

## **MINUTES OF THE MEETING**

### **BOARD OF PILOT COMMISSIONERS**

**Hyatt Regency Tampa  
Two Tampa City Center  
Tampa, FL 33602  
April 11, 2006 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 Victoria Robas, Chair  
Commissioner Eric Bryson  
Commissioner Michael Buffington  
Commissioner Rivers Buford, Jr.  
Commissioner John Fernandez  
Commissioner Richard Frudaker  
Commissioner John Hiers  
Commissioner Donald Molitor  
Commissioner Cheryl Phipps, Vice-Chair  
Commissioner Eugene Sweeney

#### **Others Present**

Robyn Barineau, Executive Director, DBPR  
Elise Rice, Government Analyst, DBPR  
Mary Ellen Clark, Board Counsel  
Drew Winters, Prosecuting Attorney  
Galen Dunton, Board Consultant  
Gretchen Rayborn, Executive Director, Florida State Pilots Association (FSPA)  
Jorge Viso, President, FSPA  
David de la Parte, Counsel for FSPA  
Allen Thompson, Tampa Bay Pilots Association  
Alistair Devlin  
Andy Edelstein, Port Everglades Pilots Association  
Pat Gough, Court Reporter

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

**January 13, 2006**

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

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

#### **Reconsideration**

**Alistair R. Devlin**

Captain Devlin was present and sworn in by the court reporter

Ms. Clark informed the Board that Captain Devlin was before the Board to ask for reconsideration of his application denial to take the deputy pilot examination. She explained that he was denied pursuant to Section 310.071(1)(d), Florida Statutes and Rule 61G14-11.002(2), Florida Administrative Code, for failing to have the required maritime experience while holding a United States Coast Guard license. Ms. Clark stated that Captain Devlin disputed the material facts, however, he requested that the formal hearing request be held in abeyance in order for the Board to reconsider his denial. She informed the Board that this was not an actual hearing because he has reserved the right to go to the Division of Administrative Hearings (DOAH). She added the decision to reconsider his application was up to the Board.

Captain Devlin addressed the Board and informed them that he spoke to different people and received different answers. He said that he does meet the requirements in Florida, but the Coast Guard accepts foreign experience. Captain Devlin informed the Board that the Coast Guard informed him that his sea time was equal.

Captain Devlin discussed his experience with the Board. He informed them that in July of 2005, he became an American citizen. He stated that he applied for the deputy pilot position because the Coast Guard accepted his sea time and he felt that he should receive some consideration of his sea time. Captain Devlin currently holds a US Coast Guard license that was effective February 2006.

Commissioner Buffington commented that Captain Devlin had adequate sea time, unfortunately, he did not accrue his sea time under the U S Coast Guard license which is required by Statute. He informed Captain Devlin that the Board has to adhere to the statutes and the Florida requirements supersede the Coast Guard requirements.

Following discussion, the following action was taken.

**MOTION:** Commissioner Buford made a motion that the Board deny Alistair Devlin's request for reconsideration.

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

Captain Viso commented that others have faced a similar situation and are now pilots.

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

Mr. Winters provided the Board with a copy of his report which was prepared on April 7. He discussed the status of the cases with the Board. He informed the Board that there were 5 cases that were over a year old, and he assured the members that they were being actively pursued and moving as quickly as possible.

## **DEPUTY PILOT TRAINING PROGRAM PROPOSED CHANGES – PORT EVERGLADES**

Captain Andy Edelstein was present on behalf of the Port Everglades Pilots Association. He informed the Board that a change needed to be made on the 2<sup>nd</sup> page to amend “overall progress” to “overall performance.”

Captain Edelstein informed the Board that they wanted to clarify some of the training requirements and that was the reason for the changes.

**MOTION:** Commissioner Buffington made a motion that the Board approve the Deputy Pilot Training Program as submitted by the Port Everglades Pilots Association.

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

## **REPORTS**

### **Chair’s Report – Commissioner Robas**

Commissioner Robas stated that Commissioner Hiers had inquired about changing the committees to a committee of the entire Board. She stated that they would continue with the current chairs of the committees, but have all members serve on all of the committees with the exception of probable cause.

Commissioner Sweeney stated that the Board needed to take advantage of the time they have at each port to learn about the port, the history, the time it takes to handle vessels, an overall education. Commissioner Robas agreed and stated that they had worked with Ft. Pierce for years and the Board needed to see that port.

### **Finance Committee Report – Commissioner Buffington**

Commissioner Buffington reported that the Committee met yesterday and reviewed the 2<sup>nd</sup> quarter results. He reported that the revenue was up slightly, expenses were lower than projected, and they were pleased with the net operating income level. He stated that for the remainder of the year there will be a significant decrease in revenue, and with expenses being below projections, the year end cash balance should be where they wanted to be.

Commissioner Buffington reported that the Committee took action and requested the Rules Committee adjust the gross pilotage assessment at the beginning of the 1<sup>st</sup> quarter of the new fiscal year to .07%.

### **Rules Committee Report – Commissioner Phipps**

Commissioner Phipps reported that the Committee met yesterday and the Committee approved the recommendation of the Finance Committee to change the gross pilotage assessment rate to .07% effective July 1 or August 1, whichever is achievable.

Commissioner Phipps reported that the Committee discussed language proposed by Board Counsel to address the renewal problem raised by the JAPC.

**MOTION:** Commissioner Buford made a motion that the Board adopt the proposed rule language and the amendments, and Board Counsel be authorized to move forward with rule making procedures.

**SECOND:** Commissioner Buffington seconded the motion which passed with Commissioner Sweeney voting against the motion.

### **Probable Cause Committee Report – Commissioner Robas**

Commissioner Robas reported that the Committee met yesterday and considered 5 cases. Four of the cases were closed and 1 reconsideration was withdrawn.

### **Board Counsel’s Report – Mary Ellen Clark**

Ms. Clark did not have a report to give at this time.

### **Executive Director’s Report – Robyn Barineau**

#### **Update on Pilot Examination Application Instruction Page Revisions**

Ms. Barineau informed the Board that the updated information was in the addendum package.

#### **Updated Marine Incident Report**

Ms. Barineau informed the Board that the updated information was included in the addendum. Commissioner Molitor stated there was an error on the first page and asked that it be corrected, changing “amy” to “any.”

Ms. Barineau informed the Board of a March 27, 2006 letter sent out from the Department of Management Services advising employees, including board members, of the availability of a one-year credit protection program for employees who were potentially affected by a company that worked for Convergys who used offshore services, almost two years ago, to electronically categorize some state employee personnel files; the service is available at no charge and participants must elect participation on or before May 12, 2006; Board staff will provide members with another copy of the letter.

Ms. Barineau stated that the members had been provided a copy of a Board member handbook. She stated that this was a new tool that has been developed and provides the members with helpful information. An overview of the manual will be provided at the next meeting.

### **Port Security – Commissioner Molitor**

Commissioner Molitor stated that articles of interest were included in the agenda book. He asked for recommendations for other publications from the members. Commissioner Bryson asked that Commissioner Molitor provide staff with the publications that he currently receives.

## **CORRESPONDENCE**

### **Improvements to the DBPR Internet Site**

### **Complaints and Investigative Statistics July 05 – February 06**

## **Tampa Bay Top Candidate Listing from the September 2005 Examination E-mail from Gene Sweeney**

This was provided for information purposes.

### **OLD BUSINESS**

Ms. Clark stated that the Board needs to continue to maintain the quality of the meetings and remain compliant with the gift law. She stated that since anyone has an opportunity to participate, the port tours are an extension of the meetings. Therefore, Ms. Clark stated, the time of the departure, address and cost would have to be noticed in the Florida Administrative Weekly.

Commissioner Bryson asked that an agenda item be the port event for discussion.

Mr. David de la Parte, Counsel for FSPA, stated that he would research this issue to assist the Board and provide his findings at the next meeting.

Commissioner Robas asked that the agenda for the next meeting include a discussion to establish the cost or price for a port tour, security issues at the port for the public, handicap access.

Mr. de la Parte stated that he would be glad to assist Ms. Barineau, Ms. Rice and Ms. Clark on these issues. He also agreed to work with the General Counsel of DBPR and Ms. Clark to have the issues worked out in advance of the next meeting. Mr. de la Parte stressed the need to eliminate the uneasy feelings of conducting and participating in a tour. He asked that the Board let them work through these concerns and come to the Board with a package that does not leave the issues floating around.

Ms. Clark stated that because the ethics law is new and still evolving, there has been much discussion in her office and they been directed not to give an opinion because their advice is not binding on the ethics commission.

Commissioner Frudaker stated that as much as he enjoyed the tours, until they can get direction his belief is that the tours should be suspended. He further stated that no one wants to be brought up on charges, and the Board does not need this type of negative publicity.

Commissioner Robas felt that the education about a port could be brought into the meetings from the port authority and individuals that use the port. She stated that due to the location of the Ft. Pierce meeting, they would ask that the information be presented to the Board and there would not be a tour of the port.

Commissioner Buford suggested Ms. Clark prepare a proposal requesting an opinion from the Ethics Commission on the tours. Ms. Clark responded that she would work with Commissioner Buford on the request, as it should come from the Board. The draft will be reviewed by the Board at the next meeting to see if they want to proceed.

## **NEW BUSINESS**

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

## **ELECTION OF OFFICERS**

**MOTION:** Commissioner Fernandez made a motion that the officers remain the same.

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

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

Ms. Barineau stated that the next meeting was scheduled for July 13 & 14, 2006, and accommodations had been secured near Ft. Pierce on Hutchinson Island.

The Board asked that Captain David Leech be contacted to provide information and have navigational charts for the Board to review. They also requested information be available regarding the type of cargo handled, the type of ships and perhaps the deputy pilot could also be present.

Commissioner Robas requested that the port authority also be contacted.

Ms. Barineau asked for locations for the September 28 & 29, 2006, meeting. The Board asked that staff set up the meeting in Pensacola, however if they were unable to secure a location, then try: Palm Beach, Miami, or Canaveral.

## **ADJOURNMENT**

There being no further business to come before the Board, the meeting was adjourned at 11:15 a.m.