

## **MINUTES OF THE MEETING**

### **BOARD OF PILOT COMMISSIONERS**

**Radisson Riverwalk Hotel**

**1515 Prudential Drive**

**Jacksonville, FL 32207**

**October 8, 2004**

#### **CALL TO ORDER**

Commissioner Robas, Chair of the Board, called the meeting to order at 9:00 a.m.

#### **Members Present**

Victoria Robas, Chair

Michael Buffington

Rivers Buford

Richard Frudaker

John Hiers

David Leech

Earl McMillin

Donald Molitor

Cheryl Phipps, Vice-Chair

Gene Sweeney

#### **Others Present**

Anthony Spivey, Executive Director

Elise Rice, Government Analyst

Ed Tellechea, Board Counsel

Drew Winters, Prosecuting Attorney

Galen Dunton, Consultant

Gretchen Rayborn, FSPA

David de la Parte, FSPA

Jorge Viso, FSPA

Barrie Snyder, St. Johns Bar Pilots

Robert Stearns

Edward Max Stovall, III

David Ulrich

Allen Thompson

Jorge Viso, FSPA

Joe Brown, St. Johns Bar Pilots

Margaret Mathews

Commissioner Robas thanked the St Johns Bar Association for the reception last night.

## **APPROVAL OF THE MINUTES OF THE MEETING**

**July 9, 2004**

**MOTION:** Commissioner Buffington made a motion that the Board approve the minutes of the July 9, 2004 meeting as submitted.

**SECOND:** Commissioner McMillin seconded the motion and it passed unanimously.

## **SETTLEMENT STIPULATIONS**

**Captain Francis C. Wood, Case Nos. 2001-07228 and 2003-001830**

Margaret Mathews was present on behalf of Captain Wood.

Mr. Winters informed the Board that there were two (2) cases, the respondent had requested a formal hearing but after negotiations had agreed to a \$750 fine plus \$182.90 administrative cost and suspension of his license for 2 weeks which was stayed and probation for 18 months.

Commissioner Robas, Commissioner Phipps and Commissioner Buffington served on the probable cause panel and were recused. Commissioner Buford stated that he was legal counsel for case #07228 therefore he should be recused.

Commissioner Leech took the gavel since the Chair was a part of probable cause panel.

Following discussion the following action was taken.

**MOTION:** Commissioner Sweeney made a motion that the Board accept the stipulation as presented.

**SECOND:** Commissioner McMillin seconded the motion which passed with Commissioner Hiers and Commissioner Leech voting against the motion.

Mr. Tellechea commented that the Board needed to work on the rules to provide guidelines for the fines in disciplinary cases.

Following discussion Commissioner Robas requested that the Board discuss the disciplinary actions at the next meeting.

## **PRESENTATION: PORT OF JACKSONVILLE – SUPER BOWL PREPARATIONS**

Commissioner Robas welcomed Chris Kaufman to the meeting. She informed the Board that Mr. Kaufman was her boss and she had invited him to share with the members their efforts of the port to prepare for the super bowl.

Mr. Kaufman informed the Board that 5 cruise ships had been chartered to add hotel rooms in order to meet the number that is required by the NFL. He discussed the locations the ships were going to be docking and the procedures

the individuals would have to follow that stayed on the cruise ships. He stated that all of this had to be accomplished while still having their normal cargo arriving.

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

Mr. Winters provided the Board with a copy of his report.

Commissioner Sweeney requested that the Board be provided with a copy of the resumes' for the consultants that are on contract.

### **REQUEST FOR TWO YEAR CERTIFICATE**

#### **Dean Grant – Port Everglades**

Commissioner Phipps informed the Board that she would be representing Port Everglades on the agenda items due to a shortage of pilots at the port.

**MOTION:** Commissioner Buffington made a motion that Dean Grant be issued a 2-year certificate.

**SECOND:** Commissioner McMillin seconded the motion and it passed unanimously.

Commissioner Molitor suggested that if a request is submitted for a two year certificate and the meeting will not take place until after the temporary certificate has expired, consideration should be given to having a conference call if possible instead of waiting until the next meeting.

### **DEPUTY PILOT TRAINING PROGRAM**

#### **Port Everglades**

Commissioner Phipps informed the Board that they had made a change because of the time it takes to get federal license, it will allow deputies to still work. She stated that the changes were basically in-house changes.

**MOTION:** Commissioner Sweeney made a motion that the Board approve the changes to the Port Everglades Deputy Pilot Training Program as requested.

**SECOND:** Commissioner McMillin seconded the motion and it passed unanimously.

### **REQUEST FOR DEPUTY PILOT OPENINGS**

#### **Tampa Bay Pilots Association**

Mr. Spivey informed the Board that the request had been withdrawn and a copy of the letter was in the handouts.

### **REPORTS**

#### **Chair's Report**

Commissioner Robas stated that she had requested Jorge Viso, President of FSPA, to give an update on the conditions of the ports after the hurricanes.

Captain Viso stated that Palm Beach suffered some damage, their shoaling was reduced and therefore the ship size had to be reduced. Canaveral suffered extensive damage and their shoaling was significant. He reported that they had just had a dredge project completed and Captain Callan was able to get the equipment quickly and dredging was in progress. Captain Viso reported that Canaveral had been unable to handle cruise ships and they were sent to Everglades and Miami, however they were back to handling cruise ships now.

Captain Viso stated that in Ft. Pierce the shoaling had increased there. Panama City was intact, they had some sea buoys that were removed but they were up and operating now. Pensacola the infrastructure was damaged and they had one dock they could use however the warehouse facility was gone. Captain Viso stated that the Channel was deepened in Pensacola. He stated that Tampa had damage mostly to navigation.

### **Finance Committee**

Commissioner Buffington stated that the Committee met yesterday and addressed the prior FY 03-04 results and showed expenses had exceeded revenues. In the transfer to working capital trust fund they had received money back in the amount of \$75,000. He reported that the Committee addressed the 5-year budget and made changes. The amounts for General Counsel, DOAH and Attorney General's office were increased due to additional cases going to DOAH. Commissioner Buffington reported that the Committee decided to adjust the gross pilotage assessment because they found the current rate of 0.6% was not adequate and decided to make the change effective January 1, 2005 to 1.6%.

**MOTION:** Commissioner Buffington made a motion that the Board adopt the 5-year budget as presented.

**SECOND:** Commissioner Molitor seconded.

The Board discussed the risk of another sweep by the Legislature and all the money being taken. Commissioner Robas commented that they have to look at covering expenses that the Board knows will be coming before them, they don't want to get in position of not having any money.

Commissioner Buffington stated that if they leave the gross pilotage assessment at 0.6%, they would go into the red, but if they acted immediately they could recapture the money in a 12 month period and not go over the 2% cap for the gross pilotage assessment. He stated that they needed to increase the rate and could probably cover expenses by raising the assessment to 1% January 1, 2005, because they know 1 case will be at DOAH and the other 2 they are not sure of. Mr. Winters stated that it was very likely that 2 cases are going to DOAH.

There being no further discussion, the motion passed with Commissioner Hiers and Commissioner Leech voting against the motion.

David de la Parte stated that the FSPA applauded the efforts of the Board for trying to protect money. He stated that they would like to see as modest an increase as possible, the proposed 1% increase was a hefty increase. Mr. de la Parte stated that perhaps the Board could analyze the budget again in January to determine if there was a need for an increase.

Commissioner Buffington informed the Board that with normal expenses the gross pilotage assessment would need to be approximately 0.8%.

### **Rules Committee**

Commissioner Phipps reported that the Rules Committee met yesterday and reviewed raising the gross pilotage assessment from 0.6% to 1.6%

Commissioner Hiers commented that he thought they should leave the assessment alone to avoid the legislature taking funds because it was going to be a tight budget year.

**MOTION:** Commissioner McMillin made a motion that the Board increase the gross pilotage assessment to 1.6%.

**SECOND:** Commissioner Sweeney seconded the motion which failed with Commissioner Hiers, Commissioner Leech, Commissioner Sweeney, Commissioner Robas, Commissioner Buffington and Commissioner Buford voting against the motion.

**MOTION:** Commissioner Buffington made a motion that the Board increase the gross pilotage assessment to 1% effective 1/1/05.

**SECOND:** Commissioner Sweeney seconded the motion which passed unanimously.

During discussion of this motion, Commissioner Buffington stated that the Board had a fiduciary responsibility to maintain a positive cash balance in the Board's account and that this motion was made on the premise that the five year budget overstated certain expenses.

Commissioner McMillin stated that there was discussion yesterday regarding maintaining the federal license. Mr. Tellechea informed the Board that he was going to review this issue and report back to the Board.

### **Probable Cause Committee**

Commissioner Robas reported that the Probable Cause Panel met yesterday and heard five cases and closed five cases.

### **Board Counsel's Report**

Mr. Tellechea informed the Board that the case regarding Captain Efthimiadis was pending at DOAH. The case was originally set for Oct 14 & 15, however it had been continued. He stated that depositions are being taken and he was able to block the depositions for the board members, however the Port Everglades pilots have been deposed and Commissioner Phipps was included but not as a Board member. Mr. Tellechea informed the Board that Captain Fernandez will be the witness for the pilots.

### **Executive Director's Report**

Mr. Spivey informed the Board that the Secretary had made the appointments from the March examination. Reid Hansen for Palm Beach, Rickie Montoya and Jeff Robben for Port Everglades.

### **Port Security**

#### **Port Security May Be Aided by Electronic Container Seals**

Commissioner Molitor provided the Board with an article for their information. He introduced Allen Thompson, Executive Director with the Tampa Bay Pilots Association, who spoke on the activities taking place in Tampa.

### **CORRESPONDENCE**

Provided for informational purposes.

### **OLD BUSINESS**

There was no Old Business to come before the Board at this time.

### **NEW BUSINESS**

There was no New Business to come before the Board at this time.

### **NEXT MEETING DATE AND LOCATION**

January 6 & 7, 2005 – Tampa

Commissioner Leech informed the Board that the hotel in Ft. Pierce had been damaged and would report at the January the status of the hotel.

### **ADJOURNMENT**

There being no further business to come before the Committee, the meeting was adjourned at 11:50 a.m.