

EXECUTIVE SUMMARY

Board of Pilot Commissioners

I. General Information

Meeting Type: Finance Committee, Rules Committee, Probable Cause
Panel and General Business Meetings

Meeting Date: April 10 and 11, 2006

Meeting Location: Hyatt Regency Tampa
Two Tampa City Center
Tampa, Florida 33602

Attendees:

Commissioner Victoria Robas, Chair
Commissioner Cheryl Phipps, Vice Chair
Commissioner Eric Bryson
Commissioner J. Michael "Mike" Buffington
Commissioner Rivers H. Buford, Jr.
Commissioner John Fernandez
Commissioner Richard "Rick" Frudaker
Commissioner John Hiers
Commissioner Donald "Don" N. Molitor
Commissioner Eugene "Gene" F. Sweeney
Robyn Barineau, Executive Director, DBPR
Elise Rice, Government Analyst, DBPR
Drew Winters, Assistant General Counsel, DBPR
Mary Ellen Clark, Assistant Attorney General, Department of Legal Affairs (DLA)
Galen W. Dunton, Consultant
David de la Parte, Counsel for Florida State Pilots Association (FSPA)
Jorge J. Viso, President, FSPA
Gretchen Rayborn, Executive Director, FSPA
Allen L. Thompson, Jr., Executive Director, Tampa Bay Pilots Association
Alistair Devlin
Tamara Devlin
Patricia Gough, Court Reporter

II. Major Issues/Actions

- Commissioner Mike Buffington reviewed the board's second quarter Financial Report for the 2005-2006 fiscal year and indicated that the expense figures outlined in the Financial Report are slightly below projections and the revenue figures are above projection. He suggested, however, that the gross pilotage rate be increased from 1/10 of one percent to 7/10 of one percent as early in the first quarter of the 2006-2007 fiscal year to maintain a comfortable operating account balance. Ms. Mary Ellen Clark, Assistant Attorney General, informed the board that she would attempt to have the amendment to the gross pilotage rule become effective July 1, 2006, but if this timeline was not achievable, the rule could definitely be effective by August 1, 2006.

- Ms. Clark informed the board that the reduction in the gross pilotage rate from ¼ of one percent to 1/10 of one percent will be effective May 1, 2006, for the 2005 -2006 fiscal year.
- In response to the letter addressed to the board from the Joint Administrative Procedures Committee (JAPC) dated January 9, 2006, Ms. Clark advised the board that she has been working in concert with the department's General Counsel's Office and JAPC to reach a resolution of JAPC's comments that the board has no authority to require license renewal. Ms. Clark drafted some new language (Rule 61G14-12.0015, Florida Administrative Code) allowing for license and certificate retention eligibility and the board approved the language as follows:

61G14-12.0015 License and Certificate Retention Eligibility

(1) Licensees and Certificate holders, without regard to the status of their license or certificate, must reestablish their qualifications to hold the license or certificate by January 31 of each odd numbered year, in order to retain the license or certificate, through submission to the Board office of each of the following:

(a) Documentary evidence that the license or certificate holder remains in active service as required by Section 310.081(3)(e), Florida Statutes;

1. Active service by a pilot shall be established by submitting documentation of the identity of and the number of vessels piloted during the prior biennial period. A pilot who regularly takes a turn on duty is in active service. Exceptions will be made from the active service definition for illness or injury not preventing performance as a pilot for more than twelve (12) consecutive months.

2. Active service by a deputy pilot shall be established by submitting a certification, from the licensed state pilots at the port being served during the prior biennial period, of availability and satisfactory training in accordance with the approved training plan.

(b) The biennial fee required by Section 310.121(2), Florida Statutes, and specified in Rule 61G14-14.004, F.A.C.;

(c) Annual documentary evidence of continued good physical and mental health required by Sections 310.073, and 310.081, Florida Statutes and Rule 61G14-20.001, F.A.C.; and

(d) Certificate of successful completion of a Board-approved course in professional skills including certification in the proper and efficient use of radar.

(2) License or certificate holders who fail to comply with this rule shall surrender their licenses or certificates to the Board until compliant.

Specific Authority 310.085 FS. Law Implemented: 310.073, 310.081(3), 310.091(3), 310.121(2) FS. History: New

Ms. Clark will move to repeal Rules 61G14-12.001 and 61G14-12.002, Florida Administrative Code, once the new Rule 61G14-12.0015, Florida Administrative Code, is adopted.

- After information was offered by Mr. Alistair Devlin, an individual whose application to sit for the Deputy Pilot examination was denied, the board moved to deny Mr. Devlin's request for reconsideration.
- Mr. Drew Winters, Assistant General Counsel, reported there are currently 20 pilot cases in the legal department.

- The board approved the revised Deputy Pilot training program as provided by the Port Everglades Pilots Association.
- Chair Victoria Robas amended the current committee structure to include all commissioners on each committee with the exception of the Probable Cause Panel. Those serving in the committee chair and vice-chair positions will continue to serve in those capacities.
- The Probable Cause Panel closed four cases with no finding of probable cause and one case for reconsideration was withdrawn.
- Ms. Robyn Barineau, Executive Director, informed the board that the Marine Incident Report has been revised to include information including the length and beam of the vessel, whether or not tugs were utilized, and if tugs were used, the horsepower and type of propulsion of the tugs.
- Ms. Barineau informed the board that the Examination Application Instruction Page has been updated to include information stressing the importance of individuals providing complete applications to the department.
- 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.
- Ms. Barineau reminded all members to provide all outstanding travel reimbursement to board staff as soon as possible as the end of the fiscal year is fast approaching and all payments for the current fiscal year need to be made before June 30, 2006.
- Ms. Barineau distributed the new edition of the Board Member Handbook to all members. She asked that all members review the handbook at their leisure and contact her should they have any questions. In addition, she will provide greater detail about the role and responsibilities of a board member at a future board meeting.
- Ms. Barineau informed the board that the email regarding improvements to the DBPR Internet site, the Complaints and Investigative Statistics Report for the Period July 2005 through February 2006, a listing of the top candidates from the September 2005 Port of Tampa Bay examination, and an email from Commissioner Gene Sweeney were included in the agenda for informational purposes.
- Commissioner Don Molitor mentioned that the port security information contained in the agenda was included for informational purposes.
- Mr. David de la Parte, Counsel for the Florida State Pilots Association (FSPA), offered to work with Ms. Clark and the department's General Counsel on issues relating to future port tours such as noticing requirements, security, and ADA issues. Commissioner Rivers Buford suggested to the board that if the ethics law is unclear, an opinion from the Florida Commission on Ethics could be sought for clarity. Ms. Clark indicated that she, too, had been thinking about the possibility of the board seeking an opinion and asked if Commissioner Buford would assist her with compiling the opinion request. Commissioner Buford offered to work with Ms. Clark on drafting the request for an opinion and provide the draft at the next board meeting.
- The board unanimously reelected Commissioner Victoria Robas as Chair of the Board of Pilot Commissioners and Commissioner Cheryl Phipps as Vice-Chair of the Board of Pilot Commissioners.

- The board agreed to conduct its July 13 and 14, 2006, board meeting in Ft. Pierce and its October board meeting in Pensacola, Palm Beach or Miami.

III. Legislation/Rule Promulgation

- Ms. Clark will move forward with amending Rule 61G14-19.001, Florida Administrative Code, to reflect an increase in the gross pilotage assessment rate from 1/10 of one percent to 7/10 of one percent effective either July 1, 2006, or August 1, 2006, whichever date is first achievable.
- Ms. Clark will move forward with filing new Rule 61G14-12.0015, Florida Administrative Code, and upon its adoption, she will move forward with the repeal of Rules 61G14-12.001 and 61G14-12.002, Florida Administrative Code.

IV. Action Required

- The board will discuss the five year budget projections at the July 2006 board meeting.
- Board staff will provide all board members with a copy of the March 27, 2006, letter from the Department of Management Services.
- Board staff will also provide all board members with the definition of "minority" as considered in section 310.081(2), Florida Statutes.
- Commissioner Molitor will provide a list of periodicals he reviews for port security information to board staff for dissemination to all board members.
- Ms. Clark and Commissioner Buford will work together on drafting a request for an ethics opinion on issues relating to port tours and provide their draft to the board at the next meeting.
- Chair Robas suggested the Port of Ft. Pierce provide a port administration expert to address the board at the next meeting and provide educational information regarding the port and its makeup.

Robyn Barineau
Executive Director
April 17, 2006