

# Minutes

**BOARD OF PILOT COMMISSIONERS**  
**Crowne Plaza Ft. Lauderdale Airport/Cruise**  
**455 State Road 84**  
**Fort Lauderdale, FL 33316**  
**954-523-8080**  
**January 21, 2016**  
**UPDATED AND APPROVED APRIL 29, 2016**

**PORT TOUR**  
**Thursday, January 21, 2016**

**Port Everglades Port Tour (Open to the Public) 9:30 – 11:00**

**COMMITTEE MEETINGS and NEW MEMBER TRAINING**  
**1:30 P.M. – 5:30 P. M.**

**Call to Order:**

Meeting was called to order by Chair Kurtz at 1:35 pm.

**Roll Call**

**Members Present:**

Commissioner Kurtz, Chair  
Commissioner Assal  
Commissioner Jaccoma  
Commissioner Phipps  
Commissioner Sola  
Commissioner Trueba  
Commissioner Ulrich  
Commissioner Wilkins  
Commissioner Winegeart

**Members Absent:**

Brian Ramos (Excused)

**Others Present:**

Thomas Campbell, Executive Director  
Marlene Stern, Board Counsel  
Clark Jennings, Pilotage Rate Review Committee Counsel  
Rebecca Hays, Prosecuting Attorney  
Anne Ahrendt, Government Analyst  
Tanya Setter, Court Reporter, Downtown Reporting  
Warren Husband, Florida Harbor Pilots Association  
Allen Thompson, Tampa Bay Pilots Association

Jorge Viso, Tampa Bay Pilots Association  
David Fant, Tampa Bay Pilots Association  
Sam Stephenson, Florida Harbor Pilots Association  
Ben Borgie, Florida Harbor Pilots Association  
Andy Edelstein, Port Everglades Pilots Association  
James Fudaker, Florida Docking Masters  
Ben Rosson, International Organization of Masters, Mates & Pilots  
Keith Morton, International Organization of Masters, Mates & Pilots  
Lindsey Brock, Attorney for Respondent, RM&B

**DISCIPLINE-REBECCA HAYS**

2014-035411 – DBPR VS TEEMS – SETTLEMENT STIPULATION

Commissioner Winegeart recused himself as he had served on the probable cause panel.

Ms. Hays presented this case stating that John F. Teems was charged with a violation of §310.101(1)(k), Florida Statutes by engaging in any practice which does not meet acceptable standards of safe piloting

Ms. Hays stated that the Respondent and the Department had agreed to the following discipline: That the Respondent shall complete a course in Bridge Resource management and a course in emergency ship handling within 12 months of the effective date of the agreement, and pay administrative costs in the amount of \$1981.10 within 30 days of the effective date

Lindsey Brock, attorney for the Respondent, addressed the Board.

A motion was made by Commissioner Trueba to accept the settlement stipulation as submitted.

Second: Commissioner Jaccoma.

Motion carried.

**RULES COMMITTEE**

**Roll Call**

**Members Present:**

Commissioner Ulrich, Chair  
Commissioner Phipps, Vice Chair  
Commissioner Assal  
Commissioner Jaccoma  
Commissioner Kurtz  
Commissioner Sola  
Commissioner Trueba  
Commissioner Wilkins  
Commissioner Winegeart

**Members Absent:**

Commissioner Ramos (Excused)

### **Rules Suggested for Repeal by OFARR Based on Annual Rule Review**

Rule 61G14-15.001 was brought back for additional review after being tabled at the October 2015 meeting.

A Motion was made by Commissioner Phipps to keep the rule as it stands with the following technical changes:

#### **61G14-15.001 Duties of Pilots and Deputy Pilots.**

Every state pilot and certificated deputy pilot shall:

- (1) Timely board and disembark vessel at the designated station.
- (2) Pilot to and from or shift vessel between berths and anchorages under safe conditions.
- (3) Dock and undock vessel unless the master requests otherwise.
- (4) Anchor vessel in emergency situations and, under normal conditions, in designated anchorages.
- (5) Optional services may be provided if included in a tariff approved by the Board.

*Specific Authority 310.185 FS. Law Implemented 310.002, 310.0015, 310.101, 310.141 FS. History–New 11-28-90, Formerly 21SS-3.005, 21SS-15.001.*

Seconded by Commissioner Winegeart.  
Motion carried.

### **Rules Suggested for Repeal by OFARR**

Rule 61G14-11.009, Florida Administrative Code, was identified by OFARR as a rule that could be repealed by the Board of Pilot Commissioners because of a lack of statutory rulemaking authority for the rule. A motion was made by Commissioner Jaccoma to add statutory references §310.073, F.S., & §310.075, F.S., to rule 61G14-11.009, Florida Administrative Code.

#### **61G14-11.009 State Criteria for Pilots or Deputy Pilots Where Federal Endorsement Is Unavailable or Unobtainable.**

In federally non-designated ports or port areas, or port areas where pilots or deputy pilots are unable to obtain necessary federal endorsement due to insufficient vessel traffic; the applicant pilot or deputy pilot shall satisfactorily complete the following number of familiarization trips to be confirmed by written statement(s) of the active licensed state pilot(s) in that port or if there is no active licensed state pilot in that port, to be confirmed by written statement from the applicant:

- (1) A minimum of 12 round trips; and,
- (2) At least 25% of the round trips shall be made during hours of darkness; and,
- (3) At least one round trip shall be made over the route within the six months immediately preceding the date of application.

*Rulemaking Authority 310.071, 310.185 FS. Law Implemented 310.071, 310.073, 310.075 F.S. History–New 9-27-94, Amended 2-22-95, 6-11-95.*

Motion was seconded by Commissioner Winegeart.  
Motion carried.

NO ACTION WAS TAKEN ON THE FOLLOWING RULES:

61G14-11.006 Reapplication  
61G14-13.001 Deputy Pilot Training  
61G14-15.002 Marine Incident Form  
61G14-16.001 Vessel Movements  
61G14-17.007 Notice of Non Compliance  
61G14-21.001 Ports  
61G14-21.002 New Ports

**RULES COMMITTEE ADJOURNED AT 2:13 PM.**

## **LEGISLATIVE COMMITTEE**

### **Roll Call**

#### **Members Present**

Commissioner Phipps, Vice Chair  
Commissioner Assal  
Commissioner Jaccoma  
Commissioner Kurtz  
Commissioner Sola  
Commissioner Trueba  
Commissioner Ulrich  
Commissioner Wilkins  
Commissioner Winegeart

#### **Members Absent:**

Commissioner Ramos (Excused)

### **Review of Approved Legislative Language**

Section 310.011, Florida Statutes.

A motion was made to accept the changes to §310.011, Florida Statutes, as presented in the materials by Commissioner Ulrich,

(1) A board is established within the Division of Professions of the Department of Business and Professional Regulation to be known as the Board of Pilot Commissioners. The board shall be composed of 10 members, to be appointed by the Governor, as follows: five members shall be licensed state pilots actively practicing their profession; two members shall be actively involved in a professional or business capacity in the maritime industry, marine shipping industry, or commercial passenger cruise industry, but these two members may not be from the same industry category listed above; one member shall be a certified public accountant with at least 5 years of experience in financial management; and two members shall be citizens of the state. The latter three board members shall not be involved in, or have any financial interest in, the piloting profession, the maritime industry, the marine shipping industry, or the commercial passenger cruise industry. The board shall perform such duties and possess and exercise such powers relative to the protection of the waters, harbors, and ports of this state as are prescribed and conferred on it in this chapter.

(2) Each member shall be appointed for a term of 4 years. The Governor shall have power to remove members of the board from office for neglect of duty required by this chapter, for incompetency, or for unprofessional conduct. Any vacancy which may occur in the board in consequence of death, resignation, removal from the state, or other cause shall be filled for the unexpired term by the Governor in the same manner. A majority of those serving on the board shall constitute a quorum.

(3) In appointing members to the board who are pilots, the Governor shall appoint one member from the state at large; one member from any of the following ports: Fernandina, Jacksonville, Pensacola, Panama City, or Port St. Joe; one member from any of the following ports: Tampa Bay, Boca Grande, Punta Gorda, or Charlotte Harbor; ~~or Key West~~; one member from any of the following ports: Fernandina, Jacksonville, Ft. Pierce, Palm Beach, Port Everglades, or Port Canaveral; and one member from any of the following ports: Ft. Pierce, Miami, Port Everglades, or Key West ~~or Palm Beach~~.

(Add to bill, when drafted, to make commissioners terms work out correctly)

Section 2. Section 1 of this Act shall take effect October 31, 2017, provided that the terms of the current pilot members of the Board of Pilot Commissioners and Pilotage Rate Review Committee shall not be affected. As the terms of those members expire, the Governor shall appoint or reappoint pilot members as necessary to comply with Section 1 of this Act and may reappoint a pilot member to represent any other port for which that pilot is licensed.

Seconded by Commissioner Kurtz.  
Motion carried.

Paragraph 310.151(1)(b), Florida Statutes

A motion was made to accept the changes to §310.151(1)(b), Florida Statutes, as presented in the materials by Commissioner Winegeart.

(1)(a) As used in this section, the term:

1. “Committee” means the Pilotage Rate Review Committee established under this section as part of the Board of Pilot Commissioners.
2. “Board” means the Board of Pilot Commissioners.

(b) To carry out the provisions of this section, the Pilotage Rate Review Committee is established as part of the Board of Pilot Commissioners within the Department of Business and Professional Regulation. The committee shall consist of the following seven members of the board: two board members who are licensed state pilots actively practicing their profession, who shall be appointed by majority vote of the licensed state pilots serving on the board; two board members who are actively involved in a professional or business capacity in the maritime industry, marine shipping industry, or commercial passenger cruise industry, but these two members may not be from the same industry category listed above; one board member who is a certified public accountant with at least 5 years of experience in financial management; and two board members who are citizens of the state.

Seconded by Commissioner Jaccoma  
Motion carried.

Subsection 310.151(3), Florida Statutes

A motion was made by Commissioner Jaccoma to reinstate the language “at least 120 days prior to the hearing” in line seven that had been removed at the October meeting and accept changes to Section 310.151(3) as modified.

(3) The committee shall investigate and determine whether the requested rate change will result in fair, just, and reasonable rates of pilotage, to include appointing an investigative committee to assist in this undertaking, pursuant to rules prescribed by the committee ~~and shall appoint an investigative committee comprised of department staff to assist the committee in this undertaking~~. In addition to publication as required by law, notice of a hearing ~~of the committee to determine rates in response to a completed application~~ shall be emailed ~~mailed~~ to each person who has formally requested notice of any rate change in the affected port area at least 120 days prior to the hearing. The notice shall advise all interested parties that they may file an answer, an additional or alternative application ~~petition~~, or any other applicable pleading or response, within 40 ~~30~~ days after the date of publication of the notice, and the notice shall specify the last date by which any such pleading must be filed. The committee may, for good cause, extend the period for responses to an application ~~a petition~~. Multiple applications ~~petitions~~ filed in this manner do not warrant separate hearings, and these applications ~~petitions~~ shall be consolidated to allow for a joint investigation and for the committee’s consideration of the applications at a single hearing to the extent that it shall not be necessary to hold a separate hearing on each application petition. The committee shall conclude its investigation, conduct a public hearing, and determine whether to modify the existing rates of pilotage in that port within 180 days ~~60 days~~ after the filing of the completed application, except that the committee may not be required to complete a hearing for more than one port within any 180-day ~~60-day~~ period. Hearings shall include a port visit and shall be held in the affected port area, unless a different location is agreed upon by all parties to the proceeding.

Seconded by Commissioner Winegeart.  
Motion carried.

Subsection 310.151(4), Florida Statutes

A motion was made by Commissioner Ulrich to accept the changes to Subsection 310.151(4), Florida Statutes, as presented in the materials.

(4)(a) The applicant shall be given written notice, either in person or by certified mail, that the committee intends to modify the pilotage rates in that port and that the applicant may, within 21 days after receipt of the notice, request a hearing pursuant to the Administrative Procedure Act. Notice of the intent to modify the pilotage rates in that port shall also be published in the Florida Administrative Register ~~and in a newspaper of general circulation in the affected port area~~ and shall be emailed ~~mailed~~ to any person who has formally requested notice of any rate change in the affected port area. Within 21 days after receipt or publication of notice, any person whose substantial interests will be affected by the intended committee action may request a hearing pursuant to the Administrative Procedure Act. If the committee concludes that the petitioner has raised a disputed issue of material fact, the committee shall designate a hearing, which shall be conducted by formal proceeding before an administrative law judge assigned by the Division of Administrative Hearings pursuant to ss. 120.569 and 120.57(1), unless waived by all parties. If

the committee concludes that the petitioner has not raised a disputed issue of material fact and does not designate the petition for hearing, that decision shall be considered final agency action for purposes of s. 120.68. The failure to request a hearing within 21 days after receipt or publication of notice shall constitute a waiver of any right to an administrative hearing and shall cause the order modifying the pilotage rates in that port to be entered. ~~If an administrative hearing is requested pursuant to this subsection, notice of the time, date, and location of the hearing shall be emailed published in the Florida Administrative Register and in a newspaper of general circulation in the affected port area and shall be mailed to the applicant and to any person who has formally requested notice of any rate change for the affected port area.~~

(b) In any administrative proceeding pursuant to this section, the committee's proposed rate determination shall be immediately effective and shall not be stayed during the administrative proceeding, provided that, pending rendition of the committee's final order, the pilot or pilots in the subject port deposit in an interest-bearing account all amounts received which represent the difference between the previous rates and the proposed rates. The pilot or pilots in the subject port shall keep an accurate accounting of all amounts deposited, specifying by whom or on whose behalf such amounts were paid, and shall produce such an accounting upon request of the committee. Upon rendition of the committee's final order:

1. Any amounts deposited in the interest-bearing account which are sustained by the final order shall be paid over to the pilot or pilots in the subject port, including all interest accrued on such funds; and
2. Any amounts deposited which exceed the rates sustained in the committee's final order shall be refunded, with the accrued interest, to those customers from whom the funds were collected. Any funds that are not refunded after diligent effort of the pilot or pilots to do so shall be disbursed by the pilot or pilots as the committee shall direct.

Seconded by Commissioner Kurtz.

Motion carried.

Subsection 310.151(5), Florida Statutes

A motion was made by Commissioner Ulrich to accept the changes to Subsection 310.151(5), Florida Statutes, as presented in the materials.

(5)(a) In determining whether the requested rate change will result in fair, just, and reasonable rates, the committee shall give primary consideration to the public interest in promoting and maintaining efficient, reliable, and safe piloting services.

(b) The committee shall also give consideration to the following factors:

1. The public interest in having qualified pilots available to respond promptly to vessels needing their service.
2. A determination of the average net income of pilots in the port, including the value of all benefits derived from service as a pilot. For the purposes of this subparagraph, "net income of pilots" refers to total pilotage fees collected in the port, minus reasonable operating expenses, divided by the number of licensed and active state pilots within the ports.
3. Reasonable operating expenses of pilots.
4. Pilotage rates in other ports in Florida and around the United States.
5. The amount of time each pilot spends on actual piloting duty and the amount of time spent on other essential support services.

6. The prevailing compensation available to individuals as pilots in other Florida ports, as pilots in other United States ports and in other maritime services of comparable professional skill and standing as that sought in pilots, it being recognized that in order to attract to the profession of piloting, and to hold the best and most qualified individuals as pilots, the overall compensation accorded pilots should be equal to or greater than that available to such individuals in comparable maritime employment.
  7. The impact rate change may have in individual pilot compensation and whether such change will lead to a shortage of licensed state pilots, certificated deputy pilots, or qualified pilot applicants.
  8. Projected changes in vessel traffic.
  9. Cost of retirement and medical plans.
  10. Physical risks inherent in piloting.
  11. Special characteristics, dangers, and risks of the particular port.
  12. Any other factors the committee deems relevant in determining a just and reasonable rate.
- (c) The committee may take into consideration the consumer price index or any other comparable economic indicator when fixing rates of pilotage; however, because the consumer price index or such other comparable economic indicator is primarily related to net income rather than rates, the committee shall not use it as the sole factor in fixing rates of pilotage.

Seconded by Commissioner Winegeart  
Motion carried.

### **Discussion and Approval of Draft Legislative Language**

Subsection 310.151(2), Florida Statutes

Commissioner Trueba made a motion to adopt his proposed changes adding the language “financial information” in lieu of “financial statements”.

(2) Any pilot, group of pilots, or other person or group of persons whose substantial interests are directly affected by the rates established by the committee may apply to the committee for a change in rates. However, an application for a change in rates shall not be considered for any port for which rates have been changed by this committee in the 18 months preceding the filing of the application. All applications for changes in rates shall be made to the committee, in writing, pursuant to rules prescribed by the committee. In the case of an application for a rate change on behalf of a pilot or group of pilots, the application shall be accompanied by a consolidated financial statement, statement of profit or loss, and balance sheet prepared by a certified public accountant of the pilot or group of pilots and all relevant information, fiscal and otherwise, on the piloting activities within the affected port area, including financial information on all entities owned or partially owned by the pilot or group of pilots which provide pilot-related services in the affected port area. In the case of an application for a rate change filed on behalf of persons other than a pilot or group of pilots, information regarding the financial state of interested or affected parties other than pilots shall be required only to the extent that such financial information is made relevant by the application or subsequent argument before the committee. After an application for change in rates has been deemed complete by board staff, the committee may grant a request directing a pilot association to provide ~~financial statements~~ **financial information**, within 60 days if practicable, either reviewed or audited by a certified public accountant selected by the Department, so long as the cost of reviewing or auditing the



~~financial statements~~ **financial information** is borne by the requesting person or entity. The ~~failure to request such financial statements~~ **financial information** will not create a presumption in favor or against any applicant or pilot association. If a request directing a pilot association to provide ~~financial statements~~ **financial information** is granted by the committee, the committee shall not grant another request directing that pilot association to provide ~~financial statements~~ **financial information** for a period of 18 months. The committee shall have the authority to set, by rule, a rate review application fee of up to \$1,000, which must be submitted to the committee upon the filing of the application for a rate change.

Motion failed due to lack of a second.

Subsection 310.151(8) Inflation Adjustment to Pilotage Charges  
Item tabled until April meeting

**ADJOURNED AT 3:30 PM.**

**NEW BOARD MEMBER TRAINING**

Training was conducted by Clark Jennings, Assistant Attorney General, Marlene Stern, Board Counsel, Thomas Campbell, Executive Director, Rebecca Hays, Prosecuting Attorney, and Anne Ahrendt, Government Analyst.

**GENERAL BOARD BUSINESS  
JANUARY 22, 2016 – 9:00 A. M.**

**CALL TO ORDER**

Meeting was called to order by Chair Kurtz at 9:07 am.

**Roll Call**

**Members Present**

Commissioner Kurtz, Chair  
Commissioner Assal  
Commissioner Jaccoma  
Commissioner Phipps  
Commissioner Sola  
Commissioner Trueba  
Commissioner Ulrich  
Commissioner Wilkins  
Commissioner Winegeart

**Members Absent:**

Brian Ramos (Excused)

**Others Present:**

Warren Husband, Florida Harbor Pilots Association  
Gretchen Winters, Florida Harbor Pilots Association  
Sam Stephenson, Florida Harbor Pilots Association  
Ben Borgie, Florida Harbor Pilots Association

James Frudaker, Florida Docking Masters  
Allen Thompson, Tampa Bay Pilots Association  
Andrew Melick, Biscayne Bay Pilots Association  
Andrew Edelstein, Port Everglades Pilots Association  
James Ryan, Port Everglades Pilots Association  
Michael Cunningham, Port Everglades Pilots Association  
Todd Cooper, Port Everglades Pilots Association  
Donna Blanton, Radey Law Firm  
Thomas Panza, Panza Maurer & Manard  
Greg McDermott, Panza, Maurer & Manard  
Caretha Wisdom, Court Reporter, Wisdom Court Reporting

#### **APPROVAL OF MINUTES**

##### **Minutes of October 1, 2015 Meeting of the Board**

Government Analyst, Anne Ahrendt read into the record the following corrections to the minutes in the Rules Committee meeting: 61G14-10.006 “that the rule not be repealed and that §310.051 be added to the ‘Laws Implemented’.” And for 61G14-11.007 “that the rule not be repealed and that §310.073 and §310.075 be added to the ‘Laws Implemented.’”

A Motion was made by Commissioner Phipps to accept the minutes as corrected.

Seconded Commissioner Winegeart.

Motion carried.

##### **Minutes of October 2, 2015 Meeting of the Board**

A motion was made by Commissioner Winegeart to accept the minutes as presented.

Seconded by Commissioner Phipps.

Motion carried.

##### **Minutes of November 9, 2015 Teleconference Call**

A motion was made by Commissioner Trueba to accept the minutes as presented.

Seconded by Commissioner Winegeart.

Motion carried.

##### **Minutes of January 6, 2016 Teleconference Call**

A motion was made by Commissioner Jaccoma to accept the minutes as presented

Seconded by Commissioner Winegeart.

Motion carried.

Chair Kurtz adjourned the meeting of the Board of Pilot Commissioners at 9:11 am.

#### **PILOTAGE RATE REVIEW COMMITTEE MEETING**

##### **CALL TO ORDER AT 9:11 AM**

##### **ROLL CALL**

##### **Members Present**

Commissioner Trueba, Acting Chair

Commissioner Assal

Commissioner Kurtz

Commissioner Sola

Commissioner Ulrich

Commissioner Wilkins

**Members Absent**

Brian Ramos (Excused)

**GENERAL BUSINESS**

**APPEARANCES:**

Thomas E. Panza, attorney for the Florida Caribbean Cruise Association

Donna Blanton, attorney for the Biscayne Bay Pilots Association

Rate Review Committee was addressed by Board Counsel Jennings who stated that items would be taken out of the order of the agenda when considering the Motions and Replies.

**MOTIONS AND REPLIES**

**INTERVENER'S UNOPPOSED MOTION FOR EXTENSION OF TIME TO RESPOND TO MOTION FOR FINAL HEARING-DONNA E. BLANTON**

A motion was made by Commissioner Ulrich to grant the Motion for Extension of Time  
Seconded by Commissioner Kurtz.  
Motion carried.

**BBP'S MOTION TO REQUIRE AMENDMENT OF APPLICATION-DONNA E. BLANTON:**

A motion was made by Commissioner Trueba to deny the Biscayne Bay Pilots motion to require an amendment of FCCA's application for a rate reduction.  
Seconded by Commissioner Assal.  
Motion carried unanimously

**MOTION FOR FINAL HEARING-THOMAS E. PANZA**

A motion was made by Commissioner Kurtz to hold the Final Hearing for the Florida Caribbean Cruise Association's Application for a Reduction of Rates of Pilotage in PortMiami June 1-3, 2016.  
Seconded by Commissioner Wilkins.  
Motion carried.

**ELECTIONS:**

The floor was opened for nominations for a new chair for the committee. Commissioner Kurtz nominated Commissioner Wilkins. No other nominations were brought forth. Commissioner Wilkins was elected the new chair for the Pilotage Rate Review Committee.

The floor was opened for nominations for a new vice-chair. Commissioner Ulrich nominated Commissioner Trueba. No other nominations were brought forth. Commissioner Trueba continues as vice chair for the Pilotage Rate Review Committee.

**ADJOURNMENT**

The General Board Meeting reconvened at 10:12 a.m.

**BISCAYNE BAY PILOTS ASSOCIATION – REQUEST AN INCREASE IN MAXIMUM ALLOWABLE DRAFT**

Captain Andrew Melick of Biscayne Bay Pilots Association addressed the Board.

A motion was made by Commissioner Ulrich to accept the increase in maximum allowable draft for PortMiami as requested by the Biscayne Bay Pilots Association.

Motion seconded by Commissioner Trueba.

Motion carried.

**REVIEW OF PROPOSED INCREASE TO GROSS PILOTAGE ASSESSMENT RATE**

Review of Board Financial Statement from September 30, 2015.

Review of Financial Projections for Board of Pilot Commissioners with Gross Pilotage Assessment Rate of .7%, 1%, 1.2% and 1.4%.

A motion was made by Commissioner Phipps to increase the Gross Pilotage Assessment Rate from 0.7% to 1.0% effective April 1, 2016.

**61G14-19.001 Percentage of Gross Pilotage Assessed.**

(1) The Department of Business and Professional Regulation shall assess the pilots in the respective ports of the state ~~seven tenths of one percent (.7%)~~ (1%) of the gross amount of pilotage earned by said pilots during each year, effective ~~July 1, 2013~~ April 1, 2016. For the purposes of said assessment, the gross amount of pilotage earned shall be the amount of money collected by each pilot or by each entity of which the pilot is a member for piloting which shall include and not be limited to payment for piloting vessels to and from ports of this state, docking or undocking vessels, shifting vessels, running lines, delivering orders at sea, cancelled orders, boat service, detention, pilots being carried to sea, anchoring vessels, and any other related services rendered. Funds collected due under this are to be made payable to the Board and paid by the fifteenth of the following month. When received, the funds are paid into the Professional Regulation Trust Fund as created within the Department.

(2) In order to insure compliance with the requirements of subsection (1), each pilot or the entity of which the pilot is a member shall, on an annual basis, not later than April 15, beginning with the fiscal year ending December 31, 1980:

(a) Submit to the Department a statement prepared by a certified public accountant showing the gross amount of pilotage earned during the previous year; or

(b) Submit to the Department the first page of the Federal Income Tax return filed by the pilot or entity for the previous year. If the income tax return discloses income other than pilotage, there must also be submitted any other schedules necessary to reconcile the amount of pilotage earned with the amount of the assessment submitted to the Department. In the event that the pilot or the entity of which the pilot is a member fails to submit either a statement prepared by a certified public accountant or the first page of the appropriate Federal Income Tax return and other required schedules, the Department shall hire certified public accountants to audit the pilot or the entity of which the pilot is a member for the purpose of determining the gross amount of pilotage earned during the previous year. The cost of such an audit will be borne by the pilot or the entity of which the pilot is a member.

*Rulemaking Authority 310.131, 310.185 FS. Law Implemented 310.131 FS. History—New 2-5-76, Amended 1-19-77, 1-1-78, 12-7-78, 11-1-81, 6-8-82, 8-9-82, 7-31-83, Formerly 21SS-3.01, Amended 5-30-89, 2-19-90, 12-30-91, 12-2-92, Formerly 21SS-3.001, 21SS-19.001, Amended 3-20-94, 1-5-95, 1-30-96, 3-17-96, 11-21-96, 8-25-97, 1-26-99, 1-31-01, 8-1-02, 7-8-03, 2-17-05, 10-2-05, 2-1-06, 5-1-06, 7-1-06, 1-1-07, 8-1-07, 12-16-07, 7-1-08, 7-30-09, 12-31-09, 7-5-10, 11-1-10, 1-1-13, 7-1-13.*

Motion seconded by Commissioner Kurtz.  
Motion carried.

#### **STATEMENT OF ESTIMATED REGULATORY COSTS (SERC)**

Board counsel Stern asked the following questions:

Will the proposed rule amendment have an adverse effect on small business?

A motion was made by Commissioner Phipps that the increase would not have an adverse impact on small business.

Motion seconded by Commissioner Winegeart.

Motion carried.

#### **BREAK**

#### **REVIEW AND APPROVAL OF APPLICANTS FOR DEPUTY PILOT OPENINGS FOR PORT EVERGLADES, PORT MIAMI AND PORT TAMPA BAY**

##### **PORT EVERGLADES**

Commander Dunton stated that the following applicants met the requirements to take the Deputy Pilot examination for Port Everglades: Brent Acuff, Karl Austin, Kevin Robert Bennett, Scott Andrew Blohm, John Leonard Bouchard, Derek Day, Frank Feeney, Daniel Graham Franklin, Michael Todd Green, Carlos Alberto Gutierrez, Brendan Hanley, Steven Holm, Jesselyn Johnston, Dustin Leserra, Thomas M. Lisante II, Brendon McDonnell, Keith Morton, Kaitlin O'Brian, Matthew Garrett Pizzedaz, Angelo John Raimondi, Benjamin Douglas Rosson, Dana Ryan, Ryan Sweeney, Michael Thompson, Michael Winchell Villa and James Wade.

Commissioner Phipps made a motion to approve the candidates stated by Commander Dunton to sit for the March 2016 Port Everglades Deputy Pilot Examination

Motion seconded by Commissioner Trueba.

Motion carried.

##### **PORT MIAMI**

Commander Dunton stated that the following applicants met the requirements to take the Deputy Pilot examination for PortMiami: Scott Andrew Blohm, Dane Douglas Britt, Trevor Mark Cardin, Carlos Alberto Gutierrez, Jonathan Leck, Thomas M. Lisante II, Brendon McDonnell, Keith Morton, Kaitlin O'Brian, James Lewis Prah, Angelo Jon Raimondi, Subeeh Ur Rehman, Dana Ryan, Ryan Allen Sweeney and Michael Winchell Villa.

Commissioner Ulrich made a motion to approve the candidates stated by Commander Dunton to sit for the March 2016 PortMiami Deputy Pilot Examination.

Motion seconded by Commissioner Phipps.  
Motion carried.

#### **PORT TAMPA**

Commander Dunton stated that the following applicants met the requirements to take the Deputy Pilot examination for Port Tampa: Brent Acuff, Brent Alan Monthie, James Morrison Moore Jr., Robert Moore II, Richard Theodore Nolan, Christopher Pyne Mercier, Kenneth John Sears Jr., and James Wade.

Commissioner Phipps made a motion to approve the candidates stated by Commander Dunton to sit for the March 2016 Port Tampa Deputy Pilot Examination.

Motion seconded by Commissioner Jaccoma.  
Motion carried.

Commander Dunton stated that Daniel Lee Adcock's application file demonstrated that the applicant only had sea time as a Mate on oil supply vessels; therefore, the applicant failed to meet the requirements for maritime experience as set forth in section 310.071, F.S., & rule 61G14-11.002 F.A.C.

A motion was made by Commissioner Phipps to deny the application for Daniel Lee Adcock as he did not meet the requirements to sit for the March 2016 Tampa Deputy Pilot Examination.

Motion seconded by Commissioner Ulrich.  
Motion carried.

Commander Dunton stated that John Erik Albrecht had insufficient sea time (169 days) as a Second Mate and did not submit the results of a physical examination; therefore, the applicant failed to meet the requirements for maritime experience as set forth in section 310.071 F.S., and rule 61G14-11.0021, F.A.C, and the requirements for a physical examination in rule 61G14-20.001, FAC.

A motion was made by Commissioner Jaccoma to deny the application for John Erik Albrecht as he did not meet the requirements to sit for the March 2016 Tampa Deputy Pilot Examination.

Motion seconded by Commissioner Assal.  
Motion carried.

Commander Dunton stated that Calen Angeron held a Third Mate's license and was operating in the capacity of a Mate of vessels of 1600 gross registered tons; therefore, the applicant failed to meet the requirements for maritime experience as set forth in section 310.071, F. S., rule 61G14-11.002 F.A.C.

A motion was made by Commissioner Trueba to deny the application for Calen Angeron as he did not meet the requirements to sit for the March 2016 Tampa Deputy Pilot Examination.

Motion seconded by Commissioner Winegeart.  
Motion carried.

Commander Dunton stated that Christian Alejandro Bethlen had insufficient sea time (156 days short); therefore, the applicant failed to meet the requirements for maritime experience as set forth in section 310.071, F.S., and rule 61G14-11.002, F.A.C.

A motion was made by Commissioner Phipps to deny the application for Christian Alejandro Bethlen as he did not meet the requirements to sit for the March 2016 Port Everglades and PortMiami Deputy Pilot Examinations.

Motion seconded by Commissioner Sola.

Motion carried.

Commander Dunton stated that William Capone's sea time was either on a tug less than 100 gross registered tons or on small passenger vessels, 155 gross registered tons; therefore, the applicant failed to meet the requirements for maritime experience as set forth in section 310.071, F.S., and rule 61G14-11.002, F.A.C.

A motion was made by Commissioner Phipps to deny the application for William Capone as he did not meet the requirements to sit for the March 2016 Port Everglades Deputy Pilot Examination.

Motion seconded by Commissioner Jaccoma.

Motion carried.

Commander Dunton stated that Tiffany Ann Brockman had insufficient sea time (211 days short); therefore, the applicant failed to meet the requirements for maritime experience as set forth in section 310.071, F.S., and rule 61G14-11.002, F.A.C.

A motion was made by Commissioner Trueba to deny the application for Tiffany Ann Brockman as she did not meet the requirements to sit for the March 2016 Port Everglades and PortMiami Deputy Pilot Examinations.

Motion seconded by Commissioner Winegeart.

Motion carried.

Commander Dunton stated that Sandy Walker's sea service was as a mate on oil supply vessels, and he did not submit the results of a physical examination or drug test; therefore, the applicant failed to meet the requirements for maritime experience as set forth in section 310.071, F.S., and rule 61G14-11.0021, F.A.C, and the physical & medical requirements in rule 61G14-20.001, F.A.C.

A motion was made by Commissioner Jaccoma to deny the application for Sandy Walker as he did not meet the requirements to sit for the March 2016 Port Everglades Deputy Pilot Examination.

Motion seconded by Commissioner Phipps.

Motion carried.

## **REPORTS**

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

Chair Kurtz thanked Captain Andy Edelstein and the Port Everglades Pilots Association for the Port Tour. She also recognized the service of Commissioners Thomas Burke, Rick Miguez and Bob Swindell whose terms had ended and recognized new commissioners Sherif Assal, Louis Sola and David Wilkins.

At the next meeting, the Board will begin a conversation about cost recovery.

**Deputy Pilot Advancement Committee Report- Commissioner Phipps**

Approval of October 28, 2015 Committee Minutes.

Approval of November 30, 2015 Committee Minutes.

**Prosecuting Attorney's Report – Rebecca Hays**

No cases currently in Legal.

**Board Attorney's Report – Marlene Stern**

Presented the Rules Report:

61G14-14.0041 Unauthorized Practice Fee was repealed effective January 11, 2016.

61G14-14.005 Examination Review Fee was repealed effective January 11, 2016.

61G14-17.004 Guidelines for Disposition of Disciplinary Cases became effective January 28, 2016.

61G14-11.008 Cross Licensing. The Notice of Proposed Rulemaking was published on January 5, 2016.

**Executive Director's Report-Thomas Campbell**

Executive Director Campbell presented the Financial Reports as of September 30, 2015.

**NEW BUSINESS**

Scheduled Board Meetings:

April 27-29, 2016 in Pensacola.

July 27-29, 2016 in Palm Beach.

Chair Kurtz announced her selections for the Probable Cause Panel: Captain Jay Winegeart, Brian Ramos and Captain Eric Bryson. Chair Kurtz will serve as the alternate.

Chair Kurtz announced that Commissioner Phipps would continue to chair the Legislative Committee. Commissioner Jaccoma will serve as vice chair.

Election of Vice Chair:

Commissioner Ulrich was nominated and unanimously elected as Vice Chair for the Board.

Galen Dunton asked that the Board send letters of appreciation to retiring pilots signed by the Board chair.



## **PUBLIC COMMENTS**

Andy Edelstein expressed his appreciation to all who participated in the Port Tour.

## **OLD BUSINESS**

### **Ratification of changes made during Committee Meetings on January 21, 2016**

Executive Director Campbell provided the Board with the latest revisions as approved by the Legislative Committee on January 21, 2016:

Proposed Changes to subsection 310.151(3), Florida Statutes

(3) The committee shall investigate and determine whether the requested rate change will result in fair, just and reasonable rates of pilotage, to include appointing an investigative committee to assist in this undertaking, pursuant to rules prescribed by the committee ~~and shall appoint an investigative committee comprised of department staff to assist the committee in this undertaking~~. In addition to publication as required by law, notice of a hearing of the committee to determine rates in response to a completed application shall be emailed ~~mailed~~ to each person who has formally requested notice of any rate change in the affected port area at least 120 days prior to the hearing. The notice shall advise all interested parties that they may file an answer, an additional or alternative application ~~petition~~, or any other applicable pleading or response, within 40 ~~30~~ days after the date of the publication of the notice, and the notice shall specify the last date by which any such pleading must be filed. The committee may, for good cause, extend the period for responses to an application ~~a petition~~. Multiple applications ~~petitions~~ filed in this manner do not warrant separate hearings, and these applications ~~petitions~~ shall be consolidated to allow for joint investigation and for the committee's consideration of the applications at a single hearing to the extent that it shall not be necessary to hold a separate hearing on each application ~~petition~~. The committee shall conclude its investigation, conduct a public hearing, and determine whether to modify the existing rates of pilotage in that port within 180 days ~~60 days~~ after filing of the completed application, except that the committee may not be required to complete a hearing for more than on port within any 180 day ~~60 day~~ period. Hearings shall include a port visit and shall be held in the affected port area, unless a different location is agreed upon by all parties to the proceeding.

A motion was made by Commissioner Phipps to ratify the changes to the language §310.151(3) as approved by the Legislative Committee on January 21, 2016.

Motion seconded by Commissioner Jaccoma.

Motion carried.

## **JOINT REQUEST TO COMBINE PORTS OF JACKSONVILLE & FERNANDINA UPDATE**

Notice was published on January 5, 2016.

## **UPDATE ON RATE REVIEW HEARINGS FOR PORT EVERGLADES – NOTHING TO REPORT**

## **PERFORMANCE EVALUATION OF GALEN DUNTON**

A motion was made by Chair Kurtz to write a letter in support of Commander Dunton.

Motion seconded by Commissioner Trueba.

Motion carried.

**RATIFICATION OF CHANGES APPROVED BY LEGISLATIVE COMMITTEE ON JANUARY 21, 2016**

Commissioner Jaccoma made a motion to ratify the changes to Section 310.11, Paragraph 310.151(1)(b), Subsection 310.151(3), Subsection 310.151(4), and Subsection 310.151(5), Florida Statutes as approved by the Legislative Committee.

Motion was seconded by Commissioner Kurtz

Motion carried.

**RATIFICATION OF CHANGES APPROVED BY RULES COMMITTEE ON JANUARY 21, 2016**

Commissioner Ulrich made a motion to ratify the addition of the statutory references to rule 61G14-11.009, F.A.C., (§310.073, §310.075) and rule 61G14-15.001, F.A.C., (§310.002, §310.0015, §310.101).

**ADJOURNMENT AT 11:56 AM.**