

# MINUTES

## BOARD OF PILOT COMMISSIONERS

**The Westin Tampa Harbour Island  
725 S. Harbour Island Boulevard  
Tampa, FL 33602  
July 13, 2015 - 8:00 A.M.  
APPROVED October 2, 2015**

**Chair Kurtz called the meeting to order at 8:01 am**

Chair Kurtz asked that meeting be conducted out of the order on the agenda. The Rules Committee would meet first; followed by the Legislative Committee and the meeting would conclude with the General Board Business.

**Members Present:**

Commissioner Kurtz, Chair  
Commissioner Burke  
Commissioner Jaccoma  
Commissioner Phipps  
Commissioner Ramos  
Commissioner Ulrich  
Commissioner Winegeart

**Members Excused:**

Commissioner Miguez  
Commissioner Swindell  
Commissioner Trueba

**Others Present:**

Thomas Campbell, Executive Director, Board of Pilot Commissioners  
Anne Ahrendt, Government Analyst  
Clark Jennings, Board Counsel, Office of the Attorney General  
Penny M. Appleton, Court Reporter from Murray & Associates Court Reporting  
Captain Stuart Lilly, President, Florida Harbor Pilots Association  
Captain Sam Stephenson, 1<sup>st</sup> Vice President, Florida Harbor Pilots Association  
Captain Stephen Gasecki, 2<sup>nd</sup> Vice President, Florida Harbor Pilots Association  
Captain Ben Borgie, Florida Harbor Pilots Association-Director Canaveral Pilots  
Gretchen Winters, Florida Harbor Pilots Association  
Warren Husband, General Counsel for Florida Harbor Pilots Association  
Captain Doug Mutter, Canaveral Pilots Association  
Captain Tim McGill, Jacksonville Bar Pilots  
Captain Robert Maguire, Key West Bar Pilots  
Captain Allen Thompson, Tampa Bay Pilots Association  
Captain James Frudaker, Florida Docking Masters  
Captain Mike Buffington, Retired Pilot

BOPC Quarterly Meeting July 13, 2015

Page 1

## **RULES COMMITTEE MEETING CONVENED AT 8:02**

### **Members Present**

Commissioner Ulrich , Chair  
Commissioner Burke  
Commissioner Jaccoma  
Commissioner Kurtz  
Commissioner Phipps  
Commissioner Ramos  
Commissioner Winegeart

### **Members Excused:**

Commissioner Miguez  
Commissioner Swindell  
Commissioner Trueba

#### Discussion of Changes to 61G14-17.004-Disciplinary Guidelines

Executive Director Campbell presented proposed rules that made the Disciplinary Guidelines more in line with other Department guidelines.

During discussion, Commissioner Ulrich pointed out that language contained in 61G14-17.004(2) concerning 2<sup>nd</sup> offenses was not contained in the proposed revisions. Mr. Campbell said that he would add the language.

A motion was made to initiate rule development for the proposed changes to 61G14-17.004 with the corrections to the chart for second offenses by Commissioner Phipps.

Second: Commissioner Winegeart

Motion carried.

Board Counsel Jennings asked the following questions:

Would the rule change have an adverse effect on small business? The Board responded in the negative.

Would the rule change increase administrative costs in excess of \$200,000? The Board responded in the negative.

Discussion of Changes to the Application for a Change in Rates form.

Executive Director presented application form with proposed changes. Discussion focused on who would make the determination that a financial hardship exists and what information needed to be provided. Board directed staff to make revisions to 61G14.-22.007 (3) and 61G14-22.007 (4) and bring back to Board for further discussion.

Rules Committee adjourned at 8:40 a. m.

**LEGISLATIVE COMMITTEE MEETING CONVENED AT 8:41 A.M.**

**Members Present:**

Commissioner Phipps, Vice Chair  
Commissioner Burke  
Commissioner Jaccoma  
Commissioner Kurtz  
Commissioner Ramos  
Commissioner Ulrich  
Commissioner Winegeart

**Members Excused:**

Commissioner Miguez  
Commissioner Swindell  
Commissioner Trueba

**Discussion of changes to §310.151, Florida Statutes:**

On the proposed changes to §310.151(2), Florida Statutes, discussion of the proposed changes was tabled.

On the proposed changes to §310.151(3), Florida Statutes:

A motion was made by Commissioner Ulrich to accept the timeline date changes as noted in the exhibit with the addition of the following changes found in line 9:

“..applicable pleading or response within ~~30~~ 40 days after the date of publication of the notice, ...”

Seconded by Commissioner Kurtz.

The motion carried.

A motion was made by Commissioner Kurtz to accept the language changes in §310.151(3), Florida Statutes.

Seconded by Commissioner Phipps.

The motion carried.

On the proposed changes to §310.151(4), Florida Statutes:

A motion was made by Commissioner Ulrich to accept the proposed changes to the language as presented.

Seconded by Commissioner Ramos

Motion carried.

On the proposed changes to §310.151(5), Florida Statutes

A motion was made by Commissioner Jaccoma to 1) add the clause “both in Florida and in other United States ports” to §310.151(5)(b)4, Florida Statutes and 2) add the clause “as pilots in other United States ports and” to §310.151(5)(b)6, Florida Statutes.

Seconded by Commissioner Kurtz

Motion carried.

**Discussion of changes to §310.011, Florida Statutes**

Proposed changes to §310.011, Florida Statutes beyond those approved during the Board's June 2, 2015 teleconference.

Item tabled.

Proposed changes to §310.151-(1)(b), Florida Statutes.

Item tabled.

**BREAK**

Proposed addition to §310.151, Florida Statutes

Item tabled.

**NEW BUSINESS:**

Commissioner Kurtz would like to bring information to the Board regarding Cost Recovery as it pertains to Rate Review.

**ADJOURNMENT**

Motion: Commission Jaccoma

Second: Commissioner Kurtz

The Committee meeting was adjourned at 10:40 a. m

**GENERAL BOARD BUSINESS**

Chair Kurtz called to order at 10:41 a.m.

**Members Present:**

Commissioner Kurtz, Chair

Commissioner Burke

Commissioner Jaccoma

Commissioner Phipps

Commissioner Ramos

Commissioner Ulrich

Commissioner Winegeart

**APPROVAL OF MINUTES**

Minutes of April 23, 2015 Meeting of the Board

Motion to accept: Commissioner Winegeart

Seconded: Commissioner Burke

Motion carried.

Minutes of June 2, 2015 Teleconference Call (Legislative Committee)

Motion to accept: Commissioner Burke

Seconded: Commissioner Ramos

Motion carried.

BOPC Quarterly Meeting July 13, 2015

Page 4

Minutes of July 1, 2015 Teleconference Call  
Motion to accept: Commissioner Ramos  
Seconded: Commissioner Burke  
Motion carried.

**REVIEW AND APPROVAL OF APPLICANTS FOR DEPUTY PILOT OPENINGS FOR  
PORT EVERGLADES**

Commander Dunton provided the handout, "Navigational and Vessel Inspection Circular no. 2-81 (NVIC 2-81 25 Feb 1981), to the Board to be used in the discussion of examination eligibility.

Commander Dunton had two issues to present to the Board prior to the presentation of applicants.

Issue number one: Two applicants were at sea at the deadline for exam application submission. Those two applicants were unable to provide a current physical and drug test. Commander Dunton asked that both applicants have until Friday, July 17, 2015 to provide those tests to consultant and be approved to sit for the examination.

Issue number two: Asked for Board interpretation on Captain Kevin Connors sea time as chief mate.. Commander Dunton has to act in the letter of the law; he is looking for guidance from the Commission. It was in his opinion that if the Commission followed the "letter of the law" versus the spirit of the law, Captain Kevin Connors would be ineligible to sit for the examination. Board Counsel Jennings advised the committee focus more on the individual than the vessel itself and to accept his time.

Motion made by Commissioner Phipps to allow Captain Kevin Connors chief mate time be acceptable to the board and be able to sit for the examination.

Seconded: Commissioner Ulrich

Commander Dunton read the list of names into the record of the fully qualified applicants for the September 2015 Port Everglades Deputy Pilot Examination: Scott Blohm, John Bouchard, Trevor Cardin, Kevin Connors, Derek Day, Frank Feeney, Trevor Gill, Joseph Jordan, Michael LaMaina, Dustin Leserra, Thomas Lisante, Brendon McDonnell, Brett Monthie, James Moore Jr., Keith Morton, Kaitlin O'Brien, Matthew Pizzedaz, David Probst, Angelo Raimondi, Dana Rauch, Subeeh Rehman, Matthew Riley, Benjamin Rosson, Rolando Santos, Ryan Sweeney, and Michael Villa.

Motion to approve candidates: Commissioner Phipps

Second: Commissioner Ulrich

Motion carried.

Commander Dunton then read into the record the two individuals who were to be accepted pending receipt of their physical exam and drug tests: Robert Moore II and Matthew Riley.

Motion to approve candidates: Commissioner Jacomma

Second: Commissioner Winegeart

Motion carried

Commander Dunton read the list of names of the applicants who were not qualified to sit for the examination: Dwight David Castro, James Scott Doller, Robert Joseph Gordon III, Thomas Gerard Hackett, Greg Hanchrow, and Brendan Francis Hanley, and Ryan R. Malcolm.

Motion to deny the candidates: Commissioner Phipps

Second: Commissioner Jaccoma

Motion carried.

#### **REVIEW AND APPROVAL OF CHANGES TO ST. JOHNS BAR PILOTS ASSOCIATION DEPUTY PILOT TRAINING PROGRAM**

A motion was made to accept the updated St. Johns Bar Pilots Association Deputy Pilot Training Program by Commissioner Phipps.

Second: Commissioner Ramos

Motion carried with Commissioner Winegeart abstaining from the vote.

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

Report was presented by Daniel Brackett on behalf of John Cary.

There are 6 private cases and 1 public.

#### **BOARD ATTORNEY'S REPORT – CLARK JENNINGS**

Report was presented by Clark Jennings on behalf of Marlene Stern. Addressed brief regarding the two cases in appellant action. Oral arguments have been heard with one case and oral arguments are pending with the second case. There will more than likely be a decision on the Port Everglades case before the Biscayne Bay case. The Board will be notified as soon as any decision is rendered.

#### **Deputy Pilot Advancement Committee – Commissioner Phipps**

Approval of May 31, 2015 Committee Minutes

Approval of June 12, 2015 Committee Minutes

Motion to approve minutes made by: Commissioner Phipps

Second: Commissioner Ulrich

Motion carried.

#### **EXECUTIVE DIRECTOR'S REPORT-THOMAS CAMPBELL**

##### **Finance Committee**

Mr. Campbell reviewed the Quarterly Financial Statements of the Board for the period ending March 31, 2015. No action taken.

The Regulations Report YTD as of June 30, 2015 was presented by Mr. Campbell. No action taken.

##### **NEW BUSINESS**

Commissioner Jaccoma stated that the Biscayne Bay Pilots would like to ask for at least one deputy from the March 2016 Deputy Pilot Examination.

Motion made to accept the request from Biscayne Bay Pilots for at least one Deputy from the March 2016 exam made by: Commissioner Phipps.

BOPC Quarterly Meeting July 13, 2015

Page 6

Second: Commissioner Ramos  
Motion carried.

Commissioner Kurtz asked if we could put a together a Sunshine Law Review for the October 2015 meeting.

Board Counsel Jennings has had an update on the various appeals in all briefs are filed in the Miami/Biscayne Bay case. All briefs have been filed in Port Everglades.

Comments from the Public:

Captain Mike Buffington, retired pilot, warned the Board on getting into too much debt.

Captain Allen Thompson welcomed the Board to Tampa and invited them to the Port Tour and presentation from Tampa, Manatee and St. Petersburg port managers.

### **OLD BUSINESS**

Commander Dunton updated the Board on the cost of conducting the examinations. Captain Patrick Modic of Massachusetts Maritime Academy is the Rules of the Road expert and he will be working to update the databank of questions for the Rules of the Road section of the examination during the next exam challenge session. Captain Larry Bergin, as the ship handling expert, has sat with the examination challenges one time and Commander Dunton would like to have him sit two times before writing questions for the Ship Handling portion of the examination. An extra day will be built into the challenge process to add the questions. These experts cost roughly \$5,000.00 each yearly. The following year will be \$8,000.00. Commander Dunton is looking for a Tug expert. Once the Board has a Tug expert as part of the process, the costs will increase to \$11,000.00. Fees are set by rule.

Commander Dunton reported on the status of the March 2015 exam process.

Next meeting will be held October 1-2, 2015 in Jacksonville.

Motion to adjourn by Commissioner Phipps and seconded by Commissioner Ramos.

**ADJOURNMENT AT 11:46 A.M**