

MINUTES OF THE MEETING

BOARD OF PILOT COMMISSIONERS Hyatt Regency Pier Sixty-Six Hotel 2301 SE 17th Street Ft. Lauderdale, FL 33316 July 15, 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 Victoria Robas, Chair
Commissioner Eric Bryson
Commissioner Michael Buffington
Commissioner Rivers Buford
Commissioner John Fernandez
Commissioner John Hiers
Commissioner Don Molitor
Commissioner Cheryl Phipps, Vice-Chair
Commissioner Gene Sweeney

Member Not Present

Commissioner Richard Frudaker

Others Present

Robyn Barineau, Executive Director
Elise Rice, Government Analyst
Drew Winters, Prosecuting Attorney
Mary Ellen Clark, Board Counsel
Galen Dunton, Board Consultant
Jorge Viso, FSPA
Gretchen Rayborn, FSPA
David de la Parte, FSPA
Margaret Mathews, Esquire
Timothy Shusta, Esquire
Allen Thompson, Tampa Bay Pilots Association
Reid Hanson, Palm Beach Pilots Association
David Ulrich
Charlie Hand, Biscayne Bay Pilots Association
Robert Flint, Port Operations, Port Everglades

Commissioner Robas informed the Board that Commissioner Frudaker was unable to attend the meeting as he was busy getting the port back in order after Hurricane Dennis. She thanked the Port Everglades Pilots Association for the boat tour yesterday and stated that the tours are always a great educational opportunity for the Board members and staff. Commissioner Robas also thanked them for the reception last night and thanked the Florida State Pilots Association for the dinner last night.

Commissioner Robas introduced two new Board members, John Fernandez and Eric Bryson.

APPROVAL OF THE MINUTES OF THE MEETING

April 8, 2005

MOTION: Commissioner Molitor made a motion that the Board approve the April 8, 2005 minutes as submitted.

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

SETTLEMENT STIPULATIONS

There was a court reporter present.

Commissioner Robas turned the Chair over to Commissioner Buffington to preside over the Stipulations.

Brian Tahaney, Case No. 2002-012655

Probable Cause Panel – Robas, Phipps, Winegeart

Mr. Winters presented the case and informed the Board that the Respondent had agreed to a Stipulation to pay \$1800 in costs, probation for one year and pass a Ship Handling Course or Bridge Resource Management Course within 6 months of the filing of the Final Order. Mr. Winters stated that the Department asked that the Stipulation be accepted as presented.

Margaret Mathews was present on behalf of Captain Tahaney. She informed the Board that both pilots had agreed to the same discipline. She also stated that the incident occurred in October 2002 and Captain Tahaney was not involved in any incidents since that time. Ms. Mathews requested the Board to adopt the Settlement Stipulation.

Commissioner Buffington commented that both of the Stipulations are for pilots from his area; however, he stated that he felt he could make a fair assessment of the cases.

MOTION: Commissioner Buford made a motion that the Board adopt the Stipulation as presented in case number 2002-012655.

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

Richard Heston, Case No. 2002-012656

Probable Cause Panel – Robas, Phipps, Winegeart

Mr. Winters presented the case and informed the Board that Captain Heston had agreed to Stipulation to pay \$1800 in costs, pass a Ship Handling Course or Bridge Resource Management Course within 6 months of the filing of the Final Order. Mr. Winters stated that the Department requested that the Board adopt the Stipulation as presented.

Timothy Shusta, Esquire, was present on behalf of Richard Heston.

MOTION: Commissioner Hiers made a motion that the Board adopt the Settlement Stipulation as presented in case number 2002-012656.

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

REQUEST TO SIT FOR STATE PILOT EXAMINATION

Benjamin Borgie – Canaveral

Commander Dunton informed the Board that a letter was sent from the Canaveral Pilots Association requesting Captain Borgie be approved to sit for the state pilot examination in September 2005. He reported that Captain Borgie will have completed at least 21 months as a deputy pilot, will be in the last stage of training and meets the requirements to take the examination. Commander Dunton reported that there were no outstanding marine incidents.

Dean Grant – Port Everglades

Commander Dunton informed the Board that a letter was sent from the Port Everglades Pilots Association requesting Captain Grant be approved to sit for the state pilot examination in September 2005. He reported that Captain Grant will have completed at least 21 months as a deputy pilot, will be in the last stage of training and meets the requirements to take the examination. Commander Dunton reported that there were no outstanding marine incidents.

Mark Schmitt – Biscayne Bay

Commander Dunton informed the Board that a letter was sent from the Biscayne Bay Pilots Association requesting that Captain Schmitt be approved to sit for the state pilot examination in September 2005. He reported that Captain Schmitt will have completed at least 21 months as a deputy pilot, will be in the last state of training and meets the requirements to take the examination. Commander Dunton reported that there were no outstanding marine incidents.

MOTION: Commissioner Sweeney made a motion that the Board approve Benjamin Borgie, Dean Grant and Mark Schmitt for the September 2005 State Pilot Examination.

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

APPROVAL OR DENIAL OF APPLICANTS FOR THE DEPUTY PILOT EXAMINATION

Commander Dunton provided a list of the applicants to the Board.

Commissioner Buford moved to have the provided list incorporated in the minutes.

Commander Dunton reported there was one candidate that needed to submit a new physical and asked the Board to allow him one additional week to gather this information.

Commander Dunton reported that there were two applicants who were not eligible based on the Board rules. He informed the Board that Steven Parrish had not submitted sufficient sea service time and therefore withdrew his application. Commander Dunton informed the Board that Leland Thorn was not eligible based on his sea service time.

MOTION: Commissioner Buford made a motion that all the applicants provided on the list by Commander Dunton with the exception of Steven Parrish and Leland Thorn be certified by the Board as having met the statutory requirements for the deputy pilot examination.

SECOND: Commissioner Buffington seconded the motion.

Commissioner Hiers asked for discussion on some of the candidates regarding DUI's and the reasons an application can be denied. Commissioner Sweeney commented that this had been discussed previously and the Board's role was to take action on the experience; the other provided information was Department information for their consideration.

Following discussion, the Board voted on the motion which passed with Commissioner Hiers voting against the motion.

MOTION: Commissioner Buford made a motion that the Board deny the application for Leland Thorn as he had not met the statutory requirements for sea time.

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

Commissioner Robas informed the Board that they had a special guest at this time, Robert Flint, Head of Port Operations for Everglades. He had been invited by Commissioner Phipps to come and speak to the Board.

Mr. Flint thanked the Board for the invitation. He provided historical information about Port Everglades and stated that the Port had grown dramatically. Mr. Flint stated that petroleum was their main source of revenue in the port's beginning, but petroleum is now less than one-third of their income. He stated that the cruise ships were about 27% of their business and their main source of revenue. He also informed the Board

that the port's container business had grown and that they had nine container cranes at this time. Mr. Flint stated that the Port was moving forward, there was excitement and challenge as to how to satisfy the growth need in South Florida.

Mr. Flint informed the Board that Everglades is currently one of the deepest ports and they are investigating expanding the port's depth. He stated that \$45 million is currently being spent on the infrastructure and the cost to operate is \$18 million a year.

The Board thanked Mr. Flint for his informative presentation.

Prosecuting Attorney's Report – Drew Winters

Mr. Winters provided the Board with Prosecuting Attorney's report. He reported that there were 25 total case files in legal; the probable cause panel reviewed 10 cases, there were two cases awaiting outside action. Mr. Winters informed the Board that there were 9 cases that were currently a year old and requested permission to continue with them.

The Board directed Mr. Winters to proceed with the year old cases.

REPORTS

Chair's Report – Commissioner Robas

Commissioner Robas informed the Board that she received a letter from Deputy Secretary, Andy Edwards regarding budget process and requesting all boards to give feed back on the budget process. She stated that a copy was provided in the hand-out folders for informational purposes and if any member had any information to be relayed back to the Department, to provide the information to Ms. Barineau.

Finance Committee Report – Commissioner Buffington

Commissioner Buffington reported that the Committee met yesterday and reviewed the 3rd quarter revenue which was below projections, the expenses were below projections and there was a slight increase in net assets. He reported that he anticipated that the year end results would be a positive cash flow.

Commissioner Buffington reported that the Committee addressed the 5 year budget and the recommendation of the Committee was that the Board adopt the budget as presented. He stated that the Committee addressed the gross pilotage assessment and effective October 1, 2005, they recommended that the rate be adjusted down to .06% and it passed unanimously.

MOTION: Commissioner Buffington made a motion that the Board adopt the 5 year budget as contained in handout material.

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

Commissioner Buffington reported that the Finance Committee moved that the gross pilotage assessment be adjusted to .06% and the Board agreed.

Aye

Commissioner Buffington stated that the letter received from Deputy Secretary Edwards was one of the things they provide the Board and requested that the Committee members, in the future, be provided a copy once the letter is received in the Board office.

Rules Committee Report – Commissioner Phipps

Commissioner Phipps stated that the Rules Committee met yesterday and discussed the gross pilotage assessment and the change passed unanimously. She asked Board Counsel to report on the other rules.

Ms. Clark reported that the Committee discussed Rule 61G14-11.002(2)(g), F.A.C., and voted to adopt new language, and if approved by the Board, the rule will be noticed in the Florida Administrative Weekly.

Ms. Clark reported the Committee discussed changes to Rule 61G14-20.001, F.A.C. regarding physicals, and she would begin working on Rule 61G14-12.003, F.A.C., regarding the military spouse's renewal rule.

MOTION: Commissioner Buford made a motion that the Board approve the Rules Committee report.

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

Probable Cause Committee Report – Commissioner Robas

Commissioner Robas reported that the Panel reviewed 10 cases. They closed 8 cases and found probable cause in two cases.

Board Counsel's Report – Mary Ellen Clark

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

Executive Director's Report – Robyn Barineau

Ms. Barineau stated that there was discussion at the last meeting regarding the trust fund being eliminated and she was asked to research this matter. She reported that the Department was not aware of anything to eliminate the trust fund.

Ms. Barineau informed the Board that the preliminary grades from the March deputy pilot examination were released in June and the final grades should be released in early August.

Ms. Barineau informed the Board that she, along with Ms. Rice, Mr. Tellechea and Ms. Clark, met with a Puerto Rican delegation regarding their pilot operation and they were very impressed with the way Florida handles their operation. She informed the Board that the following day the delegation met with some of the Biscayne Bay pilots.

Commissioner Sweeney requested that the Board be notified of the selection for deputy openings.

Port Security – Commissioner Molitor

Commissioner Molitor informed the Board that there were some articles in the agenda book for the Board review. He stated that he had obtained some information on the international scale which will be provided at the next meeting.

CORRESPONDENCE**Letter from FSPA****Letters From Earl McMillin**

Commissioner Robas stated that these letters were provided for informational purposes.

OLD BUSINESS

There was no Old Business to be presented to the Board.

NEW BUSINESS

Commissioner Robas stated that the Board needed to select a location for the September meeting. The Board agreed to conduct the September 29 & 30 meeting in Key West, however, if staff was unable to secure a location, then they would meet in Palm Beach.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 11:00 a.m.