

Minutes

BOARD OF PILOT COMMISSIONERS Hampton Inn Pensacola Beach Gulf Front

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Pensacola Beach, FL 32561

850.932.6800

Moved to

Hilton Pensacola Beach

12 Via De Luna Drive

Pensacola Beach, FL 32561

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April 28-29, 2016

Approved July 28, 2016

Thursday, April 28, 2016

COMMITTEE MEETINGS

1:30 P. M. – 5:30 P. M. CDT

CALL TO ORDER

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

RULES COMMITTEE

Roll Call

Members Present:

Commissioner Phipps, Vice Chair

Commissioner Assal

Commissioner Cumings

Commissioner Jaccoma

Commissioner Kurtz

Commissioner Ramos

Commissioner Sola

Commissioner Wilkins

Members Absent

Commissioner Trueba (excused)

Commissioner Winegeart (excused)

Others Present

Thomas Campbell, Executive Director

Clark Jennings, Board Attorney

Anne Ahrendt, Government Analyst

Rebecca Hays, Prosecuting Attorney

Others Present (continued)

Linda V. Crowe, Court Reporter, Taylor Reporting Services
Rick Frudaker, St. Andrews Bay Pilots
Allen Thompson, Tampa Bay Pilots Association
James Frudaker, Florida Docking Masters
Gretchen Winters, Florida Harbor Pilots Association
Warren Husband, Florida Harbor Pilots Association

Changes to Fla. Admin. Code R. 61G14-20.001, Deputy Pilots' and State Pilots' Physical and Mental Capabilities were discussed. Purpose of the rule change is to incorporate changes to 310.071(10), 310.073(3), 310.081(3) and 310.81, Florida Statutes.

61G14-20.001 Deputy Pilots' and State Pilots' Physical and Mental Capabilities.

(1) The purpose of this rule is to establish minimum standards for the physical and mental capabilities necessary to carry out the professional duties of a certificated deputy pilot or licensed state pilot, as required by Sections 310.071 ~~and~~, 310.073; and 310.081, F.S.

(2) As used in this rule, the following definitions shall apply:

(a) "Applicant" shall mean a person applying for initial certification as a deputy pilot;

(b) "Pilot" shall mean a Florida licensed state pilot or a Florida certified deputy pilot;

(c) "Certification of physical fitness" shall consist of all the following documents signed by a physician who holds an active, valid license issued pursuant to Chapter 458 or 459, F.S.:

1. Annual certification that the applicant or pilot is fully fit and qualified to perform the duties of a deputy pilot. The certification shall occur each calendar year and shall bear a date no later than thirteen months after the date appearing on such certification most recently submitted;

2. An original or true copy of form Dept. of. Trans., USCG, CG-719K (Rev. 1/02) entitled "Merchant Marine Personnel Physical Examination Report," which form is incorporated herein by reference and can be obtained by contacting the Board office at 1940 North Monroe Street, Tallahassee, Florida 32399-0773. The form shall bear a date no later than thirteen months after the date appearing on the copy of such form most recently submitted; and

3. Documentation that the applicant or pilot, within six months prior to the date the document is submitted, has met one of the Coast Guard drug testing requirements for transactions regarding licensing as follows:

a. Submitted documentation that the applicant or the pilot has passed a USCG drug test conducted within the past six months by a laboratory accredited by the Substance Abuse and Mental Health Services Administration, Department of Health and Human Services;

b. Submitted documentation that the applicant or pilot has been subject to a random testing program meeting the criteria of Title 46, CFR 16.230 (December 2, 1994), for at least 60 days during the past six months and has not failed nor refused to participate in a chemical test for any controlled substances regulated under Chapter 893, F.S. (2005); or

c. Submitted documentation demonstrating that the applicant or pilot has passed a preemployment chemical test for any controlled substances regulated under Chapter 893, F.S. (2005), within the past six months.

The term "submitted" as used in this subsection shall mean provided to and received at the Board office at 1940 North Monroe Street, Tallahassee, Florida 32399-0773.

(3) Certification of physical fitness shall be submitted at the following times:

(a) Applicants – within six months prior to the date the application is submitted;

(b) Pilots – not later than thirteen months following the date the most recent certification of that pilot’s physical fitness was submitted;

(c) Failure to comply with this rule shall result in discipline pursuant to Section 310.101, F.S., and rule Chapter 61G14-17, F.A.C.

(4) Any evidence from a physical examination of a pilot which indicates that the subject has a clinical dependence upon alcohol use, or uses any controlled substance ~~(with zero tolerance)~~ unless the subject is under the care of a physician, an advanced registered nurse practitioner, or a physician assistant and the controlled substance was prescribed by that physician, advanced nurse practitioner, or physician assistant, shall subject the ~~applicant or~~ pilot to the provisions of Section 310.101, F.S. Proceedings thereunder shall be in accordance with the requirements of Section 120.569 and 120.57, F.S.

(5) Any applicant or pilot affected by the Board’s action may request a hearing in accordance with Chapter 120, F.S., and must do so within twenty-one (21) days of receipt of notice of Board action, otherwise the Board action will become a final order of the Board on the day following the last day to request a hearing.

(6) Nothing in this rule section shall be construed to limit the Department’s statutory authority to issue an emergency order suspending or revoking a pilot’s license or certificate where there is an immediate danger to the public health, safety, or welfare.

Specific Authority 310.071(1) 310.073(3), 310.081(3), and 310.185(1) FS. Law Implemented 310.071, 310.073, 310.081, FS. History–New 2-22-95, Amended 1-4-00, 6-24-03, 9-12-05.

A motion was made by Commissioner Ramos to accept the changes. Seconded by Commissioner Wilkins. Motion carried.

Review and discussion of deputy pilot training programs for possible incorporation into rule. No action taken.

PILOTAGE RATE REVIEW COMMITTEE

Roll Call

Members Present

Commissioner Wilkins, Chair

Commissioner Assal

Commissioner Kurtz

Commissioner Ramos

Commissioner Sola

Members absent

Commissioner Trueba, Vice Chair (excused)

Update on PortMiami Rate Hearing. Rate Hearing is currently scheduled for first week of June, 2016. A telephone conference call will be held on Tuesday, May 17, 2016 at 2 pm EDT to discuss motions received.

Committee meeting adjourned at 2:52 pm CDT.

PROBABLE CAUSE FOLLOWED (CLOSED TO PUBLIC)

GENERAL BOARD BUSINESS
APRIL 29, 2016 – 9:00 A. M. CDT

CALL TO ORDER

Meeting was called to order by Chair Kurtz at 9:00 am CDT

Roll Call

Members Present:

Commissioner Kurtz, Chair
Commissioner Assal
Commissioner Cumings
Commissioner Jaccoma
Commissioner Phipps
Commissioner Ramos
Commissioner Sola
Commissioner Wilkins

Members Absent

Commissioner Trueba (excused)
Commissioner Winegeart (excused)

Others Present

Thomas Campbell, Executive Director
Clark Jennings, Board Attorney
Anne Ahrendt, Government Analyst
Rebecca Hays, Prosecuting Attorney
Linda V. Crowe, Court Reporter, Taylor Reporting Services
Warren Husband, Florida Harbor Pilots Association
Sam Stephenson, Florida Harbor Pilots Association
James Frudaker, Florida Docking Masters
Brian McGee, Pensacola Bay Pilots
Allen Thompson, Tampa Bay Pilots Association
Benjamin Borgie, Florida Harbor Pilots Association
Tim McGill, St. Johns Bar Pilots Association
Rick Frudaker, St. Andrews Bar Pilots Association
Marshal Frudaker

PRESENTATION ABOUT PORT OF PENSACOLA BY CAPTAIN BRIAN MCGEE.

APPROVAL OF MINUTES

Minutes of January 21-22, 2016 Meeting of the Board

Corrections made:

On page 3 of the Minutes (Page 55 of the agenda). The law implemented for Fla. Admin Code R. 61G14-15.001, should read 310.0015, not 310.005.

On page 6 of the Minutes (page 58 of the agenda) “A motion was made by Commissioner Jaccoma...” should read, “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.”

On page 16 of the Minutes (Page 68 of the agenda) under new business, and Commissioner Jaccoma would serve as vice chair should be added for appointments to the legislative committee.

On page 18 of the Minutes (page 70 of the agenda) the law implemented for Fla. Admin Code R. 61G14-15.001, should read 310.0015, not 310.005.

A motion to approve the minutes with corrections was made by Commissioner Jaccoma and seconded by Commissioner Ramos. Motion carried.

Minutes of March 2, 2016 Conference Call

A motion to approve the minutes was made by Commissioner Ramos and seconded by Commissioner Jaccoma. Motion carried.

PUBLIC HEARING ON FLA. ADMIN. CODE R. 61G14-19.001, PERCENTAGE OF GROSS PILOTAGE ASSESSED

Roll Call

Members Present:

Commissioner Kurtz, Chair
Commissioner Assal
Commissioner Cumings
Commissioner Jaccoma
Commissioner Phipps
Commissioner Ramos
Commissioner Sola
Commissioner Wilkins

Members Absent

Commissioner Trueba (excused)
Commissioner Winegeart (excused)

Fla. Admin Code R. 61G14-19.001 Percentage of Gross Pilotage Assessed.

A motion was made to withdraw the rule from rulemaking by Commissioner Phipps and seconded by Commissioner Kurtz. Motion carried.

APPROVAL OF CAPTAIN MATTHEW LYNCH TO SIT FOR STATE PILOT EXAMINATION FOR PORT CANAVERAL

Captain Benjamin Borgie of Port Canaveral Pilots Association requested Captain Matthew Lynch be approved to sit for the State Pilot Examination for Port Canaveral.

A motion to approve Captain Lynch to sit for the State Pilot Examination for Port Canaveral was made by Commissioner Ramos and seconded by Commissioner Cumings. Motion carried.

REQUEST FROM ST. JOHNS BAR PILOTS ASSOCIATION FOR DEPUTY PILOT ADVANCEMENT COMMITTEE TO ADMINISTER ADVANCEMENT OF CROSS TRAINED DEPUTY PILOTS

Captain Tim McGill of the St. Johns Bar Pilots Association asked that the cross trained deputy pilots of Fernandina and St. Johns be advanced through the Deputy Pilot Advancement Committee.

A motion was made by Commissioner Phipps to approve the request and seconded by Commissioner Jaccoma. Motion carried.

ELECTION OF VICE CHAIR FOR BOARD OF PILOT COMMISSIONERS

A motion was made to nominate Commissioner Winegeart for vice chair of the Board of Pilot Commissioners. The motion was made by Commissioners Phipps and seconded by Commissioner Kurtz. Motion carried.

SELECTION OF NEW MEMBER AND ALTERNATIVE MEMBER (POSSIBLE) TO THE PILOTAGE RATE REVIEW COMMITTEE

A motion was made by Commissioner Jaccoma and seconded by Commissioner Phipps to nominate Commissioner Winegeart as the new pilot member for the Pilotage Rate Review Committee. Motion carried.

A motion was made by Commissioner Kurtz and seconded by Commissioner Phipps to nominate Commissioners Jaccoma and Phipps to serve as pilot alternates to the Pilotage Rate Review Committee. Motion carried.

REQUEST BY COMMANDER GALEN DUNTON TO SHARE LOCAL KNOWLEDGE EXAM QUESTIONS WITH US COAST GUARD

No official action was taken, however, Chair Kurtz recommended that an email go out to all the pilot associations from FHPA to ask the associations to make sure that their local knowledge information is up to date; to have the senior officer of the association contact their local USCG to make sure that updated local knowledge information is in place and, if not, work closely with the local USCG to update local knowledge.

PRESENTATION ON COST RECOVERY AS AN ALTERNATIVE FOR RATE CALCULATIONS – COMMISSIONER KURTZ

Presentation was withdrawn from the agenda until a later date.

REPORTS

Chair's Report – Commissioner Kurtz appointed Commissioner Phipps as chair and Commissioner Jaccoma as vice chair of the Rules Committee.

If Pilot Associations have retiring pilots they would like to recognize for their service, from the Board of Pilot Commissioners, please let the chair know.

Deputy Pilot Advancement Committee Report-Commissioner Phipps

Approval of February 1, 2016 Committee Minutes-approved
Approval of February 29, 2016 Committee Minutes-approved
Approval of March 21, 2016 Committee Minutes-approved

Prosecuting Attorney's Report – Rebecca Hays

Two disciplinary cases are pending.

Board Attorney's Report – Marlene Stern

Due to Ms. Stern's absence, Clark Jennings spoke to the Rules report. No action necessary.

Executive Director's Report-Thomas Campbell

Director Campbell presented the Financial Reports as of December 31, 2015.

RATIFICATION LISTS

Deputy Pilot Advancement Committee Advancements from February 1, 2016 – March 21, 2016.

Commissioner Cumings made a motion to ratify the deputy pilot advancements. Motion seconded by Commissioner Phipps. Motion Carried.

Changes to Florida Administrative Code Rule 61G14-20.001. A motion was made by Commissioner Phipps to authorize Board Counsel to proceed with the Notice of Rulemaking and Development for the changes to Fla. Admin. Code R. 61G14-20.001, approved by the Rules Committee. Motion was seconded by Commissioner Cumings. Motion carried.

Board Counsel Jennings asked the Questions required for the Statement of Economic Regulatory Costs (SERC)

Will this proposed rule have an adverse effect on small business? The Board replied no.

Will the rule be likely to directly or indirectly increase regulatory costs in the aggregate of greater than \$200,000.00? The Board replied no.

PUBLIC COMMENTS: NONE.

NEW BUSINESS

Pilot Boarding and Disembarking Points-Commander Dunton. Commander Dunton stated that increased port security due to the events of 9/11 changed many of the embarking and disembarking points for the ports. He suggested that it may be time for the Rules Committee to begin to update Fla. Admin. Code R. 61G14-15.004, Boarding and Disembarking to reflect any changes. An email should be sent to the pilot associations to ask them to check the rule and submit any changes.

Upcoming Board meeting dates

October 14, 2016 Orlando Airport area

January 2017 (Jacksonville/Panhandle)

OLD BUSINESS

ADJOURNMENT. The meeting was adjourned at 10:34 a.m. CDT.