process as other regulation changes. The Chair directed the Board to read through the language. Mr. Rueter stated that he preferred a regional assessment of times instead of a port since people might not understand where these locations were. Captain Arzt stated that some ports have limited flight availability. Mr. Rueter stated if someone wanted to go a different port that wasn't listed, how is that addressed? Captain Gillespie stated that the notification times are for both entry and departure, and that the pilot doesn't always stay with the ship. Captain Arzt stated that if it's not designated specifically in regulations as a pilot station, it's designated as another location. Captain Gillespie stated that there could be a regulation where it's differentiated by region and by location. The Chair asked if Mr. Reuter had suggested language and he did not. Mr. Erickson asked if vessels know when they plan to depart and Mr. Rueter states that is dependent on weather and activity. Captain Gillespie stated that they do not hold vessels back; however the issue is to prevent vessels sailing without a pilot. Captain Arzt stated that any ports not specifically named could be 96 hours. Captain Gillespie stated the Coast Guard requires a 96 hour notification for arrival. Captain Antonsen stated it's in the Board and Alaska's best interest to increase the notification time, and as a Board he leaned to extending the time so there is no excuse to sail without a pilot. Captain Arzt stated he saw this as being responsive to air travel and schedule, and he was starting to hear adding extra caveats may make it onerous. He stated that

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Adak and Atka have only two flights a week, and the current time frames just aren't appropriate for the flight schedules. Captain Gillespie stated that tanker traffic can run from Nome to Dutch Harbor, and that AMP could bring a vessel into a safe harbor and lee, and that place may not be in the description. The Chair clarified that the pilot would have to be picked up somewhere. Mr. Rueter asked if AMP to revise all 48 hours to a different number, and additionally requiring specific numbers for the port listed below, and it was clarified that all 48 hours would be moved to 72 hours, and specific ports would be listed with different numbers. Captain Gillespie stated he thought that would work, and that Akutan would stay at 48 hours. Mr. Rueter stated there was a cooperative agreement between agents and pilots to work together. The Chair asked for a motion.

Motion: In 12 AAC 56.205(B), substitute "48 hours" with "72 hours" wherever applicable plus the insertion of a statement "Except for the following identified locations where minimum time is noted individually: (1) Akutan, 28 hours, (2) Kuskokwim, 96 hours (3) Pribilof Islands 96 hours (4) Port Clarence, 96 hours, and (5) Bethel, 96 hours". There will be no changes to (d).

Moved by: Mr. Reuter
Second: Mr. Erickson

The Chair asked for a roll call vote:

Captain Arzt – Yes
Captain Antonsen – Yes
Mr. Erickson – Yes
Ms. Marquardt – Yes
Mr. Rueter - Yes

Motion passed 5 – 0.

Agenda Item 6 Board Revenue and Expense Report

Ms. Hewlett attended the meeting via teleconference. She stated the report represented July 1 2015 through Dec 1 2015. She stated the Board asked for a breakdown of revenue at the last meeting. She said that for the first quarter, \$3,350.00 was for earned from FPC, and the other \$5,710.00 was generated by Marine Pilots. She stated that the Personal Services under Direct Expenditures is the MPC time, regulations specialists, paralegal, and office assistants. She stated that the contractual costs were under the 3000 series, listed on page 2. She listed that the Indirect Expenditures line is a placeholder since indirect costs would not be divvied out until the end of the year. She stated the Board was ending the first

quarter with the surplus with \$ 124,503.00. Mr. Rueter asked if there any chance from this report if we get a comparative from a previous quarter. The MPC stated that she would send that information out and include it in future Board pockets. Ms. Hewlett stated there would be an update on the travel process within this week. She stated that, in the initial phase when the Board does pre-approval, the Division staff will submit a waiver request with pre-approval process with justification that the Board needs to meet face-to-face. Ms. Hewlett stated that, even though the Division is receipt-supported everyone is looking at further cost savings measures, as per the Governor's directive. She stated the Division would be looking at other options, like video and telephonic conferences. She stated the Division understood that statute required face-to-face meetings once a year. She stated that, within seven days of the meeting, the Board will report what they accomplished at the meeting. Ms. Hewlett stated it would be a paper trail to justify the cost of travel since it would be scrutinized by Legislature. The Chair thanked Ms. Hewlett. Captain Antonsen asked if the Board was held to the same scrutiny if the Board would like to meet face-to-face in a "one size fits all" process. Ms. Hewlett stated that the Division still had to prescribe and follow the directive of the Governor but the Division did have a little more leeway than if they were general-funded. She stated the Division did had a waiver through the Chief of Staff for CBPL that allows for travel to take place for necessity and he would like a report after the meeting of what was achieved. Captain Antonsen stated that the Board was accountable to the licensees.

Agenda Item 7

12 AAC 56.029 General Requirements for Marine Pilot License use of "Calendar year"

The MPC stated that the interpretation of calendar year can impact someone's licensure based on the 365 days from a specific date instead of understanding calendar year to be January 1 – December 31. Mr. Reuter stated that it might be an anomaly in the regulations that needs to be cleaned up. He stated "year" is used multiple times and "calendar year" is used once. Mr. Rueter suggested a motion to strike "calendar". He stated that the rest of regulations/statute talk about "years of effectiveness" but there is no calendar year. The Chair stated that she thought this was taking the Board to where they wanted to be, in that someone who can apply for their license in April now has to wait for nine months to hit the counter, but that was never the intent. She asked if the Board could think of any use for "calendar". Captain Antonsen stated he agreed with striking "calendar", and the definition in law dictionary is 365.25 days. He stated that the Board should not

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delay a licensee upgrade. Mr. Rueter moved to remove “calendar” from 12 AAC 56.029(2).

Motion: Remove “calendar” from General Requirements for Marine Pilot License 12 AAC 56.029 (2).

Moved by: Mr. Rueter

Second: Mr. Erickson

The Chair confirmed that “year” was defined in regulation. The Chair requested a vote and it was unanimous.

Captain Arzt stated that the State regulation referenced the CFR, which listed 360 days. Mr. Rueter stated the intent the calendar year is 365 days and the CFR states that is 360 days.

Captain Arzt moved to reconsider the motion, and stated he would vote no on the motion, and to add a definition that a calendar year is 365 days. Captain Arzt states that PFD considers a calendar year starting January 1, where the Board of Marine Pilots states it’s a rolling year. Captain Antonsen stated that he thought it was a good idea to reconsider the vote. Mr. Arzt seconded it. The Chair asked if there was a reconsider the vote. It was unanimous.

The Chair stated the Board would have to vote to insert “calendar” and add a new definition. She recommended Captain Art to make a motion to re-insert calendar year and then add a new definition for “calendar year” so that “calendar year”, as used in 12 AAC 56.029 meant 365 days. Mr. Rueter argued that the Board should not define a term to a particular section. He stated that there are other places where “year” is used. He stated that it seems like “calendar year” only seems to be applicable to Deputy marine pilots in reference to their years of service. The Chair stated asked if the Board could stick with the Coast Guard’s definition. Captain Antonsen stated that he didn’t think the definition “year” did not apply to 12 AAC 56.029. Mr. Rueter stated that Regional Requirements for Pilot’s License all reference “year” in subsection 2, and in subsection 3(c), and that none of these sections has being subjected to the definitions regulations. He stated the Board had accepted that one year from the date to the date has been the accepted practice, as many would accept as calendar duration. He stated that adding definitions to each section of regulations would increase the regulation section by 50 pages and that it would add a significant burden to the Board. Mr. Rueter stated that the definition in (34) is only applicable to that section of statute. He stated that it was generally accepted that “year” is implied is duration is a normal period of time. He asked if the Board needed to add a new definition, and Mr.

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Rueter would move that “calendar” is removed so that section could align with all the other sections of statute. Captain Antonsen stated that 360 days shouldn’t be applied to everything, and that Captain Arzt stated there was a definition. Mr. Rueter stated that he didn’t think there was any definition for year. The Chair stated she believed the definition of “year” was specifically directed towards AS 08.62.93(b) and that there was no definition of “year” for other sections so it’s completely clear. Captain Antonsen made a motion.

Motion: Add to the existing regulation 12 AAC 56.990(a)(34) “Elsewhere, year means 365 days” .

Moved by: Captain Antonsen

Second: Mr. Rueter.

The MPC clarified that 360 days is only used for sea service calculation, where the 365 days of a year definition would be used in other places. The Chair asked for a vote; it was unanimous. The Chair stated the Board would discuss a definition of “day” at the next meeting.

1140: Off record for lunch

1320: Back on record

Agenda Item 8 Public Comment – Other Topics:

Captain O’Hara had signed up for public comment but was not available.

Agenda Item 9 “Meets with any casualty” discussion as per 12 AAC 56.960(d) Duties of Pilots

The MPC reminded the Board that previous discussions of 12 AAC 56.960 Duties of Pilots had resulted in disagreement with what should be reported to the MPC.

The Chair stated that Duties of Pilots and the language should not be focused on foreign pleasure craft at this time. Mr. Erickson gave Board members a packet with proposed language for 12 AAC 56.960. He moved the Board accept the amendment to 12 AAC 56.960(d) and to 12 AAC 56.965. Mr. Erickson stated he created his addendums based on Board discussion from previous meetings and added “near miss” language to some of it. Captain Antonsen stated that he had issues with near-miss reporting and the proposed paragraph (f) described a different process than collision, allusion, or grounding. He stated that he thought a near-miss was that everything went well, and that he didn’t agree with the same

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penalties as a collision, allision, or grounding. He stated that the language came from the Puget Sound pilots and he was uncomfortable having that in this section. Mr. Erickson stated that (d) stated that near-miss reporting shouldn't be used as disciplinary action and (f) could be removed. Mr. Rueter asks if this would change the level of reporting pilots must do to the Board based on the incidents they've been involved in. Captain Arzt stated it would impact how pilots report. He stated that he is not opposed to near-miss reporting, however the Board had changed the direction from the initial issue. He stated that pilots are most likely to have something involved in collision, allision, and grounding and then have near-miss reporting by vessels reported in state waters. Mr. Erickson said that if the Board isn't comfortable with near-miss, he would like to create an "incident" definition. He stated the Board wanted to incorporate the language of "collision, allision, and grounding", and brought that information in (c). Captain Antonsen stated that if the Board removed "meets with any casualty", the Board couldn't come up with another occurrence that would quickly and commonly be reported. Captain Antonsen stated that personal injury would be a bad thing to report in that if a vessel heeled to avoid whales, it could cause injury. He stated it was the normal cost of business. However, if the pilot ordered a very quick turn that caused injury, there could be a report made to the Board. Captain Artz said the complaint mechanism exists for masters and pilots, and that he wasn't opposed to having a different conversation about near-miss reporting. He stated he thought it could be used to enhance and improve the pilot system. The Chair stated that if someone's job was to move a vessel from Point A to Point B and something happened, it would be a bad day, and that collision, allision, and grounding explains it all. The Chair stated she understood why it would be helpful information to share, but she thought the pilots would probably discuss all this information anyway. Captain Antonsen stated that vessels may scrape ice because vessels have to go through the waters, but if there is something systemic, a marine safety task force can work with other government agencies for traffic separation. Mr. Erickson was unsure if the State didn't want to know about that, and if the State got that information, they could bring it to the marine safety task force. The Chair stated that she agreed with the information being shared but didn't want it to trigger investigations. Captain Arzt asked if the provided form from Washington State was a near-miss sheet or an incident report. Mr. Erickson stated it was a near-miss form. The Chair stated that the Board thought there was value in understanding near-miss but it may be something more addressed on the pilot association level. Captain Antonsen stated that pilot associations within Alaska and the APA level often discuss what type of information should be shared between regions or contiguous vessels traveling from the United States through

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Canada. The Chair asked if the Board wanted to put the proposed language into regulation. Captain Antonsen stated he would not be interested in putting this information in regulation. Mr. Erickson stated he'd like to hear from the public. The Chair stated the big question was if the Board should add near-miss. Mr. Rueter stated that he thought near-miss should be added due to extra concern for environmental protection and the public. He stated that it may lengthen the discussion but the Board would be remiss in not adding the language. The Chair requested public comment;

Captain Mike O'Hara from SWAPA stated he was extremely opposed for adding a reporting standard for near-miss. He had been a pilot for 40 years and that what he considered a near-miss and a new pilot's near-miss wouldn't be the same. He stated that trainees learn from senior pilots, and that they are in the business of near-miss. He stated that having the State take away a license for something deemed a near-miss would be ludicrous. He stated there is a Harbor Safety Committee in Cook Inlet where they discuss issues like fishing vessels on ranges. He stated conflict with fishing vessels is worked out at safety meetings and not with the State. Captain O'Hara thought the Board should stay focused on grounding, allision, and collision. Mr. Rueter stated that the definition of a near-miss could be different, and the Board was trying to receive the information in what was developing so the Board could look out for safety and environmental concerns for the State. Captain O'Hara said he understood and liked the Chair's idea of giving yearly report from the pilot associations. Captain Antonsen stated that marine safety task forces are involved in Southeast Alaska, and that all pilot associations are involved in their region with stakeholders. Captain Antonsen stated the State doesn't regulate fishing boats, so near-miss reporting could be done in a different place. Captain Antonsen stated the Coast Guard could influence user groups but the Board does not. Captain Arzt stated, as a Board member, he wants to know about any vessels that grounds and other valuable information.

Captain Ron Ward from SWAPA stated he is currently the Vice President of the Cook Inlet Safety Committee Managing Board. He stated that harbor safety committees bring together all the user groups to determine best practices. He stated there are 20 voting members, some government members like the Coast Guard, the State ferries, fishermen, and there are multiple committees, such as navigation and salvage, and all work together to make regulations to go to the Coast Guard. He stated the organization has existed for a year, and that the fishing boats are often fishing on the range. He stated the committee created corridors for

the fishing vessels, and the Coast Guard could have created a safety zone. He stated it was very beneficial when near-miss conversations occur with fishermen. He stated that pilots do discuss information, and that the IMO requires ships to do near-miss reporting. He stated Mr. Rueter stated the statute to protect life and the marine environment through the licensing of qualified pilots. The MPC stated Chief Birt didn't want the Board to get involved with near-miss since it would cause too many investigations. He stated that he didn't think the Board had the purview to disseminate near-miss information. He stated that it would be a good idea for a natural forum where there would be no reporting requirements.

Captain Ward stated that the summer in Prince William Sound is where they navigate a lot around fishing vessels and it would be near-miss reporting all the time. Captain Antonsen asked Captain O'Hara if he would support a regulations change of just collision, allision, and grounding language and striking "meeting with any casualty". He stated that reporting a near-miss would be too complicated. Mr. Erickson asked if the harbor safety committee was voluntary. He stated that SWAPA went to everyone involved and put it out on a website as an open call. Mr. Erickson stated if the safety group was making voluntary recommendations, and Captain O'Hara stated that voluntary recommendations go to regulatory authorities. Mr. Erickson stated the Southeast Waterways Guide was created with different user groups in 2000, and it's voluntary, but if it is published it's hard to explain why people don't participate. Captain Antonsen stated that "best practices" can often become enforced policy if something goes wrong and no one follows it. Mr. Rueter stated that the Coast Guard said at a safety committee meeting that stakeholders need to come up with voluntary guidelines before the Coast Guard had to regulate it.

Captain Gillespie stated that Dutch Harbor was creating a harbor safety committee based on Ed Page's Marine Exchange. He stated that it's voluntary and people create standards of care, and it's quick. He stated he was a tanker captain and the tanker company had a near-miss program. He stated the program made the company a better company, and it was entirely no-fault and no one could be penalized for a near-miss. He stated that Alyeska also has a near-miss program, and if someone has a near-miss in Valdez, they will most likely be penalized. He stated the difference was that the tanker company was within one company while the Alyeska program was between many stakeholders, and that it didn't work well in a regulatory program. Captain Arzt asked Captain Gillespie if he saw a conflict between accident reporting and near-miss reporting. Captain Arzt stated that the Board could engage Chief Birt in how to create a near-miss reporting program.

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Captain Gillespie stated that he didn't want penalties attached to reporting a near-miss. Mr. Rueter asked if the tanker company did any external reporting. Captain Arzt stated that he also sailed tankers in Valdez, and that he thought the near-miss reporting program was goal oriented. The goal was to extract the information to minimize near-miss and that it was an awkward program in the beginning. Captain Gillespie stated the company would make changes based on near-miss. Captain Antonsen asked Captain Gillespie if he would support amended existed language by striking "meets with any casualty" with allision, collision, and grounding. The Chair stated that voluntary reporting standards are really effective, and that Dutch Harbor created a basic map in how people behave in extremely foul weather. She stated that it was "in house" and it wasn't forced by the Coast Guard or the State. She stated she thought the associations could do a lot in house. The Chair stated she took Chief Birt's opinion seriously and the pilots stated that for simple, operational reasons near-miss reporting could be unrealistic, seem punitive, and is unhelpful. She states the primary motivation is that everyone wants the State to out of it.

Mr. Tibbles from Alaska Steamship Association said he thought Washington State published the near-misses as well as the incidents. He states that there is one or two per year, but the State of Washington realized its good policy to ensure safe pilotage and approve training programs. He stated it helped the State prevent them in the future and gave them research material to improve their statutes. He stated that he had researched it, and that it was important that if there was a near-miss program there should be no punishment. He also stated research that near-misses aren't positive, and they are near-hits, and that is definition of taking action in a non-routine action. He stated that the data shows the pilots aren't submitting a lot of reports. He stated that the ones they get are extremely helpful in prevent near-misses from preventing a hit. He said the State of Washington valued that information.

The Chair stated that 50% of the time it's probably another mariner's fault. She stated the investigative language is the poison pill. She stated that no one wants their name linked to an investigation. Mr. Erickson stated a near-miss doesn't mean the mariner is hitting another vessel, it may be something stationary. Mr. Erickson stated the Board didn't seem to want to move it forward. Captain Antonsen thought that harbor safety committees would be a better method. Captain Antonsen made a motion.

Motion: Change to regulation 12 AAC 56.960(d): If a vessel piloted by a state licensed pilot is involved in a collision, allision, or grounding, the pilot shall, no

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later than 72 hours after returning ashore after the incident file with the marine pilot coordinator an incident report described in 12 AAC 56.965. The marine pilot coordinator will, in coordinator's discretion, investigate the reported incident.

Moved by: Captain Antonsen
Seconded by: Captain Arzt

Captain Arzt asked if vessel masters could make a report. Mr. Erickson said yes. Mr. Erickson stated he'd like near-miss information reported somehow but recognized this wasn't the best place. Mr. Erickson asked if this lessened the reporting requirements for the pilot, and Captain Arzt stated it was clearer and that it wouldn't lessen it. He asked if there was anything else someone could report to the State and the Board couldn't think of anything. Mr. Erickson stated the Coast Guard had other reporting requirements. Captain Arzt stated that "damaged in any way" brought way too much information. The Chair stated that she's worked for Samson Tug and Barge and they do report incidents. Captain Arzt stated the Board could continue looking at this information and the Board may not know about damaged docks and vessels, which is also important.

Ron Hildebrandt from Trident Seafoods asked the Marine Pilot Coordinator how many Incident Reports she receives a year because he doesn't understand the scope. He stated it might be a good idea to track vessels covered by the Marine Pilot Act. The MPC stated that she received between 2 – 4 Incident Reports a year. He stated he'd like an annual report from the MPC.

The Chair asked for a roll call vote:

Captain Arzt – Yes
Captain Antonsen – Yes
Mr. Erickson – No
Mr. Rueter – No
Ms. Marquardt - Yes

Motion carries 3-2.

Agenda Item 10

Possible creation of casualty reporting requirements for foreign pleasure craft

Captain Arzt stated that he agreed with Mr. Hildebrandt's thoughts this should cover vessels under the Act and the State should know about collisions, allisions, and groundings for FPC. Mr. Erickson stated the Board should pass the regulation they just talked about before coming up if yachts should report. The Chair states

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the Board could discuss it later. Captain Arzt asked if the Chair would entertain language for the next agenda. Mr. Erickson stated that it could go to the yacht committee. The Chair asked Captain Preston if the yacht committee would be interested. Captain Preston stated that he thought was it was premature, and that the Board should settle the discussion first. Mr. Axelson stated he agreed. The Chair read to the Board an idea for 12 AAC 56.960 Duties of Pilot (d) "If a vessel piloted by a state licensed pilot or a vessel granted a pilotage exemption..." and stated it would be discussed in the Fall.

Agenda Item 10 MPC/Investigator Report

The MPC stated there was one open matter and one matter had been closed since the previous meeting.

Agenda Item 11 Other Business: Next meeting

The Board agreed the next tentative meeting would be in Juneau on April 12, 2016. The Board discussed holding the Fall meeting during the week of October 15 and Board members were directed to email the MPC with their availability.

On a motion by Mr. Rueter, seconded by Mr. Erickson, and carried without dissent, the Board RESOLVED to adjourn at 3:00pm.

Respectfully submitted:

Crystal Dooley

Marine Pilot Coordinator

Chris Hladick

Chairman