

MINUTES OF THE MEETING
BOARD OF PILOT COMMISSIONERS
Radisson Resort at the Port
8701 Astronaut Boulevard
Cape Canaveral, FL
July 13, 2007

CALL TO ORDER

Chair Phipps called the meeting to order at 9:04 a.m.

Members Present

Commissioner Cheryl Phipps, Chair
Commissioner Harold "Hap" Brandenburg
Commissioner Eric Bryson, Vice-Chair
Commissioner Rivers Buford, Jr.
Commissioner John Fernandez
Commissioner Richard Frudaker
Commissioner Jeffrey Jones
Commissioner Don Molitor

Members Not Present

Commissioner Fran Bohnsack

Others Present

Robyn Barineau, Executive Director
Elise Rice, Government Analyst
Mary Ellen Clark, Board Counsel
Michael Flury, Board Counsel
Drew Winters, Prosecuting Attorney
Jean Whitten, Department of Business and Professional Regulation
Galen Dunton, Consultant
Jorge Viso, President, Florida State Pilots Association
Joe Brown, Florida State Pilots Association
John Atchison, St. Johns Bar Pilot Association
Martin Poole
Margaret Mathews, Ackerman Senterfitt
Allen Thompson, Jr., Tampa Bay Pilots Association
Gretchen Rayborn, Florida State Pilots Association
Benjamin Borgie, Canaveral Pilots Association
Brian Seuter, Cumberland Sound Pilots Association
Ron Christaldi, Florida State Pilots Association
David Leech, Ft. Pierce Pilots Association
Tony Hogg, Florida Docking Masters Association

Chair Phipps informed the Board that Commissioner Bohnsack's absence was excused.

APPROVAL OF THE MINUTES OF THE MEETING

May 4, 2007

MOTION: Vice-Chair Bryson made a motion that the Board approve the minutes as submitted.

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

INFORMATION TECHNOLOGY EXPENDITURES – JEAN WHITTEN, DIRECTOR, OFFICE OF BUDGET AND FINANCIAL MANAGEMENT

Ms. Whitten stated that Captain Buffington had asked that she appear to discuss Information Technology with the Board. She provided the Board with handouts showing the history of expenditures and appropriations for Information Technology. Ms. Whitten reviewed the history with the Board and stated that the Department predicts that there will be a two million dollar decrease in future expenditures. She stated that the document management project will be finished this year and this was a non-recurring cost.

Ms. Whitten also provided the Board with a handout that detailed the functions of Information Technology. She stated that cost allocation was difficult to project because it changes. She stated that if there are no special projects for an area then everyone has to share the costs and this will continue to change year to year.

Vice-Chair Bryson stated that the Board had tried to make their money less attractive to the Legislature and would like to have it explained how to best protect their trust fund.

Ms. Whitten responded that the agency is self-sufficient and the Department prepares a five year projection to make sure no area goes into the negative. She stated that the Pilots have a cash balance that is on the high side and they have never been in the negative. Ms. Whitten informed the Board that the Department keeps a close watch on cash balances. Ms. Whitten also informed the Board that the Department reviews the cash balances if a cash sweep occurs and determines where the monies should come from. She added that she has flexibility on how cash is swept.

The Board thanked Ms. Whitten for taking the time to meet with them.

SETTLEMENT STIPULATION

Captain Francis Wood, Case #2005-011068

Mr. Winters informed the Board that Ms. Margaret Mathews was present on behalf of Captain Wood. Ms. Mathews informed the Board that she and Mr.

Winters had an understanding and that she would not attempt to recuse the Board when this case comes back from a hearing officer for Board action.

Mr. Winters informed the Board that he had worked with Ms. Mathews to reach a settlement for this case, but there was a dispute over material fact and they had worked hard on this case and thought they came to a proper resolution of the matter. He stated that there was a change in circumstances and the case was put on the agenda because of an e-mail received from Ms. Mathews. Mr. Winters informed the Board that the case will be sent to the Division of Administrative Hearings because they were not able to reach a settlement.

Ms. Mathews informed the Board that they were trying to get a settlement accomplished and thought they had a resolution, however, there was a lack of communication and now the case will go to a hearing officer. She stated that she will not raise an objection that the Board has seen the case materials. She will object if the Board considers materials which the hearing officer has not been presented.

Mr. Winters stated that the case will be sent to the Division of Administrative Hearings very shortly.

PROSECUTING ATTORNEY'S REPORT – DREW WINTERS

Mr. Winters reported that there are 21 cases in the Legal section. Of this number, eight were considered during the probable cause panel meeting, one formal hearing has been requested, 11 had been sent to consultant/expert, and one for board presentation which will be changed to the formal hearing section. Mr. Winters informed the Board that there are four cases that are one year old or older. The oldest case is the Wood matter which is going to formal hearing, and the other formal hearing is over a year old. He stated that the other two cases were awaiting information from outside sources.

Mr. Winters requested that he be allowed to continue with the four cases that were over a year old.

MOTION: Commissioner Molitor made a motion that the Board authorize Mr. Winters to continue processing the year old cases.

SECOND: Vice-Chair Bryson seconded the motion and it passed unanimously.

RATIFICATION OF AMENDMENT TO RULE 61G14-19.001, FLORIDA ADMINISTRATIVE CODE

Chair Phipps informed the Board that the rule could not be effective on July 1, 2007, and she agreed to change the effective date to August 1, 2007.

MOTION: Vice-Chair Bryson made a motion that the Board ratify the change to Rule 61G14-19.001, Florida Administrative Code.

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

REQUEST FOR TWO-YEAR CERTIFICATE

Peter Glynn – Tampa Bay

Captain Allen Thompson was present on behalf of the Tampa Bay Pilots Association. He informed the Board that he provided the ballots signed by the Tampa Bay Pilots regarding the advancement of Captain Glynn and asked that the request for a two year certificate be approved.

MOTION: Commissioner Frudaker made a motion that the Board approve the issuance of the two year certificate for Peter Glynn as requested.

SECOND: Vice-Chair Bryson seconded the motion and it passed unanimously.

Joseph Lachnicht – Tampa Bay

Captain Allen Thompson was present on behalf of the Tampa Bay Pilots Association. He informed the Board that he provided the ballots signed by the Tampa Bay Pilots regarding the advancement of Captain Lachnicht and asked that the request for a two year certificate be approved.

MOTION: Vice-Chair Bryson made a motion that the Board approve the issuance of the two year certificate for Joseph Lachnicht as requested.

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

REVIEW OF CROSS LICENSED DEPUTY PILOT APPLICATION FOR THE PORT OF FT. PIERCE

Ms. Rice informed the Board that Captain Reid Hanson submitted an application for the exam, which will be given on August 19, 2007.

REVIEW OF DEPUTY PILOT TRAINING PROGRAM CHANGES FOR ST. JOHNS BAR PILOT ASSOCIATION

Captain John Atchison informed the Board that the change in the training program was due to projected increase in vessel size.

MOTION: Commissioner Fernandez made a motion that the Board approve the change to the Training Program as requested.

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

INFORMATION FROM CANDI R. BING, NATIONAL TRANSPORTATION SAFETY BOARD

Chair Phipps stated that the members were sent an e-mail with a link to review the material.

Captain Viso, President of the Florida State Pilots Association, read the following letter drafted by the Florida State Pilots Association.

July 12, 2007

Board of Pilot Commissioners
1940 N. Monroe St.
Tallahassee, FL 32399

Pilot Commissioners:

The FSPA is a professional organization that represents the state licensed harbor pilots in the state of Florida. The FSPA does not represent docking pilots in Florida.

The NTSB report on the NEW DEHLI EXPRESS grounding has generated a recommendation to the BOPC.

The FSPA would like to publicly comment on this. Our hope is that the BOPC will consider our points in formulating their response to the NTSB.

- In the state of Florida, Docking pilots (federally licensed mariners) work exclusively in the port of Jacksonville.
- The BOPC has no jurisdiction over federally licensed docking pilots.
- Florida state licensed pilots have actively participated in Bridge Resource Management for Pilots (BRMP) training for many years. This training has been developed and certified by the American Pilots' Association (APA). BRMP training is also endorsed by the FSPA.
- Docking pilots and state licensed pilots do not necessarily function as a team. There is a clear and definitive transfer of navigational control.
- The FSPA does not concur with the NTSB conclusion that, "Contributing to the cause of the grounding was the failure of both pilots to practice good bridge resource management." The vessel was clearly under the navigational control of the docking pilot.
- We look forward to reviewing the complete and final NTSB report.
- Any further comments by the NTSB in reference to docking pilots should be directed towards the appropriate organizations.

Thank you for this opportunity to address our concerns with the NTSB "Safety Recommendation."

Capt. Jorge J. Viso
President
FSPA

Captain Viso informed the Board that the final report from the National Transportation Safety Board had not been released yet.

Following discussion, Vice-Chair Bryson suggested that the Board adopt the points raised by the Florida State Pilots Association.

Chair Phipps stated that the Board needed to respond.

MOTION: Vice-Chair Bryson made a motion that the Board respond to the National Transportation Safety Board including the Florida State Pilots Association points and respond further if necessary.

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

Chair Phipps stated that she would draft the response, with the assistance of Ms. Barineau, and have the Jacksonville pilots review the letter before it is released.

ANNUAL REVIEW OF BOARD COUNSEL

MOTION: Commissioner Buford made a motion that the Board send a letter to Ms. M. Catherine Lannon expressing the appreciation for the fine work performed by Ms. Clark.

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

Captain Viso informed the Board that Florida State Pilots Association was supportive of the comments.

REPORTS

Chair's Report – Commissioner Phipps

Chair Phipps thanked the Canaveral Pilots for the tour of the port and the reception.

Finance Committee Report – Commissioner Bryson

Vice-Chair Bryson reported that the Committee met on July 12, 2007, and they decided not to make any changes to the gross pilotage assessment rate until they receive and review the year end report.

Rules Committee Report – Commissioner Frudaker

Commissioner Frudaker reported that the Committee met on July 12, 2007. They reviewed changes to Rules 61G14-11.007 & 61G14-15.003, Florida Administrative Code, which had been noticed and should be adopted by the next meeting.

Commissioner Frudaker stated that the Committee discussed changes to 61G14-17.002, Florida Administrative Code, regarding probable cause determination. He stated that the Committee voted to proceed with the change, however, after reconsideration, he would like to withdraw the change or table the matter until the next meeting.

Following discussion, the following action was taken.

MOTION: Chair Phipps made a motion that the Board withdraw the proposed changes to Rule 61G14-17.002, Florida Administrative Code.

SECOND: Vice-Chair Bryson seconded the motion which passed with Commissioner Molitor voting against the motion.

Probable Cause Panel Report – Commissioner Phipps

Chair Phipps reported that the Probable Cause Panel met on July 12, 2007. They reviewed eight cases of which six were closed, one was closed with a letter of guidance, and probable cause was found in one case.

Board Counsel's Report – Mary Ellen Clark

Ms. Clark did not have a report to give at this time. She stated that she had enjoyed working with the Board as it had been a great opportunity and learning experience.

Executive Director's Report – Robyn Barineau

March Deputy Pilot Examination

Ms. Barineau informed the Board that the final grades from the March examination should be released by the end of the month. She stated that the information will be provided to the Secretary and the appointments will hopefully be made by the middle of August.

Update on Advertising of Deputy Pilot Openings

Ms. Barineau stated that she had received information from various publications regarding advertising the deputy pilot openings. She stated that the costs varied with some being as high as \$5000.00.

Port Security – Commissioner Molitor

Commissioner Molitor stated that information was provided in the agenda for informational purposes.

CORRESPONDENCE

Woman in History – Victoria Robas

This was provided for informational purposes.

NEW BUSINESS

Captain Thompson, Tampa Bay Pilots Association, informed the Board that Secretary Benson visited and toured the Port of Tampa Bay on June 5.

Chair Phipps stated that the next meeting would be October 4 & 5 in Palm Beach. The following Board meeting is proposed for January 17 & 18, 2008, in either Tampa or Panama City. Commissioner Phipps informed the Board that future meeting dates would be set at the next meeting.

Commissioner Molitor commented that on pages 75 & 76 were the requests for issuance of permanent certificates. He stated that he did not feel that letters from the pilot associations were sufficient information for the Board to make a decision regarding advancement. He stated that in the future, they may want to consider getting a written report from Commander Dunton to fulfill the requirements.

Chair Phipps responded that this was the purpose of the Deputy Advancement Committee. Commissioner Molitor withdrew his suggestion.

Commissioner Buford welcomed the Commissioner Brandenburg and Commissioner Jones to the Board.

Chair Phipps welcomed the new members along with Mr. Michael Flury, new board counsel.

OLD BUSINESS

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

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 10:15 a.m.