

**Seaport Security Standards Council Meeting  
Minutes for January 30, 2008**

**Members Present:**

Chuck White for Frederick R. Ferrin	Jacksonville Port Authority
Stanley Payne	Canaveral Port Authority
Kenneth L. Hern	Port of Palm Beach District
Frank L. Holden	Manatee County Port Authority
Mark Zadra	Florida Department of Law Enforcement
Bill Stewart	Office of the Attorney General
Darrell Liford	Office of Agriculture Law Enforcement
William Janes	Florida Office of Drug Control
Captain Suzanne Englebert	United States Coast Guard

1. Welcome and Introductions by Director William Janes:

**2. Sunshine State Law:**

- a. Any item or discussion that could come before the council may not be discussed by any two members without the rest of the council being present. If any two members have a discussion concerning port matters without the full council being present, we are in violation of the Sunshine Law.

**3. TWIC/FUPAC Update:**

- a. There are different stages of start-up with the TWIC. Jacksonville, Miami, Canaveral have been visited and Everglades has been notified that they will be visited soon.
- b. We asked TSA to notify us before they rolled out the TWIC at our ports. We were told we could have influence on the sequence of these ports, but that hasn't happened. TSA has moved ahead with their own schedule. The Director has not been advised by TSA of any port that will be visited. It is still our effort to work with TAS in the best interest of the state and Federal Government and our ports to collaborate as we move forward.
- c. The alignment that we have sought is intended to save the port worker, our vendors, port staff, and the economy; save all of the unnecessary wear and tear of having two credentials. Florida has been ready to implement a full biometric credential as of last June, but we have not, with full intent of trying to avoid chaos in the state that having two credentials, with duplicated costs and processes.
- d. Cooperation with TSA has been up and down. We do have a plan and a solution and we plan to move ahead.
- e. The biometric capability is in the TWIC credential. We don't believe that TSA will use biometric scan through the Coast Guard as a port requirement for months to come.
- f. The Coast Guard may start using biometrics immediately to make their checks to verify what they are doing. But it's not the workgroups intention

to issue two credentials. It is the workgroups recommendation that we use the TWIC as Florida's access card.

- g. The cost for the FUPAC credential was \$90. We have reduced the cost by not creating a separate card. The cost is now \$70.25. Cost reduction has been accomplished.
- h. If we share the NCIC information with TSA, that could save the port worker \$19.25. This has not been resolved at this time.
- i. The costs of running the FCIC will remain, but if we remove the \$19.25 for the NCIC, the final cost of the TWIC will be around \$51.00.
- j. What the workgroup will recommend to the Legislature is that (1) Allow FL to use the TWIC as the FUPAC; (2) Extend the life of the FL credential, imbedded in the TWIC, to 5 years instead of 4; (3) Waive portions or all of FUPAC fees for anyone who has a port card in good standing with their fingerprints on file at FDLE. It would be degree of grandfathering for those that are vetted.
- k. It is the intent of the workgroup and that of the council to protect the port worker, be sensitive to the economy, but recognize the security aspect as we move forward with security at our ports. The unresolved issue is the \$19.25 for the NCIC. But we will continue to move ahead.
- l. Port Access Credential is mostly \$100 or more right now across the state.

**Question:**

David St. Pierre – Port Manatee: Would TWIC credential be necessary for all port workers or only those entering restricted areas?

**Answer:**

Nevin Smith – FDLE: As areas that are designated as restricted areas are different from State and Federal criteria and some areas are the same. An attorney may have to determine if one can be forced to get a TWIC. The Legislature will have to change Florida law to move the boundaries to match MTSA. Highway Safety is aware of this conflict.

**Comment:**

Glen Wiltshire – Port Everglades: Regarding the \$6 annual fee for the FDLE background check update – The \$6 annual fee should not be charged back to the port. He recommends that the state pick up this fee and not the cardholder, if feasible.

**Motion:**

**Move to include in the letter to Legislature, a summary of the councils discussion on the relationship between TWIC and FUPAC with specific recommended legislative changes to 311.12.**

**Motion made by Captain Englebert and Seconded by Ken Hern. Motion carried unanimously by Council.**

**Captain Englebert update on TWIC:**

- a. Rollout is both ship and port centric. Miami starts tomorrow. There is a schedule for rollout, but we don't have a reader yet. The Coast Guard cannot read the cards yet. The Coast Guard will move forward with enforcement in September 2008 of the TWIC. Note of Federal Register Notice coming out on reader requirements. We are waiting on public notice and equipment.

**Senate Military Affairs Committee update: Director Janes**

- a. Funding sources appropriated resources to TSA were aware that there is a cooperation issue. We have been in long dialogue, but have not resolved the issue. Do we have a plan to move forward, yes? We have to align the credentials.
- b. As a concern with the economy and security, we should not jeopardize the economy as we compete with adjacent states with whatever we do. We will continue to communicate with TSA and we will move forward.

**Review of Minimum Security Standards for Florida Seaports**

**Nevin Smith – FDLE – Clarification of Standard versus Enhancements**

During Camber Study, ports were designated by Tiers. This was designation deals more with what the individual port does. The Enhancement section is used for maximum security ports only, or Tier 1 ports. This would be for ports that had a greater threat for drug smuggling.

**ID Badges:**

**1. ID Badges:**

**Motion:**

**Motion made to change 1.d. ID Badges to “Issuance of the Picture ID card will comply with the requirements in ss.311.12 and 311.125, Florida Statutes, including those related to fingerprint-based criminal history background checks and disqualifying criminal history factors, except that issuance of such a Picture ID for a sworn or non-sworn federal, state and local law enforcement employee will be contingent upon such employee providing the port with a notarized letter from the employing agency head which states that the employee has passed a legally mandated background check conducted by such agency which included a fingerprint-based criminal history record check conducted in compliance with law(s) applicable to such employment.”**  
**Motion made by Commissioner Zadra and Seconded by Chuck White. Motion carried unanimously by council.**

**Discussion:**

David St. Pierre, Port Manatee: What is our authorization to enforce the standard? We have no legal justification to deny them access to the port. How do we deny access for Coast Guard Officer who doesn't have proper port pass, but has Coast Guard credential? There are federal statutes that say we are to facilitate and allow access. State agency is not to deny access, but it's the federal agencies responsibility to take care of their own

and ensure staff has proper credentials. Sometimes getting proper documentation is problematic. The Office of Drug Control and FDLE would be willing to work with federal agency to assist them with getting the FUPAC and TWIC aligned.

Nevin Smith, FDLE – for Coast Guard access, Federal law pre-empted state law relating to Coast guard access. Coast Guard is granted routine access and free access. No federal agency has said that their federal law supersedes our state law. There are ways for law enforcement to access seaports. They can call local law enforcement and vetted person can gain access. It is not an overwhelming issue and we have worked with the Coast Guard and other federal agencies on this issue.

Captain Englebert, Coast Guard – To add clarification to this issue; the Coast Guard has access to any port, no matter who operates or owns it. I will research with CDP and make sure that we have a process in place. If a federal agent comes to your port and you don't know them, then you can issue them a visitor pass. The 5/90 rule should be applied and if they come to the port more frequently, then a discussion needs to take place to address this. They would have to provide an affidavit for their credentials.

Frank Holden – Law enforcement doesn't need a port card to access the port. If they don't have a letter, but only their credential, we don't issue them a card. It is determined by the port.

Nevin Smith – This standard does not permit law enforcement unlimited access to our ports. They must obtain the proper credentials to access the port more than 5/90. This rule does not apply to Coast Guard staff.

Motion made to provide an explanation of the column titled "Enhancements"; draft language to be provided by FDLE. Mark Zadra and Nevin Smith will work on language. Maximum security ports are members of the Florida ports system that because of the significance of their commercial activity represent a greater vulnerability and consequence to terrorism and criminal activity.

Motion made by Captain Englebert and Seconded by Ken Hern. Motion failed and was withdrawn by Commissioner Zadra and recommendation was made for Legislature to define a maximum security port.

The council's position is to make recommendations as to what qualifies as a maximum security port.

Nevin Smith, FDLE - Enhancements are requirements for Tier 1 Ports. Tier 1 ports are required to have fulltime law enforcement presence. Others will have patrol through law enforcement presence. Tier 1 and 2 ports were first established in 1999 and have not been updated.

**How do we determine a Maximum Security Port?**

Nevin Smith - We need to have a living analysis opposed to a list analysis. We need to consider quantity, type, size, hinter land, where it's coming from, proximity to population, etc...

Recommendation that Council or like body determine what a maximum security port should be in the future.

Captain Englebert - The Federal Government has Tier port nationally, but we need to access our ports independently, based on our standards.

As we consider the National Ranking system, we need to recognize that there us Federal funding available for port security. Our rankings should match the Federal rankings so that there is no confusion.

If we marry to closely with the Federal Government standards, some ports that don't do any commercial business would become a high tier port because of the one base or ports in their zone.

**Motion:**

**Motion made that the council shall add to their other issues for consideration by the legislature the addition of a definition or designation of a Maximum Security Port for determining which ports would be subject to the Enhancements contained within the maximum security standards.  
Motion made by Commissioner Zadra and Seconded by Captain Englebert. Motion carried unanimously by council.**

**B.3. Operational and Procedural Security:**

**Motion:**

**3. (b). Change "The Port Security Director" to "Port Management".  
3. (c). Change "Mangers" to "Port Management".**

**Motion:**

**3. (d). Add (Previously listed as an enhancement): "Port Management shall safeguard documents and information pertaining to security plans and procedures to comply with state and federal law which may restrict or prohibit disclosure."  
Motion made by Commissioner Zadra and Seconded by Captain Englebert. Motion carried unanimously by council.**

**Law Enforcement Presence:**

**Motion:**

**Move to add to the general discussion a paragraph on the value and recognition of Federal enforcement presence on Florida ports.**

**Motion made by Captain Englebert and Seconded by Director Janes. Motion carried unanimously by council.**

**8. Use of Signs (b):**

**Motion:**

**Change language to read Ports shall post signs in compliance with state, federal and local laws, which includes but is not limited to providing restrictions and proper notice related to border entry points, area designations, access, searches, weapons and trespass.**

8. Use of Signs (c): Reference to FS 890.11.5a, should really be the trespass statute 810.011.(5)(a).

(5)(a) "Posted land" is that land upon which:

1. Signs are placed not more than 500 feet apart along, and at each corner of, the boundaries of the land, upon which signs there appears prominently, in letters of not less than 2 inches in height, the words "no trespassing" and in addition thereto the name of the owner, lessee, or occupant of said land. Said signs shall be placed along the boundary line of posted land in a manner and in such position as to be clearly noticeable from outside the boundary line; or

2.a. Conspicuous no trespassing notice is painted on trees or posts on the property, provided that the notice is:

(I) Painted in an international orange color and displaying the stenciled words "No Trespassing" in letters no less than 2 inches high and 1 inch wide either vertically or horizontally;

(II) Placed so that the bottom of the painted notice is not less than 3 feet from the ground or more than 5 feet from the ground.

**Seaport Security Standards Council Recommendation to Legislature:**

**1. Responsibility for and timely revision of FS 311.12.**

Florida Legislature should assign responsibility for the ongoing review of FS to ensure the law remains current and the minimum security standards are aligned. This would allow additions, deletions, or other modifications pertaining to the law and minimum standards.

**Motion was made by Bill Stewart to approve language of this section, Seconded by Director Janes. Motion carried unanimously by Council.**

Motion:

**Minimum Security Standards for Florida Seaports**

**Add the following as the 1<sup>st</sup> Goal, Objective and Standard:**

**Goal: Compliance with other Florida Port Security Law**

**Objective: Integrate additional Florida statutory requirements into the Minimum Security Standards adopted by the Legislature under FSS 311.12(1)(a).**

**Standard: The Florida Minimum Security Standards for Florida Seaports include the requirements in this document and all other requirements specified under current and future amendments to Florida Seaport Security. This currently includes 311.111, 311.12, 311.121, 311.122, 311.124 and 311.125.**

**Motion was made by Commissioner Zadra and seconded by Bill Stewart and carried unanimously by the Council.**

**2. “Should versus Shall” Language.**

**Request the Legislature clarify intent regarding use of the word “should” in the minimum standards. The Florida Department of Law Enforcement and the Attorney General provided opinions on interpreting “shall versus should” (attached). Deleted last sentence of paragraph.**

**Motion made by Bill Stewart and Seconded by Captain Englebert and carried unanimously by the Council.**

**3. Private ports not addressed by Minimum Standards.** Although the Council was not asked to address private ports, there was considerable concern regarding the number of private ports and the lack of similar standards for their operation.

**Leave section as written.**

**4. Transportation Worker Identification Credential (TWIC).**

**Frequently, the Council discussed the federal and state port access credential. Duplication of enrollment and costs were frequently discussed. The Council did not recommend any reduction in Florida standards, but did recommend alignment of the two credentials so that a worker only has to have a single credential. The Council is recommending some changes to sections of the legislation to reflect these credentials.**

**Motion made by Captain Englebert and Seconded by Mr. Hern carried unanimously by the Council.**

**5. Federal Presence.**

**Motion made to delete language as written. Motion made by Captain Englebert and Seconded by Mr. Janes that the council adds to the general discussion a paragraph on the value and recognition of federal enforcement presence on Florida ports in opening paragraph.**

**2008 Study of Security of Florida Ports.**

**Study language: The Camber Study of the Security of Florida Ports was completed in 1999. Given the time that has passed, the events of 9/11/01, and the dramatic changes in port growth, operations and security, as well as criminal activity and the advent of terrorism, a study of security of Florida's ports in 2008 is warranted and should be approved.**

**Motion made by Stanley Payne and Seconded by Captain Englebert and carried unanimously by the Council.**

**6. Other:**

**Motion made that Cover letter to Legislature shall be expanded to address the partnerships and contributions of all stake holders at the federal, state, and local level in securing Florida's Ports and completing the charge of the Council.**

**Motion made by Mr. Hern and Seconded by Director Janes and carried unanimously by the Council.**

- a. Federal and State restricted are aligned
- b. No white paper was presented to council
- c. Designation of maximum security port

- 7. Seaport Security Plan Language.** Request the Legislature clarify intent regarding the enforcement of Florida-specific requirements contained in the Seaport security plan. Discussions during the council meetings included concern that the Seaport security plan enforcement currently is a U.S. Coast Guard function. This leaves the impression that the U.S. Coast Guard was meant to enforce Florida State standards. (Submitted by Captain Englebert on February 6, 2008).

Director Janes asked that Nevin Smith of Florida Department of Corrections, Commissioner Zadra and Captain Englebert assemble to look at the differences and similarities of restricted areas established by existing federal and state standards. Objectives:

1. The Council needs a clear definition of restricted areas.
2. Where do the restricted areas of the federal and state law align and where do they differ?

3. What recommendations the group has to look at the Florida standard and make it more understood and facilitate movement on our ports.
  - a. Risk
  - b. Overlap/alignment of definitions
  - c. Increasing the understanding of what we believe the two standards require.
  - d. Maintaining the same security standard, but at the same time facilitating commerce.

Next meeting will be early to mid March.

**Public Comment**

Stan Deno – Director, Cruise Line International Association

- Represents 24 cruise lines and many operate in Florida ports.
- Safety and security is top priority. They meet every 90 days.
- No creditable threats to the cruise ship industry at this time.
- Ports individual threat assessment should be used to list their risk.
- Port safety may impact travel industry if viewed in a negative manner.
- Security can be so tight, that it is better to do business elsewhere.
- The cruise industry and the Coast Guard have worked together for a long time.
- CLIA does not totally agree with the assessments conducted by FDLE.

**Captain Englebert:**

Southern Regional Small Vessel Security Summit

Rosen Plaza Hotel

Orlando, Florida

March 6, 2008

**Meeting Adjourned.**