

MINUTES OF THE MEETING

BOARD OF PILOT COMMISSIONERS

**Hyatt Regency Miami
400 Southeast 2nd Avenue
Miami, FL
May 4, 2007**

CALL TO ORDER

Commissioner Phipps, Chair of the Board, called the meeting to order at 9:01 a.m.

Members present

Commissioner Phipps, Chair
Commissioner Bryson, Vice-Chair
Commissioner Buffington
Commissioner Buford
Commissioner Fernandez
Commissioner Frudaker
Commissioner Molitor
Commissioner Robas
Commissioner Sweeney

Others Present

Robyn Barineau, Executive Director
Elise Rice, Government Analyst
Drew Winters, Prosecuting Attorney
Mary Ellen Clark, Board Counsel
Allen Thompson, Tampa Bay Pilots Association
Tony Cuva, Esquire, Akerman Senterfitt
David de la Parte, Florida State Pilots Association
Jorge Viso, Florida State Pilots Association
John Atchison, St. Johns Bar Pilots Association
Ron Christaldi, Florida State Pilots Association
Gretchen Rayborn, Florida State Pilots Association
Shelley Kelly, Court Reporter

APPROVAL OF THE MINUTES OF THE MEETING

January 23, 2007

MOTION: Commissioner Buffington made a motion that the Board approve the January 23, 2007, minutes as submitted.

SECOND: Commissioner Robas seconded the motion.

Commissioner Frudaker stated that on Page 21 of the minutes in the agenda, under Rules Committee Report, Rule 61G14-11.003(4) & (5), Florida Administrative Code, should be Rule 61G14-15.003(4) & (5), Florida Administrative Code.

The motion, as amended, passed unanimously.

February 12, 2007

MOTION: Commissioner Buffington made a motion that the Board approve the February 12, 2007, minutes as submitted.

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

March 8, 2007

Chair Phipps stated that she was the only member participating in the March 8, 2007, conference call and asked that the Board ratify the actions of the Committee.

MOTION: Commissioner Bryson made a motion that the Board approve the March 8, 2007, minutes as submitted and also ratify the actions of the Committee.

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

SETTLEMENT STIPULATION**Joseph Bunicci, Case # 2004-052981****PCP: Buffington & Robas**

Mr. Winters stated that Commissioner Buffington and Commissioner Robas were recused as they served on probable cause for this case. Mr. Tony Cuva, Esquire, was present on behalf of Captain Bunicci.

Mr. Winters informed the Board that this was a Settlement Stipulation case and the Respondent had agreed to an administrative fine in the amount of \$500, costs in the amount of \$391.50, and a reprimand. The Stipulation stated a "letter of reprimand," however, it should just state "reprimand." Mr. Winters informed the Board that the Department recommended that the Board adopt the Stipulation in toto. Mr. Cuva indicated he did not object to the Stipulation amendment.

Following discussion, the following action was taken.

MOTION: Commissioner Buford made a motion that the Board accept the Settlement Stipulation in toto, however, "letter of reprimand" should be changed to "reprimand."

SECOND: Vice-Chair Bryson seconded the motion and it passed unanimously.

PROSECUTING ATTORNEY'S REPORT – DREW WINTERS

Mr. Winters informed the Board that he provided the Board with a copy of his report. He reported that the Probable Cause Panel met and 8 cases were resolved and one case was tabled for additional information. There are two requests for formal hearings, 11 cases have been sent to the consultant/expert, one case is set for Board presentation, for a total of 23 cases. Mr. Winters informed the Board that there are six, year old cases. Of this, two have been eliminated and only four remain. He stated that there are currently 14 cases

assigned to legal. Mr. Winters asked the Board for the ability to continue to prosecute the cases that are over a year old.

MOTION: Commissioner Molitor made a motion that the Board allow Mr. Winters to continue with the year old cases.

SECOND: Vice-Chair Bryson seconded the motion and it passed unanimously.

REQUEST FOR CROSS-LICENSED PILOT FOR THE PORT OF FT. PIERCE

Ms. Rice informed the Board that Captain Leech had planned on attending the meeting, however, he notified her that he was unable to attend. Commissioner Buffington informed the Board that Captain Leech planed to completely retire and the request is for back-up for him.

Captain Jorge Viso informed the Board that several pilots have expressed an interest in being cross-licensed for Ft. Pierce.

Commissioner Buffington stated that the Board needed to determine the number of cross-licensed pilots that were needed as they did not need to have too many in Ft. Pierce.

In discussion, Captain Viso informed the Board that the Palm Beach pilots would welcome some relief and Captain Leech does want to retire. Chair Phipps suggested the Board approve at least one cross-licensed pilot for Ft. Pierce, and if Ft. Pierce needs more than one, they would have to justify this to the Board.

MOTION: Commissioner Robas made a motion that the Board approve the request for a cross licensed pilot in Ft. Pierce and that each port be notified of this request.

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

The Board requested staff to notify each port that the Board has authorized another cross licensed pilot for Ft. Pierce and that they respond to us within 30 days if they are interested. Commander Dunton informed the Board that the examination for a cross-licensed pilot in Ft. Pierce can be developed in a short time frame.

REQUEST FOR TWO-YEAR CERTIFICATE

David Ulrich – Port Everglades

Sam Stephenson – Port Everglades

Chair Phipps informed the Board that it was a unanimous vote from the Everglades Pilots for the certificates to be issued.

MOTION: Commissioner Fernandez made a motion that the Board issue two year certificates to David Ulrich and Sam Stephenson as requested by the Port Everglades Pilots Association.

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

REQUEST FOR CHANGE IN MAXIMUM DRAFT FOR THE PORT OF MIAMI

Commissioner Fernandez informed the Board that Miami wanted to increase their draft on record to 39' 04" or 12 meters. He stated that they had received soundings and thought this was a sound draft.

MOTION: Commissioner Buffington made a motion that the Board approve the change in the maximum draft for the Port of Miami as requested.

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

Chair Phipps stated that there was also a request from Ft. Pierce included in the handout folder for changes to their transit guidelines.

MOTION: Commissioner Buffington made a motion that the Board approve the changes as requested by the Ft. Pierce Pilots Association.

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

REPORTS

Chair's Report – Commissioner Phipps

Chair Phipps did not have a report to give at this time.

Finance Committee Report – Commissioner Buffington

Commissioner Buffington reported that the Committee met on May 3, 2007. He stated that they reviewed the budget which appeared to be in good shape. The Committee recommended that the gross pilotage assessment be raised to 0.75% effective July 1, 2007.

Rules Committee Report – Commissioner Frudaker

Commissioner Frudaker reported that the Committee met on May 3, 2007. The Committee approved Rule 61G14-11.007, Florida Administrative Code, as drafted for noticing. They approved for rule development and publication of Rule 61G14-15.003(4), Florida Administrative Code, striking "current" and inserting "normal," and deleting Rule 61G14-15.003(5), Florida Administrative Code. Commissioner Frudaker stated that the Committee had a recommendation from the Finance Committee and voted to recommend that the gross pilotage assessment rate be increased to .75% effective July 1, 2007.

MOTION: Commissioner Bryson made a motion that the Board approve the actions of the Rules Committee as reported.

SECOND: Commissioner Buford seconded the motion which passed with Commissioner Fernandez voting against the motion.

Probable Cause Panel Report – Commissioner Phipps

Chair Phipps reported that the Probable Cause Panel met on May 8, 2007. They closed eight cases and sent one case back to Legal for more information.

Board Counsel's Report – Mary Ellen Clark

Ms. Clark informed the Board that she had been out of the office for a number of weeks, however, she drafted the order for Michael Funk before leaving. She informed the Board that a hearing has been requested and Mr. Funk disputes the facts. Ms. Clark informed the Board that Mr. Ed Tellechea, former Board Counsel, would be assisting with the prosecution of this case.

**Executive Director's Report – Robyn Barineau
March Deputy Pilot Examination**

Ms. Barineau reported that there were five candidates that passed the March Deputy Pilot examination and three that failed for the Port of Jacksonville. For the Port of Tampa, four passed the examination and seven failed. She stated that the regrades were scheduled to be delivered to the Board office on July 26 and the mailing date is scheduled for July 30.

Commissioner Buffington requested that the Board consider advertising in national publications when there was an opening as he was concerned with the small number of applicants.

Port Security – Commissioner Molitor

Commissioner Molitor informed the Board that there were a number of items in the agenda book for informational purposes.

Commissioner Robas brought to the attention of the Board the eulogy for former Commissioner John Hiers. She stated that it was mentioned that he was a member of the Board and how much it meant for him to serve on this Board.

ANNUAL REVIEW OF EXECUTIVE DIRECTOR, BOARD CONSULTANT AND PROSECUTING ATTORNEY

Robyn Barineau

Commissioner Buffington stated that Ms. Barineau was always responsive and helpful. He stated that she did an outstanding job and was one of the few that has been outstanding. Chair Phipps stated that Ms. Barineau was a great support. Ms. Clark commented that she was very effective. Commissioner Robas stated that the positive comments should be sent to Tim Vaccaro.

Galen Dunton

Chair Phipps commented that Commander Dunton was wonderful. Commissioner Fernandez stated that he continues to do an excellent job and was always well prepared. Commissioner Robas commented that Commander Dunton helps the members to understand his reports as he writes them thoroughly and clearly without the use of acronyms. She stated that this helped the consumer members of the probably cause panel to understand the case.

Drew Winters

Chair Phipps stated that Mr. Winters does a great job. Commissioner Sweeney commented that he has grown in his time with the Board, he is very professional, and he is pleased to have him. Commissioner Robas agreed. Commissioner Fernandez stated that his record of work was excellent. Ms. Clark stated that he has the highest respect with the Attorney General's office.

Commissioner Robas suggested that the letters to the supervisors include a request that they continue their service to the Board.

Captain Viso stated that from the Florida State Pilots Association he wanted to state that for the three individuals discussed, the communication is outstanding and they hope it continues.

Ms. Barineau thanked the members for their support.

Commissioner Buffington stated that Ms. Barineau and Ms. Rice made an excellent team.

CORRESPONDENCE

February 2007 Newsletter

Eulogy for Commissioner John Hiers

These were provided for informational purposes.

NEW BUSINESS

There was no new business to come before the Board at this time.

OLD BUSINESS

Captain Allen Thompson, Tampa Bay Pilots Association, informed the Board that he had been contacted by the Communications Office of the Department of Business and Professional Regulation that Secretary Benson will be in Tampa in early June. She has indicated a desire to see the pilot & port operations and they look forward to her visit.

BOARD MEETING DATES

July 12 & 13, 2007 – Canaveral

October 4 & 5, 2007 – Palm Beach

ELECTION OF OFFICERS

MOTION: Commissioner Frudaker made a motion that the officers remain the same, Chair Phipps and Vice-Chair Bryson.

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

Captain Viso informed the Board that Mr. David de la Parte would no longer be the Florida State Pilots Association's attorney. He served the Florida State Pilots Association for 21 years. He has assumed the role of General Counsel for the Moffitt Cancer Center. Captain Viso stated that they were losing a great counsel, and he welcomed Ron Christaldi as the new Florida State Pilots Association's attorney.

The Board wished Mr. de la Parte well, and he received a standing ovation.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 10:20 a.m.