

MINUTES OF THE MEETING

BOARD OF PILOT COMMISSIONERS

Residence Inn

8959 Astronaut Boulevard

Cape Canaveral, FL 32920

January 30, 2009

CALL TO ORDER

Chair Phipps called the meeting to order at 9:00 a.m.

Members Present

Commissioner Phipps, Chair
Commissioner Brandenburg
Commissioner Bryson, Vice-Chair
Commissioner Buford
Commissioner Fernandez
Commissioner Frudaker
Commissioner Jones
Commissioner Molitor

Members Not Present

Commissioner Bohnsack

Others Present

Robyn Barineau, Executive Director
Elise Rice, Government Analyst
Mike Flury, Board Counsel
Phil Monte, Prosecuting Attorney
Galen Dunton, Board Consultant
Jorge Viso, Florida State Pilots Association
Allen Thompson, Tampa Bay Pilots Association
Chris Marlow
Brian McGee, Pensacola Pilots
Dave Leech
Gretchen Rayborn, Florida State Pilots Association
Drew Winters
Warren Husband, Florida State Pilots Association
Joe Brown, Florida State Pilots Association
Bill Leshe, Ocean Towing

APPROVAL OF THE MINUTES OF THE MEETING

September 30, 2008

MOTION: Vice-Chair Bryson made a motion that the minutes be approved as submitted.

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

Chair Phipps informed the Board that Commissioner Bohnsack's absence is excused.

PROSECUTING ATTORNEY'S REPORT – PHILIP MONTE

Mr. Monte provided the Board with a copy of his report. He reported that there were currently 19 cases in the Legal Section. Of this number, six cases were in Legal, three had been sent to the Expert, the Expert opinion had been received in one case, seven were set for probable cause, and two cases were to be reconsidered by the Probable Cause Panel.

REVIEW OF DEPUTY PILOT APPLICATIONS FOR THE MARCH EXAMINATION FOR THE PORT OF PANAMA CITY

Chair Phipps asked Commander Dunton to present this information.

Commander Dunton read the names of the applicants that met the board and department requirements: Nathan Cook, Cameron Kirkconnell, James Luke, Christopher Marlow, Robert Moore, II, Martin Poole, John Pritchett, Paul Rubin, Julian Stubbs, Timothy Sullivan, and Ryan White.

MOTION: Commissioner Buford made a motion that Nathan Cook, Cameron Kirkconnell, James Luke, Christopher Marlow, Robert Moore, II, Martin Poole, John Pritchett, Paul Rubin, Julian Stubbs, Timothy Sullivan, and Ryan White be found by the Board to have met the requirements for the examination.

SECOND: Commissioner Fernandez seconded the motion.

In discussion, Vice-Chair Bryson asked that Captain Timothy Sullivan not be included to allow them to discuss the particulars of his DUI and explain his expunged record.

Commander Dunton informed the board that Captain Sullivan was charged in 1990 with a DUI in Louisiana. He paid a fine, attended education classes, completed community service work, and his record was expunged. Mr. Flury informed the board that this is not legally on his record. Commissioner Buford questioned his age at the time. Commander Dunton responded that Captain Sullivan was 24 when the DUI took place.

Vice-Chair Bryson stated that his reason for questioning this offense is because there has been a question with the selection process. Commissioner Buford stated that the board is charged with determining whether or not a candidate meets sea service requirements, and then the department determines if they meet other examination requirements.

Commissioner Molitor commented that he had a problem with the crime being so long ago and the fact that the applicant did not have to disclose it. He, therefore, has no problem with approving him. Chair Phipps commented that she did not think they could keep him from taking the exam.

At this time, a vote was taken on the motion which passed with Vice-Chair Bryson and Commissioner Frudaker voting against the motion.

Commander Dunton stated that Captain Michael Shoffstall sent an e-mail that he was withdrawing his application for this examination.

Commander Dunton informed the board that Captain Kevin Persson did not meet the requirements to sit for the examination.

MOTION: Commissioner Buford made a motion that the board deny Captain Kevin Persson's application as he did not meet the necessary requirements to sit for the examination.

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

DISCUSSION OF LETTERS RECEIVED FROM CAPTAIN BRIAN MCGEE, PENSACOLA BAY PILOTS, INC. REGARDING TRAINING IN PENSACOLA AND CLYDE E. MATHIS, PORT DIRECTOR, PORT OF PENSACOLA

Chair Phipps stated that a letter had been received from Captain Brian McGee regarding training for the candidates sitting for the deputy pilot opening in Panama City. Captain McGee stated that he wrote the letter out of concern for coverage in Pensacola. He stated that he did not know if Captain Knowles, cross licensed deputy for Pensacola, plans to retire anytime soon, but he knows that eventually he will retire. Should he retire, then he would be the only pilot in Pensacola as he understood that Captain Shafer was going to retire. Captain McGee stated that he was not sure how much longer he can stay in Pensacola as they cannot keep tugs in the port, because of financial reasons.

Chair Phipps stated that the letter in the agenda from Mr. Clyde Mathis, Port Director, sounded very positive regarding new businesses and growth.

Commissioner Frudaker stated that he agreed with Captain McGee as far as the business goes as this has been an ongoing problem. He stated that the problem he has with his request is that there was no notice or knowledge of this until he received the agenda. They are bringing on a deputy, and when they are licensed, they could volunteer to be a cross licensed deputy for Pensacola as Captain Knowles.

Following further discussion, the following action was taken.

MOTION: Commissioner Buford made a motion that Commissioner Bryson, as Chair of the Finance Committee, write a letter to the Pensacola City Counsel regarding the lack of traffic in the port and ask for their assistance.

SECOND: Chair Phipps seconded the motion and it passed unanimously.

Following discussion, the following action was taken.

MOTION: Chair Phipps made a motion that the board advertise for a cross licensed deputy pilot for Pensacola.

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

DISCUSSION REGARDING THE RE-EVALUATION OF HANDLE TIMES AT FLORIDA PORTS – GALEN DUNTON

Commander Dunton informed the Board that a number of recent rate investigations have indicated that the previous handle times have changed from the old standard. He stated that they have been reluctant to accept the new numbers without any support for the findings. Commander Dunton recommended that he obtain the records from the associations regarding the size of the vessels and the handle times, and then he could come up with a state standard as a whole, as well as a port specific standard.

MOTION: Commissioner Molitor made a motion that the Board authorize Commander Dunton to design a form to gather the information and circulate the proposed form to the board and the FSPA for the board's consideration at a future meeting.

SECOND: Commissioner Buford seconded the motion.

During discussion, Commander Dunton stated that in the investigation they address the times both historically and as indicated on the application, however, they are very reluctant to change times that have been in existence without supporting documentation.

In discussion, Mr. Flury stated that this should go before the Pilotage Rate Review Board.

Chair Phipps called for a vote on the motion. The motion failed with Commissioner Frudaker, Vice-Chair Bryson, Commissioner Fernandez, Commissioner Brandenburg, and Chair Phipps voting against the motion.

RECOGNITION OF MAN OVERBOARD RESCUE AT THE PORT OF CANAVERAL

Chair Phipps stated that this was provided for informational purposes.

REPORTS

Chair's Report – Commissioner Phipps

Chair Phipps stated that she did not have a report to give at this time. She reminded the Board that the next meeting will be April 29 & 30 in Ft. Pierce.

Deputy Pilot Advancement Committee – Commissioner Phipps

Chair Phipps reported that the next advancement conference call is scheduled for February 16.

Finance Committee Report – Commissioner Bryson

Vice-Chair Bryson recapped the Committee meeting held on January 29. He reported that the slow growth continues, however, the decline for this year was at 3.8% compared to 2006-2007 and 2007-2008, so hopefully, the decline is slowing. He reported that with the current rate of \$90,000 for the Rate Review Board expense, they should have a balance of over \$7,000. Vice-Chair Bryson stated that the Committee did not recommend any adjustments to the gross pilotage assessment at this time.

Rules Committee Report – Commissioner Frudaker

Commissioner Frudaker reported that the Committee met on January 29. He stated that Mr. Flury informed the Committee that he had received three letters from the JAPC regarding technical errors which he corrected. Commissioner Frudaker reported that the Committee discussed and made recommended changes to Rule 61G14-15.004, Florida Administrative Code, regarding boarding and disembarking for Ft. Pierce and Port St Joe, as follows: (d) Fort Pierce: Pilots board and disembark off the sea buoy in the vicinity of 27° ~~28.5'~~ 28.6' N 80° ~~46.2'~~ 15.4' W.

(l) Port St. Joe: Pilots board inbound vessels ~~about 1~~ two miles ~~outside St. Joseph Bay Entrance Lighted Whistle Buoy "SJ"~~ offshore Sea Buoy #2 in the vicinity of 29° ~~52.0'~~ 51.5' N 85° ~~29.5'~~ 30.7 W. The pilot will leave outbound vessels ~~between lighted in the vicinity of Buoy #2 and St. Joseph Bay Entrance Buoy.~~ At time the Port St. Joe Pilot may not be available and vessels will be required to proceed to the Panama City pilot station to embark or disembark the pilot.

Commissioner Frudaker reported that the Committee approved the changes and also determined that a Statement of Estimated Regulatory Costs was not needed as there would be no impact resulting from the change.

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

SECOND: Chair Phipps seconded the motion and it passed unanimously.

Probable Cause Panel Report – Commissioner Phipps

Chair Phipps reported that the Committee met January 29. They closed five cases, issued two letters of guidance, and found probable cause on one case. She reported that two cases were pulled and should go to the next meeting.

Board Counsel's Report – Michael Flury

Mr. Flury stated that he did not have report to give at this time.

Executive Director's Report – Robyn Barineau

Ms. Barineau informed the Board that the fall newsletter was included in agenda.

Port Security – Commissioner Molitor

Commissioner Molitor stated that he continues to try to find issues of interest for the Commissioners and the pilots.

CORRESPONDENCE

Fall 2008 Newsletter

A Career as a Ship Pilot Article

Chair Phipps reported that these were provided for Informational purposes and commented that Captain Joe Brown provided a very good article about the career as a ship pilot.

PUBLIC COMMENTS

There were no public comments at this time.

NEW BUSINESS

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

OLD BUSINESS

Commissioner Fernandez asked that they be provided with an updated board member list.

Chair Phipps thanked the Canaveral Pilots Association for the boat tour and reception.

ADJOURNMENT

There being no further business to come before the board, the meeting was adjourned at 10:30 a.m.