

MINUTES OF THE MEETING

BOARD OF PILOT COMMISSIONERS

Sea Turtle Inn

1 Ocean Boulevard

Atlantic Beach, FL 32233

January 13, 2006

CALL TO ORDER

Commissioner Robas, Chair of the Board, called the meeting to order at 9:07 a.m.

Members Present

Commissioner Victoria Robas, Chair

Commissioner Eric Bryson

Commissioner J. Michael Buffington

Commissioner Rivers Buford, Jr.

Commissioner John Fernandez

Commissioner Richard Frudaker

Commissioner John Hiers

Commissioner Donald Molitor

Commissioner Cheryl Phipps, Vice-Chair

Commissioner Eugene Sweeney

Others Present

Secretary Simone Marsteller, Department of Business and Professional Regulation (DBPR)

Dennis Yecke, Deputy Secretary of Professions, DBPR

Robyn Barineau, Executive Director, DBPR

Elise Rice, Government Analyst, DBPR

Drew Winters, Prosecuting Attorney, DBPR

Mary Ellen Clark, Board Counsel

Galen Dunton, Consultant

Gretchen Rayborn, Executive Director, Florida State Pilots Association (FSPA)

Jorge Viso, President, FSPA

Tim McGill, St. Johns Bar Pilots Association (SJBPA)

Joe Brown, SJBPA

David de le Parte, Counsel for FSPA

Barrie Snyder, SJBPA

Allen Thompson, Tampa Bay Pilots Association

John Atchison, SJBPA

Brian Seuter, Cumberland Sound Pilots Association

Margaret Mathews, Attorney for Captain Douglas G. Ferguson

Gayle Featheringill, Court Reporter

APPROVAL OF THE MINUTES OF THE MEETING
September 30, 2005

MOTION: Commissioner Fernandez made a motion that the minutes be approved.
SECOND: Commissioner Buffington seconded the motion.

Commissioner Fernandez stated that the percentage amount on Pages 28 and 30 should be changed to 0.6%.

Following discussion, the motion passed unanimously.

SETTLEMENT STIPULATION

Captain Douglas Ferguson – Case #2004-009535

Captain Ferguson was not present for the hearing, however, Margaret Mathews, Esquire, was present on his behalf. Commissioner Robas, Commissioner Phipps and Commissioner Buffington were recused as they served on the Probable Cause Panel in this matter.

Mr. Winters presented the facts of the case and informed the Board that Captain Ferguson agreed to relinquish his license as he had already planned to retire. Mr. Winters stated that Captain Ferguson did not have prior violations and the Department recommended that the Board adopt the Stipulation.

Ms. Mathews informed the Board that Captain Ferguson's retirement was not related to the case, and he retired in April.

MOTION: Commissioner Buford made a motion that the Board adopt the Settlement Stipulation in toto.
SECOND: Commissioner Hiers seconded the motion and it passed unanimously.

Commissioner Robas introduced Secretary Simone Marstiller and Deputy Secretary Dennis Yecke.

Secretary Marstiller thanked the Board for the opportunity to observe the meeting. She stated that she had heard wonderful things about the Board. Secretary Marstiller stated that she wanted to visit all board meetings at least one time to understand each profession in more detail and to observe the actual business conducted during a meeting. She stated that she needed to understand their issues, and as Secretary she was accessible if they had concerns or questions.

Secretary Marstiller informed the Board that she wanted to increase accountability to the professions and improve customer service. She felt that they would be pleased with the improvements that have already taken place.

Secretary Marstiller advised the Board of the changes in upper management and stated that they have a dynamic team; they work well together and think everyone will see the results of the group's labor. She told the members to feel free to call if they needed anything.

Commissioner Robas thanked Secretary Marstiller and welcomed her to the Department. At this time, all of the members and staff introduced themselves.

Deputy Secretary Yecke commented that it had been a great pleasure getting to know everyone over the past two days. He thanked Commissioner Bryson for the reception on Wednesday evening. Deputy Secretary Yecke informed the Board of his background and stated that he looked forward to working with them.

Commissioner Robas commented that she hoped the issues regarding the boat tour that took place at this meeting will be resolved soon. She stated that she has found that for the Board and for the Department, you cannot appreciate the work of the pilots until you are able to see them climb on and off ships. She added that it is an eye opening experience. Commissioner Robas commented that for new individuals this is very important; the travel to the various ports, to see the port and how they operate in is invaluable.

PROSECUTING ATTORNEYS REPORT – DREW WINTERS

Mr. Winters provided the Board with a copy of his report. He reported that there were currently 22 cases in Legal. He informed the Board that 11 cases had been closed.

Mr. Winters reported that the case load was up-to-date and thanked Commander Dunton for his help in resolving the cases.

Commissioner Buffington commented that he appreciated Mr. Winters keeping the cases up to date as he was the first to accomplish that task.

REVIEW OF DEPUTY PILOT APPLICATIONS FOR THE MARCH EXAMINATION FOR THE PORT OF TAMPA BAY OPENING

Commander Dunton provided the Board with a list of the applicants for the March 1, 2006, Deputy Pilot Examination. He stated that there were two (2) issues he wanted to bring to the attention of the Board. Commander Dunton added that for this exam year, a number of candidates filed applications without the required documentation which put a tremendous workload on he and Ms. Rice. He stated that some ignored the requirements and that was of concern as the application process was on a tight schedule as is and this was an additional burden. Commander Dunton added that most of the issues had been addressed, however, it is the applicant's job to provide the information.

Commissioner Molitor questioned if the policy was to return the application and tell them it is incomplete. Commander Dunton responded that some of the

applicants are at sea and we have always attempted to work with the candidates to get the files as complete as possible. He stated that what concerned he and Ms. Rice was the large number of incomplete applications and some were submitted with no documentation whatsoever.

Commissioner Buffington suggested including a disclaimer stressing the importance of a complete application. He suggested including a checklist and a place for the applicant to indicate when the information not included can be expected.

Ms. Barineau responded that she and Ms. Rice will work on the application and also review the webpage to include this information.

Commander Dunton informed the Board that he had obtained a letter from the Commanding Officer, USCG National Maritime Center, regarding credit for sea service when a ship is moored in port. He stated that the Board needed to determine if they wanted to accept the letter from the Commanding Officer as it affected one of the applicants.

Commissioner Sweeney asked if Commander Dunton recommended that the Board not approve the applicant. Commander Dunton responded that was his recommendation, however, it was a Board decision.

Commander Dunton read into the record the applicants that had met all the Board and Department application requirements, for examination and should be considered eligible: James Clifford, Miriam Coddington, John Dos Santos, Cyril Gittens, Peter Glynn, Garrett Johnson, William Kavanaugh, Jr., Chris Kincaid, Kris Kubiak, Gregg MacLaren, Thomas McCarthy, Narayan Mons, Scott Moser, Igor Nechepurenko, Martin Poole, Joseph Purcell, Caleb Rallis, Robert Ripley, Donald Sacca, Stephen Sottak, Francisco Sta Cruz, Jana Staron, Charles Zenter.

MOTION: Commissioner Buffington made a motion that the Board approve the following individuals as fully qualified for the March Deputy Pilot Examination for the Port of Tampa Bay: James Clifford, Miriam Coddington, John Dos Santos, Cyril Gittens, Peter Glynn, Garrett Johnson, William Kavanaugh, Jr., Chris Kincaid, Kris Kubiak, Gregg MacLaren, Thomas Mcarthy, Narayan Mons, Scott Moser, Igor Nechepurenko, Martin Poole, Joseph Purcell, Caleb Rallis, Robert Ripley, Donald Sacca, Stephen Sottak, Francisco Sta Cruz, Jana Staron, Charles Zenter

SECOND: Commissioner Phipps seconded the motion and it passed unanimously.

Commander Dunton asked that the following candidates be allowed until February 1 to submit the additional information required by either the Board or

the Department. Ms. Barineau informed the Board that the deadline would need to be January 27th since the date for mailing the admission slips was February 1st.

Commander Dunton reported that Gene Tarzetti did not have sufficient sea service at this time; he lacked 18 days to qualify.

MOTION: Commissioner Molitor made a motion that the Board conditionally approve Gene Tarzetti for the examination upon approval and receipt of additional sea time on or before January 27.

SECOND: Commissioner Buffington seconded the motion and it passed unanimously.

Commander Dunton stated that some of the candidates had not satisfied the Department's requirements for the examination. Commissioner Buford responded that the Department approves candidates for examination upon receipt of certain documents; the sea time was the only requirement for Board approval.

Commander Dunton informed the Board that the following individuals meet the sea service requirements, however, they had application deficiencies as required by the Department: John Humphreys – drug test result; Cameron Kirckconnell – application being notarized, high school diploma and physical and drug test; Joseph Lanhnicht - drug test; Thomas Spain – physical & drug test.

MOTION: Commissioner Buffington made a motion that John Humphreys, Cameron Kirckconnell, Joseph Lanhnicht and Thomas Spain qualified by sea time to sit for the March examination, however, the additional Department information must be received by January 27th in order for them to sit for the examination.

SECOND: Commissioner Buford seconded the motion and it passed unanimously.

Commander Dunton informed the Board that Alistair Devlin was not eligible to take the examination as he had just become a US citizen and did not have a coast guard license.

MOTION: Commissioner Buffington made a motion that the Board deny the application of Alistair Devlin as he does not meet criteria for sea time according to Rule 61G14-11.002, Florida Administrative Code (F.A.C.) & Chapter 310.071(1)(d), Florida Statutes (F.S.)

SECOND: Commissioner Buford seconded the motion and it passed unanimously.

Commander Dunton informed the Board that Joseph Hood only had 221 days of active service. He stated that Captain Hood was on a ready reserve vessel

which some of the time is restricted operating service time, and was an 8-5 watchman for the ship that was moored at the dock. Commander Dunton informed the Board that this was the applicant that the Commandant's letter dealt with.

Following discussion, the following action was taken.

MOTION: Commissioner Phipps made a motion that the Board deny the application of Joseph Hood as he did not meet the requirements of Chapter 310.071, F.S. and Rule 61G14-11.002, F.A.C., and the requirements of policy letter NMC 09-01 dated April 26, 2001.

SECOND: Commissioner Frudaker seconded the motion and it passed unanimously.

Commander Dunton informed the Board that Jonathan Leck's application did not meet the sea time requirement.

MOTION: Commissioner Phipps made a motion that the Board deny the application of Jonathan Leck as he did not meet the requirements of Chapter 310.071(1)(d)1, F.S.

SECOND: Commissioner Buffington seconded the motion and it passed unanimously.

REQUEST FOR CROSS LICENSED DEPUTY PILOT

St. Andrew Bay Pilots Association

Commissioner Frudaker informed the Board that they were requesting Captain Brian McGee from Pensacola be allowed to cross license. They would use him on a limited basis in emergencies due to the early retirement of Captain Fuller. He informed the Board that they have picked up extra business and only have two (2) pilots, and it would be prudent to have back up support so there are no delays.

MOTION: Commissioner Buffington moved to approve the request for a cross license deputy pilot for Panama City and that Captain Brian McGee be allowed to sit for the examination.

SECOND: Commissioner Buford seconded the motion and it passed unanimously.

Commissioner Buffington asked Commissioner Frudaker if they needed another pilot at this time. Commissioner Frudaker responded that they did not at this time; the two (2) full time pilots can handle the traffic normally, but with the increased workload, they need to have a backup. He stated that their schedule, at this time, is currently 3 weeks on and one week off, however, if available, they have had to assist even during their off time.

REQUST FOR TWO YEAR CERTIFICATE

William Wetzel – Ft. Pierce

Commissioner Robas informed the Board that Captain David Leech submitted a letter requesting that a two year certificate be issued for Captain William Wetzel in the Port of Ft. Pierce. Commander Dunton stated that Captain Wetzel was nearing the completion of his one year temporary certificate and he was continuing in his training.

MOTION: Commissioner Buffington made a motion that the Board approve the issuance of a two year certificate for Captain William Wetzel for Ft. Pierce.

SECOND: Commissioner Sweeney seconded the motion and it passed unanimously.

REPORTS

Chair's Report – Commissioner Robas

Commissioner Robas stated that the Board, on an annual basis, performs a review of the Executive Director, Consultant and Prosecuting Attorney that serve the Board. She asked Ms. Barineau, Commander Dunton and Mr. Winters to leave the room at this time. Commissioner Robas further stated that the Board performs an annual review of the board's counsel, however, Ms. Clark had not been with the Board long enough to evaluate. Ms. Clark's evaluation will be done at a later meeting. She stated that the Chair will write a letter regarding the performance of the individuals that is sent to the appropriate agency.

Commissioner Robas asked for comments regarding Commander Dunton and if the Board was pleased with his performance. The members responded that they were very pleased and he does excellent work. Commissioner Buffington stated that from the Probable Cause Panel perspective, his reports are always complete and done timely and he appreciates the work that he does.

MOTION: Commissioner Hiers made a motion that the Board request the Chair write a performance letter regarding Commander Dunton indicating the Board's comments.

SECOND: Commissioner Buffington seconded the motion and it passed unanimously.

Commissioner Robas asked for comments regarding Mr. Winters, Prosecuting Attorney. Commissioner Buffington stated that he had made the comments earlier that he appreciated Mr. Winters keeping the cases up to date as he was the first to accomplish that task. Commissioner Sweeney commented that he should receive an "A+" for longevity also.

MOTION: Commissioner Phipps made a motion that the Board request the Chair write a performance letter regarding Mr. Winters indicating the Board's comments.

SECOND: Commissioner Molitor seconded the motion and it passed unanimously.

Commissioner Molitor stated that since the Secretary of the Department was present, he felt that it was appropriate to point out that longevity, in regards to legal counsel, was important as the Board gains a great deal of confidence in the advice given to the Board.

Commissioner Robas asked for comments regarding Ms. Barineau, Executive Director.

Commissioner Buffington commented that as Chair of the Finance Committee, he probably has more interaction with Ms. Barineau and her staff than anyone else. He stated that he must say that being Chair of that Committee and getting that information in the past has been a lot of work. Commissioner Buffington stated that Ms. Barineau brought it back to the level it should be. He informed the Board that he does not have to ask the questions; she was asking if he was satisfied and if he had any questions. Commissioner Buffington stated that he can write an e-mail to either Ms. Rice or Ms. Barineau, and he will get an answer; the staff is excellent. He commented that it had been a struggle over the years, at times, because he had more resistance from the staff than he should have over simple inquiries. Commissioner Buffington commented that he knew they were not evaluating Ms. Rice, but she has also done a good job.

Commissioner Frudaker stated that he wanted to echo Commissioner Buffington's comments.

MOTION: Commissioner Buffington made a motion that the Board request the Chair write a performance letter regarding Ms. Barineau indicating the Board's comments.

SECOND: Commissioner Frudaker seconded the motion and it passed unanimously

Commissioner Robas stated that as Chair, she interacts with Ms. Barineau and Ms. Rice and always appreciates them keeping her informed. She commented that they could not ask for a better staff to work with, and they are very pleased to have them.

Commissioner Robas further stated that they want to keep them all; one of the things they appreciate is the consistency they have with the staff and attorneys, and they are very pleased.

Finance Committee Report – Commissioner Buffington

Commissioner Buffington reported that the Committee met yesterday, January 12th, and reviewed the 1st quarter revenues which exceeded the expenses. He reported that in order to achieve a zero cash balance, the Committee passed a motion to forward to the Rules Committee the recommendation to adjust the assessment from .025% to 0.1% effective May 1, 2006.

Rules Committee Report – Commissioner Phipps

Commissioner Phipps reported that the Committee met yesterday, January 12th and withdrew the proposed rules that were a result of the December Rules Workshop. She stated that Ms. Clark was to send a letter to Ms. Printy, JAPC, thanking her for their concern with the proposed rules and informing her that they were working on the rules.

Commissioner Phipps reported that the Finance Committee had recommended that the gross pilotage assessment be changed to 0.1% effective May 1, 2006. Commissioner Phipps stated that the rule regarding the gross pilotage assessment was to be noticed for each meeting in case the rate needed to be adjusted.

Probable Cause Committee Report – Commissioner Robas

Commissioner Robas informed the Board that the Committee met yesterday, January 12th, and heard 12 cases. Of these cases, 9 were closed, two were closed with letters of guidance, and one case was remanded back to the Department for further information.

Commissioner Buffington stated that he would like a modification to the existing report form. He stated that one of the items they have to ask for or have Commander Dunton research, was the length and beam of the vessel, if tugs were used, the power of the tug, and the type. He asked that the form be modified to include this information.

Ms. Barineau stated that she would review the form and include the information requested. She will have Commissioner Buffington review, once amended, for accuracy.

Board Counsel's Report – Mary Ellen Clark

Ms. Clark informed the Board that the necessary forms to file the rule to decrease the gross pilotage assessment would be done for her review when she returns to the office, and she would be able to meet the Wednesday deadline in order to have the rule filed.

Executive Director's Report – Robyn Barineau

Ms. Barineau informed the Board that one of the projects of the Department was to attempt to fill all vacancies on all the boards. She stated that it was not with just this Board, but if any of the members knew of anyone that would like to serve

on a board, ask them to submit an application to the Governors Office for consideration.

Ms. Barineau informed the Board that she will be doing a newsletter for this Board and will be soliciting their input.

Port Security – Commissioner Molitor

Mr. Molitor stated that the information was in the agenda book for the Board's information.

OLD BUSINESS

Port Everglades Top Ten Candidate Listing from March 2005 Examination

Ms. Barineau stated that this information was requested at the last meeting and was provided for the Board's information.

Commissioner Sweeney asked if there was a definition of a minority. Ms. Barineau responded that she would research this and report back at the next meeting.

NEW BUSINESS

Date and Location of Next Meeting

The next meeting is scheduled for April 10 & 11, 2006 in Tampa.

The Board set the following tentative meeting dates:

July 13 & 14, 2006 and September 28 & 29, 2006, in Vero Beach or Pensacola. Commissioner Molitor asked Ms. Barineau to get with the Secretary to see if they have money to tour the port facility. Commissioner Robas asked that there be contact with the terminals to make them aware that the Board will be visiting their area and if space can be found near Ft. Pierce.

Commander Dunton informed the Board that he will be out of the country from February 16th to March 1st.

Commissioner Buffington asked if Commander Dunton had a back-up just in case there was a need. Commander Dunton responded that he had started training an individual about five years ago, and this individual has the same background and experience as he does. He stated that the individual was an expert on the exams and was trained on the exams; he was a coast guard investigator and meets all the criteria. Commander Dunton informed the Board that this individual was under contract and was a legal expert.

Commissioner Fernandez stated that the American Pilots Association (APA) convention will be held October 22-28, 2006, in Orlando. He suggested that the Board authorize Board staff to make efforts to attend. Captain Viso stated that Commissioner Robas was scheduled to speak at the convention on the 24th.

Ms. Barineau informed the Board that she would look at the travel budget and see if staff can attend.

Commissioner Robas commented that the Board was honored that Secretary Marstiller attended the meeting and welcomed her to attend their meetings anytime she was available.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 11:22 a.m.