

MINUTES OF THE MEETING

BOARD OF PILOT COMMISSIONERS

**Wyndham Westshore Hotel
4860 West Kennedy Boulevard
Tampa, FL
January 7, 2005 9:00 a.m.**

CALL TO ORDER

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

Members Present

Commissioner Robas, Chair
Commissioner Buffington
Commissioner Buford
Commissioner Frudaker
Commissioner Hiers
Commissioner Leech
Commissioner McMillin
Commissioner Molitor
Commissioner Phipps, Vice-Chair
Commissioner Sweeney

Others Present

Anthony Spivey, Executive Director
Elise Rice, Government Analyst
Mary Ellen Clark, Board Counsel
Drew Winters, Prosecuting Attorney
Jorge Viso, FSPA
Gretchen Rayborn, FSPA
David de la Parte, FSPA
Captain Allen Thompson, Jr., Tampa Bay Pilots Association

Commissioner Robas thanked the Tampa Bay Pilots for the reception last night. She also stated that Commissioner Molitor was going on a skiing trip and would be leaving at 10:30 a.m.

APPROVAL OF THE MINUTES OF THE MEETING

October 8, 2004

MOTION: Commissioner Buffington made a motion that the Board approve the minutes as submitted.

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

LETTER RECEIVED FROM CAPTAIN BRUCE CUMINGS REGARDING NAVAL RESERVE MEMBERS

Ms. Clark informed the Board that Mr. Tellechea did not provide any comments to her on this item. Commissioner Robas questioned if this should be tabled.

Commissioner Phipps responded that this was an essential issue to Palm Beach since they have someone that has been called up and there were also three (3) in Port Everglades that were in the reserves.

Commissioner Robas referred this to Board Counsel and stated that if necessary Mr. Tellechea could go directly to Port Everglades with the information. Commissioner Phipps stated that they might need to inform the Governor that pilots are being called up.

REVIEW OF DEPUTY PILOT APPLICATIONS FOR THE MARCH EXAMINATION FOR THE PORT EVERGLADES OPENING

Commander Dunton provided the Board with a list of the 33 applicants that applied for the Port Everglades opening.

Commander Dunton read into the record those applicants that were fully qualified by rule to sit for the examination: Charles Bacon, James Clifford, Paul Coan, Miriam Coddington, Kevin Dooney, John DosSantos, Charles Ellis, Michael Funk, Carl Gruelund, Richard Horne, William Kavanaugh, Jr, Joseph Lachnicht, Joseph Lobo, Gregg Maclaren, Narayan Mons, Igor Nechepurenko, William Payne, Martin Poole, Robert Ripley, Jeffrey Ritter, Stephen Sottak, Thomas Spain, Samuel Stephenson, David Ulrich, William Wetzel and Charles Zenter.

MOTION: Commissioner Buffington made a motion that the Board accept the names as read into record to be approved to sit for March, 2005 examination for Port Everglades.

SECOND: Commissioner Leech second the motion.

Commissioner Buford questioned if the DWI on Jeffrey Ritter was something that had to be examined. Following discussion, Commissioner Sweeney stated that this was something that the Department would look at when the time came to make a selection. There being no further discussion, the motion passed unanimously.

Commander Dunton stated that the following applicants had items pending and requested that he be given until February 1st to gather the information before submitting those names to sit for the examination: Glenn Fortin - drug test; Cyril Gittens - pending fee; Garrett Johnson – shy 23 days; Klaus Luhta – shy 19 days and he has gone back to sea to get the time; Michael Manion – fee.

MOTION: Commissioner Buffington made a motion that the Board approve the candidates as read into the record provided they correct the noted deficiencies by February 1, 2005.

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

Commander Dunton stated that he wanted the Board to review the file for Arno Broehoven for a determination of eligibility because his sea time was questionable. He stated that Captain Broehoven held an unlimited chief mates license and all of his time was inland. He has for the last five (5) years served on the Washington Ferries. Commander Dunton stated that the Board only looks at recent sea time, not time in the past.

Commander Dunton stated that the certificate of inspection satisfies the requirements. Ms. Clark questioned if he obtained his time under a governmental regulatory entity which she could not answer with the information that has been provided.

Commissioner Robas commented that the issue was if the State of Washington was the regulatory body that the statute requires, the sea time was not the issue.

Commissioner Frudaker commented that the applicant was probably working on a ferry service and that would constitute as time. He has the sea service and the license since he has chief mates license.

Commissioner Sweeney informed the Board that he had a book from the Initial Academy of Sciences, which he also helped with. He read for the Board a portion dealing with the pilotage of inland vessels which indicated that an individual has to have the coast guard license to do this.

Commissioner Robas reminded the Board that they need to be clear in their decision.

Commissioner Buford stated that the applicant has to demonstrate that he has fulfilled the requirements and it does not appear that this applicant has fulfilled the requirements and presented the information for the Board to make a decision.

Mr. Spivey informed the Board that they needed to keep in mind if they deny someone they will have to tie it to a specific statute or rule.

Following further discussion, the following action was taken.

MOTION: Commissioner Buford made a motion that the Board find that Arno Broehoven meets the requirements to take the examination and that he be approved.

SECOND: Commissioner Sweeney seconded the motion which passed with Commissioners Phipps, Leech and McMillin voting against the motion.

Commander Dunton read into the record the applicant who did not meet the requirements: Kenneth Jones – not enough time.

MOTION: Commissioner Buford made a motion that the Board deny the application for Kenneth Jones as he does not meet the statutory requirements for sea time as required in Chapter 310.071(1)(d)(1), Florida Statutes.

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

Commander Dunton informed the Board that he was scheduled to pick up applications on December 10 from the Department and was given 19 applications, which he thought was a low number. He inquired about the applications and on December 20th he went back and was given 14 additional applications, thanks to Ms. Rice's assistance as the Central Intake Unit (CIU) would not provide him with any information.

Commissioner Robas commented that it appeared this was an issue with CIU and not Revenue. She stated that the Board had previously sent a letter to Secretary regarding problems with the applications. Commissioner Buffington stated that the Board needed to send a letter to CIU and copy the Secretary. Commissioner Robas stated that she would write the letter.

Commissioner Molitor suggested that the letter contain the strongest language possible.

APPROVAL OF CANDIDATE FOR STATE PILOT EXAMINATION

Douglas Scott Brown – Canaveral

Commander Dunton informed the Board that a letter had been received from the Canaveral Pilots association that Captain Brown be allowed to sit for exam and he had satisfied the requirements as required by rules. He informed the Board that Captain Brown would take the March 2005 exam.

MOTION: Commissioner Molitor made a motion that the Board approve Douglas Scott Brown for the State Pilot Examination.

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

PROSECUTING ATTORNEY'S REPORT – DREW WINTERS

Expert Witness Resumes'

Mr. Winters provided the Board with a copy of his report and reviewed the cases with the Board. He stated that there were currently 32 cases in Legal.

Commissioner Hiers questioned how many of the pending 27 cases had been sent to consultants other than Commander Dunton. Mr. Winters responded that approximately 20 are with outside experts and Commander Dunton has seven (7).

Ms. Clark asked Mr. Winters how many were more than a year old. Mr. Winters responded that the 20 with the expert are close to being a year old.

Mr. Winters stated that at the last meeting there was a request for the expert witness resumes which he had provided in the handouts.

DISCUSSION REGARDING DRUG TEST REQUIREMENTS – TAMPA BAY PILOTS ASSOCIATION

Captain Thompson with Tampa Bay Pilots Association provided a handout on the issue, see attachment. He stated that the rules do not allow any options or alternatives to meet the requirements for drug testing. Captain Thompson stated that the Coast Guard required drug test and they would like for the Board to consider alternatives for the drug test.

MOTION: Commissioner Buford made a motion that the Board refer the Memorandum from Captain Thompson to Board Counsel for review and that proposed rules be presented to the Rules Committee at the next meeting.

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

Ms. Clark questioned if the Board wanted the rule to be expanded to allow three (3) options for drug testing instead of just one. Commissioner Buford responded that his motion was for Board Counsel to study the memorandum and if it could be done, then a rule be drafted for the next meeting.

DISCUSSION REGARDING THE BOARD CONSULTANT/INVESTIGATOR'S CONTRACT

Commissioner Buffington stated that Commander Dunton had been working at the same billing rate for over 10 years and Commander Dunton had requested that his rate be increased. Commander Dunton provided information for the Board regarding his rate compared to the consumer price index.

Mr. Spivey informed the Board that an increase was up to the Department and the consultant. He stated that there was a clause in the contract that the consultants are aware they are working below the standard rate.

Commissioner Robas stated that the \$63 rate would be more inline. Commissioner McMillin stated that the Board needed to keep in mind that Commander Dunton has years of experience.

MOTION: Commissioner McMillin made a motion that the Board recommend that Commander Dunton's rate be increased to \$70 per hour.

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

PERFORMANCE EVALUATION BY THE BOARD OF GALEN DUNTON, BOARD CONSULTANT/INVESTIGATOR

At this time, Commander Dunton left the room. Commissioner Robas stated that Commander Dunton had been the Board Consultant for a number of years and they evaluate the consultant/investigator on annual basis.

Commissioner Leech stated that he would grade Commander Dunton an "A." Commissioner Buffington stated that from the probable cause panel perspective his analysis is good and they are very satisfied with Commander Dunton.

MOTION: Commissioner Buford made a motion that the Chair, on behalf of the Board, write a letter to the Secretary that Commander Dunton has served the Board faithfully and well and is appreciated by them and he has been given a good rating by the Board.

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

PERFORMANCE EVALUATION BY THE BOARD OF ED TELLECHEA, BOARD COUNSEL

MOTION: Commissioner Buford made a motion that the Chair, on behalf of the Board, write a letter to the Attorney Generals Office with copies to Cathy Lannon and the Secretary of DBPR, that Mr. Tellechea received the highest evaluation of services and great appreciation from the Board.

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

REPORTS

Chair's Report – Commissioner Robas

Commissioner Robas stated that she did not have a report and that she was looking forward to good year.

Finance Committee Report – Commissioner Buffington

Commissioner Buffington reported that the Finance Committee met yesterday. The Committee reviewed the 1st quarter results in which the expenses exceeded revenue. There was concern with the accounts receivable and revenue. Commissioner Buffington stated that the Committee did not take any action on the five (5) year budget or the gross pilotage assessment.

Rules Committee Report – Commissioner Phipps

Commissioner Phipps reported that the Committee made a motion that a letter be sent to the pilots for them to submit their most current federal license to the Department, which Mr. Spivey will draft the letter. Commissioner Phipps stated that staff would have a database therefore it will not have to be submitted each year. She stated that the letter needed to be sent as soon as possible.

Commissioner Phipps reported that the Committee discussed the use of simulator training for disciplinary matters and Commissioner McMillin was going to do more research regarding cost and locations and report back at the next meeting.

Probable Cause Committee Report – Commissioner Robas

Commissioner Robas stated that the Probable Cause Panel did not meet.

Board Counsel’s Report – Ed Tellechea

Ms. Clark informed the Board that Mr. Tellechea was very busy working on a case set to go to trial the end of the month.

Executive Director’s Report – Anthony Spivey

Mr. Spivey informed the Board that the top five (5) candidates from Ft. Pierce was turned in to the Secretary on Wednesday and he has not heard the results from the Secretary.

Port Security – Commissioner Molitor

Information was provided in the agenda book for the Boards’ review.

CORRESPONDENCE

This was provided for informational purposes.

OLD BUSINESS

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

NEW BUSINESS

Commissioner Leech made a request that any correspondence that the Board members wanted to be presented to Board be sent to the Chair and then to the Board office rather than individuals sending the information to the Board office.

Commissioner Buford stated that would be a violation of the Sunshine Law. Commissioner Robas stated that her preference would be that they continue with the way it is currently done.

Commissioner Robas thanked Ms. Clark for being present at the meeting for Mr. Tellechea.

NEXT MEETING DATE AND LOCATION

April 7 & 8, 2005 – Ft. Pierce

Mr. Spivey stated that there were no hotels available in the Ft. Pierce area. Commissioner Sweeney stated that the Board had not been to Pensacola and Fernandina Beach in long time. He also stated that he would like to have the future dates of meetings. Mr. Spivey responded that he would provide proposed dates at the next meeting. Commissioner Robas requested that the members provide any dates they would have a conflict with for the remainder of the year to Mr. Spivey.

Commissioner Robas stated that the next meeting would be held in Fernandina and if there was a problem then staff was to check into Pensacola and then Everglades.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 10:46 a.m.