

# Minutes of the Meeting

## BOARD OF PILOT COMMISSIONERS

Casa Marina Resort  
1500 Reynolds St  
Key West, FL 33040  
(305) 296-3535

October 2 & 3, 2014

Approved January 23, 2015

### **FINANCE COMMITTEE MEETING**

Commissioner Kurtz called the meeting to order at 1:02 pm.

#### **Members Present**

Commissioner Kurtz  
Commissioner Burke  
Commissioner Fernandez  
Commissioner Miguez  
Commissioner Phipps  
Commissioner Ramos  
Commissioner Swindell  
Commissioner Ulrich  
Commissioner Winegeart

#### **Members Absent**

Commissioner Trueba, Chair (absence excused)

Commissioner Kurtz read into the record a statement from Chair Trueba indicating that his reviews of the financials for FY 2013-2014, in his opinion, did not necessitate the need to increase the gross pilotage assessment.

Commissioner Winegeart made a motion to adjourn. Motion was seconded by Commissioner Phipps.

### **LEGISLATIVE COMMITTEE MEETING**

Commissioner Swindell called the meeting to order.

#### **Members Present**

Commissioner Swindell, Chair  
Commissioner Kurtz  
Commissioner Burke

Commissioner Fernandez  
Commissioner Miguez  
Commissioner Phipps  
Commissioner Ramos  
Commissioner Ulrich  
Commissioner Winegeart

**Members Absent**

Commissioner Trueba (absence excused)

Discussion regarding changes to §310.151, Florida Statutes were discussed, including a change to the statutes which would require pilot associations to produce audited financials, regardless of who submitted the application for a change in the rates of pilotage. Additional discussion occurred on who would bear the burden of that particular cost.

Additional discussion took place regarding the timelines between an application being received and the rate hearing taking place.

The Committee agreed that further discussion would need to take place before any decisions could be made. Mr. Biggins stated he would provide additional language at the next meeting.

Commissioner Phipps made a motion to adjourn. Motion was seconded by Commissioner Kurtz.

**RULES COMMITTEE MEETING**

Commissioner Ulrich called the meeting to order.

**Members Present**

Commissioner Ulrich, Chair  
Commissioner Kurtz  
Commissioner Burke  
Commissioner Fernandez  
Commissioner Miguez  
Commissioner Phipps  
Commissioner Ramos  
Commissioner Swindell  
Commissioner Winegeart

**Members Absent**

Commissioner Trueba (absence excused)

Mr. Flury presented Rule 61G14-10.010, Florida Administrative Code, indicating that this Rule was being promulgated by all the professions regulated under Chapter 455, Florida Statutes.

**Motion:** Commissioner Fernandez made a motion to approve the language as submitted but to change the amount of time a member of the public can comment from 5 minutes to 3.

**Second:** Commissioner Ramos seconded the motion.

Motion passed unanimously.

Mr. Flury then informed the Board that they would need to vote on whether or not the implementation of the Rule would have an adverse effect on small business or would result in an additional \$200,000 in regulatory costs, and as such, if a Statement of Estimated Regulatory Cost needed to be prepared.

**Motion:** Commissioner Fernandez made a motion that a SERC would not need to be prepared.

**Second:** Commissioner Kurtz seconded the motion.

Motion passed unanimously.

Commissioner Burke made a motion to adjourn. Commissioner Winegeart seconded the motion.

## **GENERAL BOARD BUSINESS**

### **Members Present**

Commissioner Kurtz, Chair  
Commissioner Burke  
Commissioner Fernandez  
Commissioner Miguez  
Commissioner Phipps  
Commissioner Ramos  
Commissioner Swindell  
Commissioner Ulrich  
Commissioner Winegeart

### **Members Absent**

Commissioner Trueba (absence excused)

### **Others Present**

Daniel Biggins, Executive Director  
Donald Shaw, Government Analyst  
Michael Flury, Board Counsel  
Clark Jennings, Board Counsel  
Galen Dunton, Pilot Consultant  
John Cary, Prosecuting Attorney  
Charles Zenter, Key West Bar Pilots Association  
Stuart Lilly, Florida Harbor Pilots Association  
Allen Thompson, Tampa Bay Pilots Association  
Doug Mutter, Canaveral Pilots Association  
Gretchen Winters, Florida Harbor Pilots Association

Robert Maguire, Key West Bar Pilots Association  
Sam Stephenson, Port Everglades Port Pilots Association  
Alex Gonzalez, Key West Bar Pilots Association  
Stephen Gasecki, Florida Harbor Pilots Association  
Benjamin Borgie, Florida Harbor Pilots Association  
Warren Husband, Florida Harbor Pilots Association

### **Approval of the Minutes of the Meeting**

#### **Minutes of the January 23-24, 2014 Meeting of the Board**

**Motion:** Commissioner Fernandez made a motion to approve the minutes as submitted.

**Second:** Commissioner Kurtz seconded the motion.

Motion passed unanimously.

#### **Minutes of the March 24, 2014 Meeting of the Board**

**Motion:** Commissioner Fernandez made a motion to approve the minutes as submitted.

**Second:** Commissioner Ulrich seconded the motion.

Motion passed unanimously.

#### **Minutes of the April 18, 2014 Meeting of the Board**

**Motion:** Commissioner Swindell made a motion to approve the minutes as submitted.

**Second:** Commissioner Fernandez seconded the motion.

Motion passed unanimously.

#### **Minutes of the July 14, 2014 Meeting of the Board**

**Motion:** Commissioner Phipps made a motion to not approve the minutes as submitted and requested staff to make changes to be presented at the next meeting.

**Second:** Commissioner Kurtz seconded the motion.

Commissioner Burke abstained from the voting.

Motion passed.

### **Prosecuting Attorney's Report**

#### **2012-045373 – DBPR vs. Pool – Settlement Stipulation**

Commissioner Fernandez, Commissioner Phipps, and Commissioner Swindell recused themselves as they had served on probable cause.

Geoffrey Pool was not present.

Mr. Cary presented this case stating that Geoffrey Pool was charged with a violation of §310.151 (1)(a), Florida Statutes, by failing to make allowances for the foreseeable effects of wind, current, and tide, and a violation of §310.151 (1)(k), Florida Statutes, by engaging in any practice which does not meet acceptable standards of safe piloting.

Mr. Cary stated that the Respondent and the Department had agreed to the following discipline: \$500 fine, \$369.68 in administrative costs, and that this Settlement Stipulation would serve as a Letter of Concern.

**Motion:** Commissioner Ulrich made a motion to accept the Settlement Stipulation as submitted.

**Second:** Commissioner Ramos seconded the motion.

Motion passed unanimously.

### **Request for Deputy Pilot Openings**

#### **Port Canaveral Pilots Association**

Chair Kurtz stated that the Port Canaveral Pilots Association requested at least one deputy pilot for the March 2015 examination.

**Motion:** Commissioner Fernandez made a motion to approve at least one opening for a Deputy Pilot at Port Canaveral.

**Second:** Commissioner Burke seconded the motion.

Motion passed unanimously.

#### **St. Johns Bar Pilots Association**

Chair Kurtz stated that the St. Johns Bar Pilots Association requested at least one deputy pilot for the March 2015 examination.

**Motion:** Commissioner Swindell made a motion to approve at least one opening for the Port of Jacksonville.

**Second:** Commissioner Fernandez seconded the motion.

Motion passed unanimously.

#### **Tampa Bay Pilots Association**

Chair Kurtz stated that the Tampa Bay Pilots Association requested at least one deputy pilot for the March 2015 examination.

**Motion:** Commissioner Fernandez made a motion to approve at least one opening for the Port of Tampa.

**Second:** Commissioner Kurtz seconded the motion.

Motion passed unanimously.

### **Review of Safety/Operational Guidelines**

After discussion it was determined that the changes made by the Key West Bar Pilots Association to their Safety/Operational guidelines did not require approval by the Board.

### **Review of Deputy Pilot Training Program**

#### **Port Canaveral Pilots Association**

Chair Kurtz recognized Captain Ben Borgie of the Port Canaveral Pilots Association. Captain Benjamin Borgie informed the Board that some minor adjustments were being made to the Deputy Pilot Training program.

**Motion:** Commissioner Fernandez made a motion to approve the revised training program, with the amendments made by the Board.

**Second:** Commissioner Swindell seconded the motion.

Motion passed unanimously.

### **Committee Reports**

#### **Chair's Report – Commissioner Kurtz**

Chair Kurtz had nothing to report.

#### **Finance Committee Report – Commissioner Kurtz**

Commissioner Kurtz stated that no action was being taken to the gross pilotage assessment rule.

#### **Legislative Committee Report – Commissioner Swindell**

Commissioner Swindell stated that the Committee had discussed making additional changes to §310.151, Florida Statutes.

#### **Rules Committee Report – Commissioner Ulrich**

Commissioner Ulrich stated that the Rules Committee had approved Rule 61G14-10.010, Florida Administrative Code.

**Motion:** Commissioner Fernandez made a motion to accept the recommendation of the Rules Committee.

**Second:** Commissioner Winegeart seconded the motion.

Motion passed unanimously.

#### **Probable Cause Panel Report – Commissioner Winegeart**

Commissioner Winegeart stated that the panel had reviewed four cases.

### **Deputy Pilot Advancement Committee – Commissioner Kurtz**

Commissioner Kurtz reviewed the Executive Summaries with the Board and indicated that all the Deputy Pilots in the State appeared to be progressing through their training programs.

### **Board Counsel’s Report – Michael Flury**

Mr. Flury had nothing to report.

### **Executive Director’s Report – Daniel Biggins**

Mr. Biggins stated he had been working on the rule language regarding Rate Review applications and once the Legislative Committee agreed to modifications to the statute, he would begin the process of changing the rule.

Mr. Biggins also stated that the Department has hired a second Certified Public Accountant to assist Mr. Law with any additional applications to change the rates of pilotage.

Mr. Biggins thanked the Board Members for their dedication to handling the Board’s business over the past several months.

### **New Business**

Commissioner Swindell brought up the size of committees and whether or not it was necessary to have committees composed of the full board. It was decided the staff would poll the board members on which committees they would like to serve on and staff would confer with Commissioner Kurtz on appointments to committees.

Commissioner Phipps also brought up the composition of the probable cause panel and expressed her desire that a former board member serve on the panel so that there wouldn’t be any future issues with quorum. Chair Kurtz stated she would confer with staff on the appointment of a former board member to serve on the probable cause panel.

### **Old Business**

No Old Business was discussed.

### **Elections**

**Motion:** Commissioner Swindell nominated Commissioner Kurtz as Chair of the Board.

**Second:** Commissioner Fernandez seconded the motion.

Commissioner Kurtz accepted the nomination. Motion passed unanimously.

**Motion:** Commissioner Fernandez nominated Commissioner Swindell as Vice-Chair of the Board.

**Second:** Commissioner Phipps seconded the motion.

Commissioner Swindell accepted the nomination. Motion passed unanimously.

**Motion:** Commissioner Winegeart made a motion to keep the Rate Review Committee comprised of the same pilot members as the previous year, Commissioner Ulrich and Commissioner Fernandez, and that Commissioner Kurtz would remain as the alternate.

**Second:** Commissioner Phipps seconded the motion.

The pilot members of the Board passed the motion unanimously.

### **2015 Meeting Dates**

Discussion took place regarding the meeting dates for 2015.

The Board decided that April 23<sup>rd</sup>, 2015 and July 23, 2015 would be acceptable tentative dates for the next meetings of the full board.

### **RATE REVIEW COMMITTEE MEETING**

#### **Members Present**

Commissioner Burke  
Commissioner Fernandez  
Commissioner Miguez  
Commissioner Ramos  
Commissioner Swindell  
Commissioner Ulrich

#### **Members Absent**

Commissioner Trueba, Chair (absence excused)

#### **Others Present**

Daniel Biggins, Executive Director  
Donald Shaw, Government Analyst  
Michael Flury, Board Counsel  
Clark Jennings, Board Counsel  
Galen Dunton, Pilot Consultant  
John Cary, Prosecuting Attorney  
Charles Zenter, Key West Bar Pilots Association  
Stuart Lilly, Florida Harbor Pilots Association  
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Doug Mutter, Canaveral Pilots Association  
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Robert Maguire, Key West Bar Pilots Association  
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Alex Gonzalez, Key West Bar Pilots Association  
Stephen Gasecki, Florida Harbor Pilots Association  
Benjamin Borgie, Florida Harbor Pilots Association  
Warren Husband, Florida Harbor Pilots Association



## **Elections**

**Motion:** Commissioner Fernandez nominated Commissioner Swindell as chair of the Rate Review Committee.

**Second:** Commissioner Miguez seconded the motion.

Commissioner Swindell accepted the nomination. Motion passed unanimously.

**Motion:** Commissioner Burke nominated Commissioner Trueba as the vice-chair of the Rate Review Committee.

**Second:** Commissioner Ulrich seconded the motion.

Commissioner Trueba was not present to accept or decline the nomination. Motion passed unanimously.

## **New Business**

Mr. Jennings stated that an order was filed on October 1, 2014 by the District Court of Appeals, in response to a motion submitted by the Biscayne Bay Pilots Association, granting a temporary stay on the application submitted by the Florida-Caribbean Cruise Association for a change in the rates of pilotage at the Port of Miami. Mr. Jennings stated that a meeting of the Rate Review Committee would need to take place in the near future to consider the motion as well as to consider additional motions filed by the Biscayne Bay Pilots Association.

It was agreed upon that the meeting of the Rate Review Committee would take place on October 21, 2014, via conference call.

Mr. Biggins requested that the Committee consider delegating authority on certain matters, specifically continuance requests and the granting of extensions of time, to the Chair of the Committee.

**Motion:** Commissioner Fernandez made a motion to delegate authority on certain matters to the Chair of the Committee.

**Second:** Commissioner Ulrich seconded the motion.

Motion passed unanimously.

## **Old Business**

No Old Business was discussed.

## **Adjournment**

Commissioner Burke made a motion to adjourn. Commissioner Fernandez seconded the motion.