

## **MINUTES OF THE MEETING**

### **BOARD OF PILOT COMMISSIONERS**

**Hampton Inn & Suites  
19 South Second Street  
Fernandina Beach, FL 32034  
April 7, 2005  
April 8, 2005**

#### **CALL TO ORDER**

Commissioner Robas, Chair of the Board, called the meeting to order at 2:30 p.m. on April 7, 2005.

#### **Members Present**

Commissioner Robas, Chair  
Commissioner Buffington  
Commissioner Buford  
Commissioner Frudaker  
Commissioner Hiers  
Commissioner McMillin  
Commissioner Molitor  
Commissioner Sweeney

#### **Members Not Present**

Commissioner Phipps, Vice-Chair

#### **Others Present**

Robyn Barineau, Executive Director  
Elise Rice, Government Analyst  
Ed Tellechea, Board Counsel  
Mary Ellen Clark, Board Counsel  
Drew Winters, Prosecuting Attorney  
Galen Dunton, Consultant  
John Jacobson, Biscayne Bay Pilots Association  
Allen Thompson, Tampa Bay Pilots Association  
David da le Parte, FSPA  
Jorge Viso, FSPA  
Gretchen Rayborn, FSPA  
Barrie Snyder, St. Johns Pilots Association  
Joe Brown, St. Johns Pilots Association  
Jim Fuller, St. Andrews Pilots Association  
Brian Seuter, Cumberland Sound Pilots Association

## **REVIEW OF CONSENT AGREEMENT – ANDREW BYRON EFTHIMIADIS VS. BOARD OF PILOT COMMISSIONERS**

Mr. Tellechea informed the Board that he would address the Board on the licensure issue in the matter of Andrew Byron Efthimiadis and Mr. Winters would provide legal counsel to the Board.

Mr. Tellechea stated that the Board had the Proposed Settlement Agreement which had been executed by all parties and there was no one present representing Andrew Byron Efthimiadis. Mr. Tellechea stated that the DOAH case had been dismissed with prejudice, and the cases against the Department and the Board of Pilot Commissioners had been dismissed, with the agreement not to bring any litigation against either party. He stated that the only party remaining was the Port Everglades Pilots Association on a case in Broward County.

Mr. Tellechea stated that the only concession was the agreement to withdraw the notice of intent to deny. He stated that it still brought the same result because Mr. Efthimiadis never received the license. Mr. Tellechea informed the Board that Mr. Efthimiadis was not precluded from applying for a license anywhere in the State of Florida; he has the right to apply, but it does not mean that he will be approved.

Commissioner Hiers asked what the Port Everglades Pilots Association thought of the settlement. Mr. Tellechea responded that Margaret Mathews, Attorney for the Port Everglades Pilots Association, was satisfied with the agreement.

Commissioner Robas questioned if civil litigation were filed, could the Board or Department be called as witnesses? Mr. Tellechea responded that if they try to call Board Members as witnesses, he would try to prohibit that from happening; however, he could be called, as well as Department staff, as a witness in any civil matter.

Following discussion, the following action was taken.

**MOTION:** Commissioner Buford made a motion that the Board approve the Consent Agreement as presented for Andrew Byron Efthimiadis.  
**SECOND:** Commissioner Hiers seconded the motion and it passed unanimously.

### **ADJOURNMENT**

There being no further business to come before the Board, the meeting was adjourned at 2:45 p.m.

**CALL TO ORDER**

Commissioner Robas, Chair of the Board, called the meeting to order at 9:06 a.m. on April 8, 2005.

**Members Present**

Commissioner Robas, Chair  
Commissioner Buffington  
Commissioner Buford  
Commissioner Frudaker  
Commissioner Hiers  
Commissioner McMillin  
Commissioner Molitor  
Commissioner Sweeney

**Members Not Present**

Commissioner Phipps, Vice-Chair

**Others Present**

Robyn Barineau, Executive Director  
Elise Rice, Government Analyst  
Ed Tellechea, Board Counsel  
Mary Ellen Clark, Board Counsel  
Drew Winters, Prosecuting Attorney  
Galen Dunton, Board Consultant  
Mrs. Ann Robas  
Tom Craighead  
James Frudaker, Florida Docking Masters Association  
John Jacobson, Biscayne Bay Pilots Association  
Allen Thompson, Tampa Bay Pilots Association  
David da le Parte, FSPA  
Jorge Viso, FSPA  
Gretchen Rayborn, FSPA  
Barrie Snyder, St. Johns Pilots Association  
Joe Brown, St. Johns Pilots Association  
Jim Fuller, St. Andrews Pilots Association  
Brian Seuter, Cumberland Sound Pilots Association

## **APPROVAL OF THE MINUTES OF THE MEETING**

### **January 7, 2005**

**MOTION:** Commissioner Buford made a motion that the Board approve the January 7, 2005 minutes as submitted.

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

### **February 28, 2005 – Telephone Conference Call**

**MOTION:** Commissioner Molitor made a motion that the Board approve the February 28, 2005 minutes as submitted.

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

## **REQUEST FOR DEPUTY PILOT OPENINGS**

### **Tampa Bay Pilots Association**

Mr. Allen Thompson, Executive Director, Tampa Bay Pilots Association, informed the Board that they submitted a request for at least two (2) deputies for a September examination. He informed the Board that within 18 months, they will be losing three (3) pilots due to retirement.

Following discussion, the following action was taken.

**MOTION:** Commissioner Buford made a motion that the Board approve at least two (2) deputies for the Tampa Bay Pilots Association as requested for a September examination.

**SECOND:** Commissioner Frudaker seconded the motion.

In discussion Commissioner Sweeney questioned why they were only requesting two (2) deputies. Commissioner Buffington responded that they would probably ask for more later as it was hard to train three (3) deputies at one time.

There being no further discussion, a vote was taken on the motion and it passed unanimously.

## **REQUEST FOR BRUCE CUMMINGS TO BE A CROSS LICENSED DEPUTY PILOT FOR THE PORT OF FT. PIERCE**

Captain Viso stated Captain Leech was going to address this issue; however he would present the information. He informed the Board that there was a deputy training in Ft. Pierce, and since it was a one man port, they were currently seeking assistance for the cross licensed pilots from Palm Beach who have been assisting and Captain Leech who has been injured. Captain Viso informed the Board that he solicited help from the pilots, and Captain Cummings responded that he would be willing to help.

Following discussion, the following action was taken.

MOTION: Commissioner Frudaker made a motion that the Board approve the request for Bruce Cummings to be a cross licensed deputy pilot for Ft. Pierce.

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

### **REVIEW OF APPLICATION FROM PETER R. WHITING FOR APPROVAL FOR MARCH 2005 EXAMINATION**

Commissioner Robas stated this was the candidate whose application was not submitted to the Board for approval for the March 2005 examination. Commander Dunton informed the Board that Peter Whiting meets all the requirements and recommended that he be approved.

Commissioner Robas informed the Board that she wrote a letter to Secretary Carr about the situation.

Commissioner Molitor asked if it would be appropriate to include in the letter advertising the openings that applicants list on the back of envelope that it is an application for Pilots. Commander Dunton informed the Board that internal procedures have been established and felt the Board Office will handle this situation.

MOTION: Commissioner Buffington made a motion that the Board approve Peter Whiting for the March 2005 examination.

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

### **REVIEW OF 2005 GUIDELINES FOR BISCAYNE BAY PILOTS**

John Jacobson, Biscayne Bay Pilots Association, informed the Board that on Page 53, Container Berth Bay 127 to 132 should be drafts of 34 instead of 33 feet.

MOTION: Commissioner Buffington made a motion that the Board approve the 2005 Guidelines for Biscayne Bay Pilots as amended striking 33 feet for Container Berth Bay 127 to 132 and inserting 34 feet.

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

### **PROSECUTING ATTORNEY'S REPORT – DREW WINTERS**

Mr. Winters provided the Board with a copy of his report, copy attached.

### **REPORTS**

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

Commissioner Robas thanked Brian Seuter and Cumberland Sound Pilots Association for the reception last night.

Commissioner Robas informed the Board that the Department agreed to increase the consultant hourly rate, but that the contract cap would not increase. She stated that they need to be selective in Commander Dunton's assignments, but this does not reduce his Board assignments. Commissioner Robas stated that anything needed from

Commander Dunton should go thru the Board office as there may be items that the Board office can resolve. She stated that they want to utilize his time effectively and appreciate the work he does, however, he needs to be utilized where his time is most needed with testing and investigations.

Commissioner Buffington commented that the new contract cap is \$55,000 and the Board needs to look at raising the contract cap. Commander Dunton stated that he should break even with the next contract with the increase in the hourly rate and suggested that the leave the cap as is, and possibly revisit this issue next year. He stated that he is well under the cap this year; however, you never know what will happen. Commissioner Buffington expressed concern that if he is close to his contract cap it may be a long approval process to expand his contract, and Commander Dunton needs to be able to respond to any crisis. Commissioner Buffington suggested the contract be increased by \$10,000 in order to cover a possible marine casualty. Commissioner Robas informed the Board that she felt that Jerry Wilson would help the Board if the need arose.

Commissioner Molitor stated that there should be a plan in place. Ms. Barineau informed the Board that she would make Mr. Wilson aware of the potential need for an increase in the contract. Commissioner Robas stated that the minutes would also show their concerns and make the Department aware of what could happen.

#### **Finance Committee Report – Commissioner Buffington**

Commissioner Buffington informed the Board that the Committee met yesterday and reviewed the financial report for the 2<sup>nd</sup> quarter. He reported that the revenues were a little below projections and the expenses were low. Commissioner Buffington stated that the revenues were right on track, the bookkeeping process makes them appear low. He stated that the only area of concern was testing which was higher. He stated that they did not take any action on the gross pilotage assessment.

#### **Rules Committee Report – Commissioner Frudaker**

Commissioner Frudaker informed the Board that the Committee met yesterday and voted to recommend to the Board that Rule 61G14-20.001, F.A.C., be amended as recommended with the addition of “one of” on line 22, page 24, to read “met one of the Coast Guard” and the addition of “or”, on line 7, page 25 to read “Chapter 893, Florida Statutes; or.” He reported that they also voted to recommend that counsel develop clarifying language and notice for rule development Rule 61G14-11.002(2)(g) for the next meeting.

#### **Probable Cause Committee Report – Commissioner Robas**

Commissioner Robas reported that the Probable Cause Panel met yesterday. There were 23 cases heard, 21 were closed, probable cause was found in 1 case and 1 case was tabled for additional information.

Commissioner Sweeney questioned who was on the panel yesterday. Commissioner Robas responded that the Panel consisted of Commissioner Buffington, Captain Jim Fuller and herself.

Commissioner Buford stated that it was proper for former members to serve on probable cause, and he felt that they should take advantage of this, perhaps appointing a former member to the panel. Commissioner Robas responded that she would take that under advisement.

#### **Board Counsel's Report – Ed Tellechea**

Mr. Tellechea reported that they settled the Andrew Efthimiadis cas, and he would be issuing a final order.

Mr. Tellechea informed the Board that this would be his last meeting and stated that it had been a pleasure serving the Board and meeting the pilots. He offered his assistance should it ever be needed. Commissioner Robas stated that they would certainly miss him and look forward to a relationship with Ms. Clark.

#### **Executive Director's Report – Robyn Barineau**

Commissioner Robas welcomed Ms. Barineau and asked her to give the Board her background. She stated that the Board was fortunate to have Ms. Barineau with them.

Ms. Barineau commented that it was a pleasure to be here. She stated that she had worked with the Department for 17 years and informed the Board of the areas she had worked with.

Ms. Barineau informed the Board that in their handouts there was a copy of the letters from the Chair and Secretary Carr's response. She stated that she and Ms. Rice met with Central Intake (CIU) and had a lengthy discussion and hoped to be proactive with CIU. It was determined that any mail that is received by CIU is to come directly to Ms. Rice. Ms. Barineau made a promise to the Board that she and Ms. Rice will have everything in good working order.

#### **Future Meeting Dates and Locations**

The next meeting of the Board will be held July 14-15 in Pensacola, however, if this was not possible, then the meeting would be held in Port Everglades. The September 29 & 30 meeting will be held in Pensacola if July was not possible.

Commissioner Sweeney stated that he felt they should have three (3) meetings per year instead of four (4) and asked that his statement be placed on the record.

#### **Port Security – Commissioner Molitor**

Commissioner Molitor stated that there were articles provided in the agenda book for informational purposes.

## **CORRESPONDENCE**

This was provided for informational purposes and there was also correspondence provided in the hand-out folder.

## **OLD BUSINESS**

### **Update on Simulator Facilities – Commissioner McMillin**

Commissioner McMillin stated this was an assignment given to him at the last meeting for remedial training. He stated that he sent out letters and received responses that were included in his book distributed at the meeting. Commissioner McMillin informed the Board that it was determined that 10 of Florida's 17 ports are all simulated, the prices ranging from \$2000 to \$3800 per day. He stated that confidentiality was not a problem.

Commissioner Robas thanked Commissioner McMillin for the work he did preparing his report. She recommended that it be passed on to Commander Dunton and Mr. Winters for their review.

Commissioner Molitor commented that he was impressed with the helpful report and noted that some of the simulators had been paid for by the cruise lines.

### **Report on Coast Guard Licenses**

Ms. Rice stated that this was requested at the last meeting. She reported that all of the Coast Guard licenses were up to date.

## **NEW BUSINESS**

### **Approval of Robyn Barineau as Executive Director pursuant to Chapter 455.203(2), Florida Statutes**

MOTION: Commissioner Buffington made a motion that the Board approve Robyn Barineau as their Executive Director.

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

### **ELECTION OF CHAIR AND VICE-CHAIR**

Commissioner Robas stated that if it was the pleasure of the Board, she would put herself up for chair again; however she has been chair for couple of years and all should be allowed an opportunity to serve.

MOTION: Commissioner Sweeney made a motion that the Board leave the Chair and Vice-Chair positions as they currently exist.

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

## **ADJOURNMENT**

There being no further business to come before the Board, the meeting was adjourned at 10:15 a.m.