

MINUTES OF THE MEETING
BOARD OF PILOT COMMISSIONERS
Tampa Marriott Westshore
1001 North Westshore Boulevard
Tampa, FL
October 2, 2009

CALL TO ORDER

Chair Phipps called the meeting to order at 9:00 a.m.

Members Present

Commissioner Phipps, Chair
Commissioner Bohnsack
Commissioner Brandenburg
Commissioner Bryson, Vice-Chair
Commissioner Buford
Commissioner Fernandez
Commissioner Frudaker
Commissioner Jones
Commissioner Molitor

Others Present

Robyn Barineau, Executive Director
Elise Rice, Government Analyst
Michael Flury, Board Counsel
Diane Moore, Deputy General Counsel
Eric Hurst, Chief Attorney
Joe Brown, Florida State Pilots Association (FSPA)
Allen Thompson, Tampa Bay Pilots Association (TBPA)
Steve Gasecki, FSPA
Mike McGraw, Key West Pilots Association
Warren Husband, FSPA
John Teems, St. Johns Bar Pilot Association (SJBPA)
Margaret Mathews
Jorge Viso, TBPA
John Atchison, SJBPA
Dan Ramsey, Florida Docking Masters
Jay Winegeart, SJBPA
Kelly Fowler, TBPA
Mike Buffington, TBPA

APPROVAL OF THE MINUTES OF THE MEETING

July 24, 2009

Ms. Barineau informed the board that the correction on the gross pilotage assessment had already been noted.

MOTION: Commissioner Bryson made a motion that the board approve the minutes as amended.

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

SETTLEMENT STIPULATION

Captain Jonathan D. Nitkin, Case # 2007-063534

(PCP: Phipps, Frudaker, Molitor)

Chair Phipps stated that this case had been removed from the agenda.

PROSECUTING ATTORNEY'S REPORT – DIANE MOORE

Ms. Moore provided the board with a copy of her report. She stated that there were a total of 13 cases in legal of which there are two cases that are over a year-old.

MOTION: Commissioner Molitor made a motion that the board authorize the prosecuting attorney to continue processing the year-old cases.

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

REQUEST FOR DEPUTY PILOT OPENING

Key West Bar Pilots Association

Captain Mike McGraw was present on behalf of the Key West Bar Pilots Association. He informed the board that Captain Johnny Johnson was retiring and business was such that they would need to replace him.

MOTION: Commissioner Bryson made a motion that the board approve the request from the Key West Bar Pilots Association for at least one deputy pilot for the March 2010 examination.

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

Commander Dunton asked if he was to prepare the examination for the three ports, Key West, Boca Grande, and Fort Myers, since it was still a combined port. Captain McGraw indicated that they were not able to provide training in those ports. Commissioner Bryson suggested that they continue to test on all three ports.

REVIEW OF ST. ANDREW BAY PILOTS ASSOCIATION TRAINING PROGRAM

Commissioner Frudaker informed the board that minor changes were made to the program. He stated that their new deputy pilot just started working, and he wanted to make the changes to the program so that the deputy would not be delayed in advancing.

MOTION: Commissioner Fernandez made a motion that the board approve the St. Andrew Bay Pilots Association Training Program.

SECOND: Chair Phipps seconded the motion, and it passed unanimously.

DISCUSSION OF LETTER REGARDING DEPUTY PILOT TRAINING PROGRAM FOR ST. JOHN'S BAR PILOT ASSOCIATION

Chair Phipps informed the board that the letter from Captain John Teems was in the agenda, and a copy of the training program was included in the hand-out folder.

Captain Teems was present and stated that he submitted a narrowly focused letter dealing with the deputies for inbound vessels. He stated that the deputies were missing out on experiences because they are allowed to disembark once the vessel has been turned over to a docking master.

Commissioner Frudaker asked if there was anything in the program to say they must get off the ship. Captain Teems responded that there was nothing to his knowledge. Commissioner Frudaker responded that if the deputies wanted to stay on board they could as there was nothing to prohibit them from doing so.

Captain Ramsey stated that they do not take a position or pretend to take part in the pilots training program. He stated that they had no opposition to the pilots riding to the dock. Captain Ramsey stated that they just ask that they board and have time to do their job successfully.

Captain Winegeart informed the board that he has been the President of the St. Johns Bar Pilot Association since January 2009 and this is the first time this has been brought up. Their program was voted on, passed unanimously, and their deputies have proven to be capable. Captain Winegeart stated that this is an issue that should be discussed at the association meetings. He stated that he felt they were following the statutes and that the wording in the letter relates to the first 90 days of the training.

Commander Dunton read Chapter 310.075(2)(b), F.S., for the board and stated that this was tied back to the conn issue. Commissioner Molitor stated that it says they will ride to the berth, which Commander Dunton agreed.

Chair Phipps stated that this was an issue that the association should discuss. Commissioner Fernandez stated that he appreciated Captain Teems' efforts but this should be worked out at the association level and then be brought to the board if a change is necessary to the training program.

Commissioner Bohnsack stated that this was troubling to her because if there is safety issue involved, she wanted assurance that this matter will be addressed. Captain Winegeart responded that they meet regularly and will address this, however he had not heard of any issue regarding safety. He further stated that if the board wanted to hear this, they can, however, the association has passed a training program, and they stand behind it.

Mr. Flury stated that Captain Teems asked for an advisory opinion, and he is in agreement that this is an association issue. The board can make their opinion known, but as far as responding, this is not a formal declaratory statement process.

DISCUSSION OF DEPUTY PILOT SELECTION PROCESS – COMMISSIONER BRYSON

Vice-Chair Bryson informed the board that he had discussions with the FSPA on this issue and the changes that he was going to propose will require a change to Chapter 310, F.S. He mentioned that this is not the time to move forward with such a change.

REPORTS

Chair's Report – Commissioner Phipps

Chair Phipps reported that she was asked at the last meeting, to write a letter to the ports to measure piloting duties, and a draft letter was in the handouts for their review. There was also a revised memorandum from Commander Dunton regarding defining work hours. She stated that this letter will be sent to all of the ports for feed back.

Chair Phipps stated that there was also a letter to the Pilotage Rate Review Board (PRRB) requesting a change in their rules to raise the audit requirements. She will send the letter to the PRRB.

DEPUTY PILOT ADVANCEMENT COMMITTEE – COMMISSIONER PHIPPS July 21, 2009

Chair Phipps stated that this was provided for informational purposes.

Finance Committee Report – Commissioner Bryson

Vice-Chair Bryson reported that the committee met and discussed the financial report for the fiscal year ending 6/30/09. He stated that gross pilotage and revenues would have been sufficient, however, there was an additional \$38,000 assessed to cover an accounting error. Vice-Chair Bryson stated that the committee decided to extend the gross pilotage assessment of 1% until January 1, 2010. The gross pilotage assessment will change to 0.8% on January 1, 2010 and the rule will reflect this change.

Rules Committee Report – Commissioner Frudaker

Commissioner Frudaker reported that the committee met, and they were informed that Rule 61G14-15.004, F.A.C., was effective on July 9. He reported that the committee tabled the discussion on close proximity and Alaska & Washington rules to a future meeting. Commissioner Frudaker reported that they discussed Chapter 310.141, F.S., and Rule 61G14-16.001, F.A.C., however, no action was taken. The committee approved a recommendation from the Finance Committee for the gross pilotage assessment to remain at the present 1% rate until December 31, 2009, and then it be changed to 0.8% effective January 1, 2010.

Commissioner Buford made a motion that the board accept the recommendations of the committee and proceed with the rule which passed unanimously.

Probable Cause Panel Report – Commissioner Phipps

Chair Phipps reported that the panel met yesterday with Ms. Moore. She indicated she is very impressed by Ms. Moore, and she thanked her for the work she has done. She reported that the panel closed four cases with a finding of no probable cause.

Chair Phipps stated that in the past, they had panels with only two members present, and she wanted to take a stand that they always have three members present. Mr. Flury informed the board that the panel does have the right to proceed with only two members as it only requires quorum. Chair Phipps stated that it would be their goal to try and have three members present. Ms. Moore had no objection.

Board Counsel's Report – Michael Flury

Mr. Flury did not have a report to give at this time.

Executive Director's Report – Robyn Barineau Appointment of Deputy Pilot

Ms. Barineau stated that the deputy pilot had been appointed for the Port of Panama City.

Cross-licensed Deputy Pilot for Pensacola

Ms. Barineau informed the board that one candidate had applied for the cross-licensed deputy pilot position in the Port of Pensacola, however, the application has been withdrawn. A notification has been sent out again to all the ports.

Ms. Barineau stated that there was an e-mail from the Port Director in Pensacola, Mr. Clyde Mathis, regarding their loss of business because of the pilot situation. She reported that Mr. Mathis requested a rate application, which was sent to him, and informed him that notification had been sent out again regarding the cross-licensed position.

Vice-Chair Bryson informed the board that he spoke to Mr. Mathis, and he reiterated the concerns with Martin Marietta and other port users. He is concerned about their ability to function without a pilot in the port. Vice-Chair Bryson asked Commissioner Frudaker about the port situation.

Commissioner Frudaker responded that Captain Knowles was doing commendable job as Captain McGee was on duty two weeks and off duty two weeks, this was not a new problem. He stated that it was a matter of scheduling Captain McGee knows when he is available and Captain Knowles knows his schedule. If the port gives him advance notice, he may even show up on his off time. He stated that the pilots are doing what they can in the port.

Vice-Chair Bryson stated that his concern was that they find themselves short of a pilot. Commissioner Frudaker commented that if the port is growing, maybe they need to go to Captain McGee and encourage him to stay with a salary.

Vice-Chair Bryson stated that he would contact Mr. Mathis.

Port Security – Commissioner Molitor

Commissioner Molitor stated that the material was provided for informational purposes.

CORRESPONDENCE

There was no correspondence received.

PUBLIC COMMENTS

Captain Joe Brown stated that he would review the memorandum from Commander Dunton. He stated that the FSPA would like to see a pilot for the Pensacola area. He added that the port has suffered, and something needs to be done.

Vice-Chair Bryson stated that since the board should not involve themselves in the rate process, he could ask Mr. Mathis to forward a copy of their application to the FSPA for assistance.

In discussion, Commissioner Buford commented that the PRRB makes their recommendation based on the application submitted.

NEW BUSINESS

Meeting Dates and Locations

Chair Phipps stated this was provided for informational purposes.

OLD BUSINESS

Commander Dunton stated that the Rules Committee talked about close proximity but also discussed taking the conn. He stated that the board can see the unlicensed activity case at the next board meeting. He stated that he spoke with Captain Jay Winegeart of the St. Johns Bar Pilot Association and Mr. Dan Ramsey of the Florida Docking Masters and knows their positions. Commander Dunton stated that there may be a conflict which needs to be addressed, and he will be able to go into more detail when they review the unlicensed activity case.

The board thanked the Tampa Bay Pilots Association for their hospitality.

ADJOURNMENT

There being no further business to come before the board, the meeting was adjourned at 10:36 a.m.