

EXECUTIVE SUMMARY
Board of Pilot Commissioners

I. General Information

Meeting Type: Finance Committee, Rules Committee, and General Business Meetings
Meeting Date: Thursday, January 29, 2010, and Friday, January 30, 2010
Meeting Location: Palm Beach Marriott Singer Island Resort and Spa
3800 North Ocean Drive
Singer Island, Florida 33404

Attendees:

Commissioner Cheryl Phipps, Chair
Commissioner Eric Bryson, Vice Chair
Commissioner Frances "Fran" Bohnsack
Commissioner Rivers H. Buford, Jr.
Commissioner John Fernandez (Friday, January 30, 2010, only)
Commissioner Richard "Rick" Frudaker
Commissioner Donald "Don" N. Molitor

Robyn Barineau, Executive Director, Department of Business and Professional Regulation (DBPR)

Elise Rice, Government Analyst, DBPR

Diane Moore, Assistant General Counsel, DBPR

Michael Flury, Assistant Attorney General, Office of the Attorney General

Galen W. Dunton, Board Consultant

Joe Brown, President, Florida Harbor Pilots Association (FHPA)

Gretchen Rayborn, Executive Liaison, FHPA

Warren Husband, Attorney for FHPA

Margaret Matthews, Attorney at Law

Allen L. Thompson, Jr., Executive Director, Tampa Bay Pilots Association (TBPA)

John Atchison, St. Johns Bar Pilot Association (SJBPA)

Tim McGill, SJPBA

John Teems, SJBPA

Bill Rhoden, Palm Beach Pilots Association

Mike Cunningham, Port Everglades Pilots' Association (PEPA)

Andy Edelstein, PEPA

Dan Ramsey, Florida Docking Masters

Alexandra Ramirez, Court Reporter

Richard Wennet

Barbara Buford

II. Major Issues/Actions

- Chair Cheryl Phipps excused Commissioner Jeffrey Jones from the board meeting, and informed the board that Commissioner Harold Brandenburg submitted his resignation as a member of the Board of Pilot Commissioners.
- Vice Chair Eric Bryson discussed the financial report for the quarter ending September 30, 2009. He indicated that the gross pilotage assessment is 8/10 of one percent effective on January 1, 2010. Vice Chair Bryson indicated that he anticipates that the operating account should remain at a positive level and that after review of the second quarter financial report, the board can assess whether or not the gross pilotage assessment should be amended. Ms. Robyn Barineau, Executive Director, advised the board that the financial report for the second quarter of the 2009-2010 fiscal year should be released around February 15, 2010.
- Mr. Michael Flury, Assistant Attorney General, informed the board that recent legislation requires all Department of Business and Professional Regulation licensees to report to the department any criminal convictions within 30 days of the conviction. The board will discuss how to address late reporting of criminal convictions at their April meeting.
- The board asked Ms. Barineau to contact former board members, Captains Michael Buffington, Gary Maddox and Jay Winegart, about the possibility of serving on the board's probable cause panel so that more current board members would not be recused from voting on disciplinary cases because of having served on the probable cause panel that initially heard the case.
- Mr. Warren Husband, Attorney for the Florida Harbor Pilots Association (FHPA), indicated that he would contact Deputy General Counsel Amy Toman to determine whether or not conflict would exist for a board member serving as an officer on their local pilot association.
- Regarding case number 2007.063534 against Captain Jonathan D. Nitkin, this matter was tabled and will be discussed at a future meeting.
- Ms. Diane Moore, Assistant General Counsel, reported that there were 20 pilot cases in the legal department. The board agreed to allow Ms. Moore to continue processing the year-old cases.
- The board approved the request to pay for a copy of the transcript from the 2008 rate hearing for the Tampa Bay Pilots Association and the recent rate hearing for the Ft. Pierce Pilots Association. The board asked that these two transcripts be included in the April agenda along with a copy of the rate hearings for the St. Johns Bar Pilot Association for discussion at the April meeting.
- The board approved the request for Captain Tim McGill to become a cross-licensed deputy pilot for the Port of Pensacola.
- The following individuals were approved to sit for the March 2010 Deputy Pilot examination for the Port of Key West:
 - Dennis Badaczewski
 - Elmo Cerise
 - Nathan Cook
 - Peter Curtis
 - Alejandro Gonzalez
 - Christopher Kincaid
 - Curtis Laskowski
 - James Luke
 - Robert Moore, II

- Michael Parr
- Martin Poole
- Joseph Purcell
- Julian Stubbs
- Ryan White (so long as favorable drug testing results are received)
- Charles Zenter

- The board approved the request of the Tampa Bay Pilots Association to allow Captain Gregg MacLaren to sit for the March 2010 State Pilot examination.
- The board approved the revised Deputy Pilot Training Program for the Port Everglades Pilots' Association.
- Vice Chair Bryson indicated that he worked with Mr. Husband and several other pilots and developed the following definitions for pilot work hour definitions which should be helpful to the Pilotage Rate Review Board when reviewing rate applications:
 - “Actual Piloting Duty” means the time elapsed from when the pilot leaves his or her home, office, or other location for the purpose of providing pilotage to a vessel until the pilot returns to that point of origin, or to a closer alternative location of his or her choosing, plus any additional time needed to document the piloting services performed for billing purposes.
 - “Other Essential Support Services” means the time spent by pilots, and by their agents, representatives, and employees, in performing tasks that contribute to the provision of safe and efficient piloting services, to include time spent on training, business operations, securing and maintaining adequate infrastructure, and interaction with both governmental authorities and private parties involved in port operations and port security.
 Chair Phipps will move forward with submitting a letter and these definitions to the chair of the Pilotage Rate Review Board for rule development consideration.
- The Probable Cause Panel closed three cases with no finding of probable cause and found probable cause in one case.
- The board delegated authority to Ms. Barineau to sign all orders on behalf of the board chair.
- The board conducted annual evaluations of its executive director, board attorney, and board consultant.
- The board received a request for information from the Executive Director and General Counsel of the American Pilots' Association (APA), Paul Kirchner, regarding marine incident reporting and disciplinary procedures. The board asked Mr. Flury to work with Commander Galen Dunton and Ms. Moore to respond to the request. They asked that a copy of their response be included in the April meeting agenda.
- The board asked that they be provided with a copy of the Office of Program, Policy and Governmental Accountability (OPPAGA) study once it is released.
- The board asked Ms. Barineau to send a letter to the director of the Port of Pensacola, Mr. Clyde Mathis, extending an invitation for him to attend the April board meeting.
- Ms. Barineau informed the board of the following future meetings:
 - April 29 and 30, 2010 – Pensacola
 - July 29 and 30, 2010 – Key West
 - September 30 and October 1, 2010 – Panama City

III. Legislation/Rule Promulgation

- There was no legislation/rule promulgation at this meeting.

IV. Action Required

- The board will discuss the late reporting of criminal convictions at their April meeting.
- The board will discuss taking over the conn of a vessel at their April meeting.
- Mr. Husband will contact Ms. Toman regarding service of a board member on their local pilot association.
- Board staff will order the transcripts from the 2008 rate hearing for the Tampa Bay Pilots Association and the recent rate hearing for the Ft. Pierce Pilots Association. The board asked that these two transcripts be included in the April agenda along with a copy of the rate hearings for the St. Johns Bar Pilot Association for discussion at the April meeting.
- Chair Phipps will prepare and submit a letter to the chair of the Pilotage Rate Review Board regarding pilot work hour definitions.
- Mr. Flury will work with Commander Dunton and Ms. Moore and respond to the request from the APA, providing a copy for inclusion in the April agenda.
- Ms. Barineau will provide the board with a copy of the OPPAGA study once it is released.
- Ms. Barineau will send a letter to Mr. Mathis to join the board at their April meeting in Pensacola.

Robyn Barineau
Executive Director
February 5, 2010