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

May 17, 2016
Teleconference originating at the State Office Building
333 Willoughby Avenue
9th Floor Conference Room B-East
Juneau, 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 May 17, 2016 in via teleconference.

May 17, 2016

Call to Order/Roll Call

The meeting was called to order at 10:00 AM by Chairman Chris Hladick. The Marine Pilot Coordinator (MPC) conducted roll call.

Members present constituting a quorum were:

Hans Antonsen	- Pilot Member
David Arzt	- Pilot Member
Andrew Mack	- Public Member
Shirley Marquardt	- Public Member
Tom Rueter	- Agent Member
Rick Erickson	- Agent Member
Chris Hladick, Chair	- Commissioner's Designee

Staff present:

Crystal Dooley Marine Pilot Coordinator (MPC)

Agenda Item 1 **Review and Set Agenda**

Hearing no objections to the set agenda, it was:

RESOLVED to approve the agenda.

Agenda Item 2 **Review/Approve Minutes for April 12, 2016**

The MPC confirmed that the tentative date for the next meetings were October 12 and the January 26. Mr. Erickson stated that Mr. Tibbles had commented at the last meeting there was a no vote on a specific topic, but the MPC had recorded there was a vote. Since the Board had no clear recollection, the MPC stated she would listen to the recording and report back. The Chair called for a vote on the approval of the minutes:

Motion: Approve minutes for April 12, 2016

Moved by: Mr. Erickson
Second: Captain Arzt

The Chair called for the vote and there were no affirmative votes. The Chair stated the Board would vote on the minutes at the next meeting**.**

Agenda Item 3 **Adoption of Regulations: 12 AAC 56.205(b), 12 AAC 56.029(2), 12 AAC 56.990(a)(34) & 12 AAC 56.960(d)**

12 AAC 56.205(b)
Motion: Accept proposed change to regulation 12 AAC 56.205(b) (1):
" (1) in Akutan of the Western Alaska Region, an agent, owner, or master of a vessel shall inform the appropriate pilot organization of a vessel movement at least 48 hours before the movement in order to provide sufficient time for a pilot to arrive at the vessel by the available means of transportation. A pilot will be considered unavailable for service only if the 48-hour notice required by this subsection is given and a pilot does not show up at the vessel to render service. If the agent, owner, or master of a vessel requests a pilot, and the pilot attempts to reach the vessel but cannot do so within 48 hours due to factors beyond the pilot's control, and the vessel then leaves without the pilot, the vessel or the vessel's owner may be charged for the actual expenses incurred by the pilot in attempting to reach the vessel. If the 48-hour notice is not given as required by this subsection and a pilot is not able to reach the vessel to render pilot services, the vessel or the vessel's owner may be charged for the transportation costs incurred by the pilot in attempting to reach the vessel and the pilotage charge and all other charges that would have been incurred had the pilot reached the vessel and provided pilotage services;
(2) in the Pribilof Islands, Port Clarence, and the Kuskokwim Bay Region of the Western Alaska Region, an agent, owner, or master of a vessel shall inform the appropriate pilot organization of a vessel movement at least 96

hours before the movement in order to provide sufficient time for a pilot to arrive at the vessel by the available means of transportation. A pilot will be considered unavailable for service only if the 96-hour notice required by this subsection is given and a pilot does not show up at the vessel to render service. If the agent, owner, or master of a vessel requests a pilot, and the pilot attempts to reach the vessel but cannot do so within 96 hours due to factors beyond the pilot's control, and the vessel then leaves without the pilot, the vessel or the vessel's owner may be charged for the actual expenses incurred by the pilot in attempting to reach the vessel. If the 96-hour notice is not given as required by this subsection and a pilot is not able to reach the vessel to render pilot services, the vessel or the vessel's owner may be charged for the transportation costs incurred by the pilot in attempting to reach the vessel and the pilotage charge and all other charges that would have been incurred had the pilot reached the vessel and provided pilotage services;

(3) in all other locations of the Western Alaska Region, an agent, owner, or master of a vessel shall inform the appropriate pilot organization of a vessel movement at least 72 hours before the movement in order to provide sufficient time for a pilot to arrive at the vessel by the available means of transportation. A pilot will be considered unavailable for service only if the 72-hour notice required by this subsection is given and a pilot does not show up at the vessel to render service. If the agent, owner, or master of a vessel requests a pilot, and the pilot attempts to reach the vessel but cannot do so within 72 hours due to factors beyond the pilot's control, and the vessel then leaves without the pilot, the vessel or the vessel's owner may be charged for the actual expenses incurred by the pilot in attempting to reach the vessel. If the 72-hour notice is not given as required by this subsection and a pilot is not able to reach the vessel to render pilot services, the vessel or the vessel's owner may be charged for the transportation costs incurred by the pilot in attempting to reach the vessel and the pilotage charge and all other charges that would have been incurred had the pilot reached the vessel and provided pilotage services."

Moved by: Captain Antonsen:
Second: Mr. Rueter

The Chair requested a roll call vote:

Captain Arzt - Yes
Captain Antonsen - Yes
Mr. Erickson: - Yes
Mr. Mack - Yes
Mr. Rueter - Yes
Ms. Marquardt - Yes
Mr. Hladick - Yes

Motion passed 7 -0.

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12 AAC 56.029(2)
Motion: Accept proposed change to regulation 12 AAC 56.029(2):
"(2) show that the applicant has held a valid deputy marine pilot license in Alaska for a minimum of three years while remaining eligible for license renewal during this period of service without use of the familiarization trips under AS 08.62.120"

Moved by: Ms. Marquardt
Second: Mr. Rueter:

The Chair requested a roll call vote:

Captain Arzt - Yes
Captain Antonsen - Yes
Mr. Erickson - Yes
Mr. Mack - Yes
Mr. Rueter - Yes
Ms. Marquardt - Yes
Mr. Hladick - Yes

Motion passed 7 -0.

12 AAC 56.990(a) (34)
Motion: Accept proposed change to regulation 12 AAC 56.990(a) (34):
"(34) "Year" as used in AS 08.62.093(b) means the same as year in 46 C.F.R. 10.103, elsewhere, year means 365 days"

Moved by: Captain Antonsen
Second: Captain Arzt

The Chair asked for discussion. The Chair confirmed with the MPC that the only change to the regulation was adding "elsewhere, year means 365 days". Captain Antonsen stated he was concerned about unintended consequence in other paragraphs detailing required sea time and sea service instead of years. He recommended waiting for feedback from the pilot associates before future clean-up efforts.

Mr. Rueter stated he believed the 46 CFR 10.103 does not refer to any definition, and the correct citation is 46CFR 10.107. Captain Antonsen asked if the Board would be looking at the citations later and the MPC stated she was hoping to have a project completed by the October meeting.

Captain Antonsen asked if the Board could table the issue until the October meeting. Mr. Reuter asked if the Board could amend the definition or use the MPC to research the issue. The Chair asked the MPC if amending the regulation would require re-starting the public notice process. Captain Antonsen stated, at the previous meeting, Mr. Marquis stated that a public notice can be broad or narrow, and that he thought the Board could amend it at the meeting and move on. The MPC stated that the regulation language could be changed provided the broad principle wasn't changed. The Chair recommended the Board amended it.

Mr. Rueter stated the definition referred to in this section be referenced as 46 CFR 10.107.

Captain Antonsen requested a friendly amendment to add language "subparagraph 1 – 4", so the regulation change only referred to the sea service paragraph. Captain Antonsen that nothing was changing and it could prevent future conflict. Mr. Reuter stated that "calendar" had been struck. Mr. Rueter stated he would accept the amendment. Captain Antonsen stated he would second the amendment:

Motion: Accept the amended proposed change to regulation 12 AAC 56.990(a)(34):
(34) "Year as used in AS 08.62.093(b) (1-4) means the same as year in 46 CFR 10.107. Elsewhere, year means 365 days."

Moved by: Mr. Rueter
Second: Captain Antonsen

The Chair requested a roll call vote:

Captain Arzt - Yes
Captain Antonsen - Yes
Mr. Erickson - Yes
Mr. Mack - Yes
Mr. Rueter - Yes
Ms. Marquardt - Yes
Mr. Hladick - Yes

Motion passed 7 -0.

Motion: Accept to proposed change to regulation 12 AAC 56.990(a) (34):
"Year as used in AS 08.62.093(b) (1-4) means the same as year in 46 CFR 10.107. Elsewhere, year means 365 days.

The Chair requested a roll call vote:

Captain Arzt - Yes

Captain Antonsen - Yes
Mr. Erickson - Yes
Mr. Mack - Yes
Mr. Rueter - Yes
Ms. Marquardt - Yes
Mr. Hladick - Yes

Motion passed 7 -0.

12 AAC 56.960(d)
Motion: Adopt proposed 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 later than 72 hours after returning ashore after the incident, file with the marine pilot coordinator an incident report as described in 12 AAC 56.965. The marine pilot coordinator will, in the coordinator's discretion, investigate the reported incident."

Moved by: Captain Antonsen
Second: Captain Arzt

The Chair asked for discussion. Mr. Rueter suggested adding an amendment of the wording "if a vessel piloted by a state licensed pilot is involved in a collision, allision, grounding, or any navigational occurrence that results in personal injury, property damage, or environment damage the pilot shall, no later than 72 hours after returning ashore after the incident, file with the marine pilot coordinator an incident report as described in 12 AAC 56.965. The marine pilot coordinator will, in the coordinator's discretion, investigate the reported incident."

Mr. Erickson seconded the amendment. The Chair called for discussion.

Mr. Rueter stated the Board currently has a regulation with the wording "meets with any casualty", but back in the Fall meeting there was an inquiry by the Chair on what constituted a reportable incident. Even though there was some discussion, the Board never came to a complete understanding. Mr. Reuter stated the wording addresses what happens when a pilot comes onboard the bridge and finds an impaired crew member or master and if that should that be reported to the Board.

Mr. Reuter stated he was concerned that there had been too many significant reportable occurrences that were never reported to the Board. He stated that any incident may not even apply to the navigation of the vessel, so the Board is going from one extreme to the other by eliminating the reporting requirement. He stated the Board is charged with the safety of the environment on behalf of the State, the

pilots are the eyes and ears that are licensed to be watching for this and the Board would like to have a report of items of concern. He stated he thought it's fitting to have the language added because it would not be overly burdensome to the pilots to report those types of incidents.

Mr. Erickson stated that adding additional language that Mr. Rueter proposed puts the Board in line with what can be found in statutes and the statutory authorization for this section from AS 08.62.040, creating "proficient and competent pilotage service". He stated adding the additional language would be in line with statute and "assures the safety of shipping".

Captain Antonsen stated that the "Protection of human life and property and of the marine environment" was in the context of an efficiently run pilot service, not in overlapping agencies. He stated that other agencies, such as the Coast Guard, maintain visibility and enforcement over those incidents and adding more language to this regulation would re-introduce ambiguity. He stated that it could create a catch-all for pilot conduct that the pilot didn't directly contribute to.

Captain Arzt stated that the example of intoxicated crew members and officers does not speak to the proposed regulation or amended regulation, and that there is more ambiguity and inconsistency if the regulation was amended. He stated that the Board was still defining what a reportable incident was, and that he was not in favor of this new wording because it opened up more uncertainty.

The MPC stated she did not have enforcement authority over intoxicated crew members and would pass the information to the Coast Guard for enforcement. Captain Arzt stated that pilots did have reporting requirements under the Federal government.

Mr. Rueter stated that a key item of concern was this regulation was part of the Pilotage Act, and wasn't it incumbent on the Board to be aware of the issues that may come, whether or not the Board could enforce it? He said if there was an increasing amount of problems or a pilot was present and could make the Board aware of, it was not burdensome to make the Board aware of the report. Mr. Rueter asked about a grounding report for the M/V FENNICA that received great notoriety but was not brought before the Board because it was deemed a charting error. Captain Antonsen stated the Board did not discuss it; however the Board through the MPC and the Chair acted with the Incident Report to follow up on the issue. Captain Arzt stated that some issues may be reportable but not reportable in the mechanism the Board was discussing.

The Chair asked Mr. Rueter what he wanted to have happen with the incident. Mr. Rueter stated he thought all issues were left to the MPC to determine if an Incident Report is suitable for further investigation. The Chair stated that was correct, however the MPC used the guidance of a reviewing board member. Mr. Rueter stated that, even though the issue was with the navigational chart, the vessel needed costly repairs in a drydock. Mr. Rueter stated he wasn't sure if there was a further investigation or report from the MPC. The MPC asked if she could send out the investigation process chart to explain that when the MPC gets an Incident Report, it's sent out to a Reviewing Board Member to see if there was a violation of statute and regulations. The MPC stated that, in this case, there was no violation of statute and regulations and the case was closed. It was confirmed that Captain Arzt was the reviewing board member for this case, and that this information could be discussed in open session after a case was closed. The MPC stated that cases would not be going before all Board members for deliberation because that was outside of the investigative process. Mr. Rueter stated that his purpose was not to seek a violation of a pilot's license but there is a clear need for a report of an incident and the findings in result of the investigation. He stated the navigation charts were found at fault and determined there was no violation, but he would appreciate a report so the Board can improve their understanding. The Chair asked Mr. Rueter if he wanted a report. The Chair asked if the Coast Guard would have received a report, and the MPC said yes. She stated it would be public information via a FOIA or request by the MPC. Mr. Rueter stated the Board should be aware of incidents and activity, even if there is no enforcement power. Mr. Rueter stated the addition of the new language would require pilots to report incidents that do result in environmental and property damage while the vessel is under their command and it was not an excessive burden.

Captain Antonsen stated that the noticed language and the intent from the beginning was to clear the ambiguity, and this proposed language would add ambiguity back, and failure to report information the pilot may not be aware of puts them at risk for fines and penalties for not reporting the information. He stated that pilots needed clarity on what was needed to report.

Mr. Erickson stated the Board was tasked to define "meets with any casualty", but the Board never solved the issue. He stated he proposed some language at the January meeting and it was never voted on. He stated Mr. Rueter's proposed language limited the reportable incidents to something only occurring during navigation, and if a ship had to turn sharply to avoid an object and injuries

someone, the Board could know. He stated he didn't want the Board to loosen the reporting requirements.

Captain Arzt stated that pilots have obligations to report oil pollution incidents to DEC since that's where jurisdictional control on the State's water lie. He stated there are mechanisms in place and the Board was far afield. The MPC re-read the amended regulation to confirm with Mr. Reuter that his vision was that reportable incidents were only related to navigation. Mr. Rueter said that was correct. Mr. Mack stated the MPC took the information to the RBM and there was a clear line if there was a state or federal law was violated, and if not, that was the end for the BOMP. The MPC stated his understanding was correct, and that the BOMP had statutes or regulations the incident pertained to. Mr. Mack stated there were clear examples, such as a marine pollution incident, and that it would be multiple agencies involved in the investigation. The MPC stated the BOMP would only be concerned with the pilot's actions.

The Chair requested a vote on the amended language:

Motion: Adopt the amended language to the regulation:" If a vessel piloted by a state licensed pilot is involved in a collision, allision, grounding, or any navigational occurrence that results in personal injury, property damage, or environment damage the pilot shall, no later than 72 hours after returning ashore after the incident, file with the marine pilot coordinator an incident report as described in 12 AAC 56.965. The marine pilot coordinator will, in the coordinator's discretion, investigate the reported incident."

Moved by: Mr. Rueter
Second: Mr. Erickson

The Chair called for a roll-call vote:
Captain Arzt - No
Captain Antonsen - No
Mr. Erickson - Yes
Mr. Mack - No
Mr. Rueter - Yes
Ms. Marquardt - No
Mr. Hladick – No

Motion failed 5 – 2.

The Chair asked for vote on the original motion:

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

Moved by: Captain Antonsen
Second: Captain Arzt

The Chair called for a roll-call vote:
Captain Arzt– Yes
Captain Antonsen – Yes
Mr. Erickson – No
Mr. Mack – Yes
Mr. Rueter – No
Ms. Marquardt – Yes
Mr. Hladick – Yes

Motion passed 5 – 2.

The Chair stated the Board should have a discussion at the next meeting concerning Mr. Rueter's concerns and educate the new members on the investigation process.

Agenda Item 4 **<u>Approve the Navigation Packet</u>**

The Chair asked for a motion to approve the navigation packet. Captain Antonsen stated he appreciated the chance to look over the packet. He stated the packet could change in the future and thanked the agents for their effort. He stated the Voluntary Waterway Guide was the 2014 edition.

Motion: Approve the 2016 Agent Navigation packet as presented.

Moved by: Mr. Rueter
Second: Mr. Erickson.

Captain Arzt– Yes
Captain Antonsen – Yes
Mr. Erickson – Yes
Mr. Mack – Yes
Mr. Rueter – Yes
Ms. Marquardt – Yes
Mr. Hladick – Yes

Motion carries 7-0

Agenda Item 5 **U.S. Coast Guard Long Range Communication Study**

Mr. Rueter stated it was greatly appreciated the Coast Guard was using the MPC as a method of distribution and a minor point of order that, if the Board was instructing the pilot association and agents to participate, it should have been a statement from the Board and not the MPC. Captain Antonsen stated the SEAPA took the notification in the spirit it was offered, and it was not included in the pilot-master exchange in that it could be a distraction, and because there is no record of what pilot met with what master onboard what ship, it would be a better job for the agents. The MPC stated that the Coast Guard was researching Sea Areas 200NM offshore and the Arctic, and while it does not include pilotage waters, it will be pertinent 20 – 30 years from now. Mr. Mack stated he thought the spirit of the request was appropriate but it's a better question for the pilot organizations and agents if they can do it safely and efficiently.

Agenda Item 2 **Oral Examination for Captain Maury**

On a motion by Captain Antonsen, seconded by Ms. Marquardt, and carried without dissent, the Board entered Executive Session at 11:15AM for the purposes of an oral examination for Captain Ian Maury.

Agenda Item 3 **Board Vote on the Licensure of Captain Maury**

Motion: Grant Captain Maury a Deputy Marine Pilot's License for Region 2, exempting ice conditions in Nikiski and requiring a docking between October and April in Seward.

Moved by: Captain Antonsen
Seconded by: Mr. Reuter

The Chair asked for a roll-call vote.

Captain Arzt– Yes
Captain Antonsen – Yes
Mr. Erickson – Yes
Mr. Mack – Yes
Mr. Rueter – Yes
Ms. Marquardt – Yes
Mr. Hladick – Yes

Motion carries 7-0

The Chair dismissed the Board at 11:40 AM.

Respectfully submitted: _____

Crystal Dooley

Marine Pilot Coordinator

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Chris Hladick

Chairman