

The Board of Pilot Commissioners Pilotage Rate Review Committee

Public Meeting

June 10, 2021

PHIPPS REPORTING

Raising the Bar!

BOARD OF PILOT COMMISSIONERS

Pilotage Rate Review Committee Hearing
Port of Fort Pierce

Holiday Inn Port St. Lucie
10120 South Federal Highway
Port St. Lucie, Florida 34952

TRANSCRIPT OF PROCEEDINGS

Thursday, June 10, 2021

9:00 a.m. - 11:07 a.m.

COMMISSIONERS:

Commissioner Bob Benson, Chair
Commissioner Carolyn Kurtz
Commissioner Michael Jaccoma
Commissioner Sherif Assal
Commissioner Edward Russo

ALSO PRESENT:

Marlene Stern, Esq.
Donna McNulty, Esq.
Richard H. Law, CPA
Captain Thomas L. Bushy
Amanda Ackermann

Stenographically Reported by:
Melanie Wustrau, RMR, CRR

Job No.: 190722

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1 Proceedings began at 9:00 a.m.:

2 CHAIRMAN BENSON: Okay, folks, good morning.
3 It's 9:00 and I'd like to get started. Recognizing
4 everybody that showed up on time. I want to ask
5 Marlene for roll call, please.

6 MS. STERN: Okay. Commissioner Kurtz?

7 COMMISSIONER KURTZ: Here.

8 MS. STERN: Commissioner Jaccoma?

9 COMMISSIONER JACCOMA: Here.

10 MS. STERN: Commissioner Assal?

11 COMMISSIONER ASSAL: Here.

12 MS. STERN: Commissioner Russo?

13 COMMISSIONER RUSSO: Here.

14 MS. STERN: Chairman Benson?

15 CHAIRMAN BENSON: Here. Thank you.

16 MS. STERN: Also Attorney Donna McNulty?

17 MS. McNULTY: Here.

18 MS. STERN: Accountant Richard Law?

19 MR. LAW: Here.

20 MS. STERN: Captain Tom Bushy?

21 CAPTAIN BUSHY: Here.

22 MS. STERN: Commandant Tom Bushy, the Board
23 consultant. My name is Marlene Stern, also the
24 attorney. So I think we're all here. We have a
25 quorum.

1 CHAIRMAN BENSON: Wonderful, thank you. I want
2 to welcome everyone. It's nice to be able to get
3 together again, tired of phone calls, Zoom calls and
4 everything else. This is the first opportunity that
5 we can continue to go on to our business and take
6 care of the responsibilities of this particular
7 committee.

8 Just a couple things real quick before I turn it
9 over to Donna McNulty. In terms of phone calls, if
10 anybody has any phone calls, we understand everybody
11 is busy and what have you but if you do have phone
12 calls, please step out of the room to take care of it
13 and come on back in.

14 In terms of sign-in, anybody that is not on the
15 dais, has not been in the roll call, please make sure
16 you sign in in the back of the room just so we have
17 record of who was here. You don't need to get up now
18 to do it but at the break or what have you and we're
19 going to break at, I guess, 10:30 or so, give or
20 take, wait for the natural in terms of where we're at
21 and what have you but at 10:30 if anybody needs to
22 check out or whatever, everybody will clearly be able
23 to check out today. I don't see this being a two-day
24 meeting in terms of what we have in front of us. So
25 if you want to take care of checking out if you

1 haven't done so already, I suggest you do it at that
2 time.

3 And with that, I'd like to turn it over to our
4 Committee Counsel Donna McNulty who is my right hand
5 in terms of everything that we do procedurally and
6 what have you. It really makes this a palatable
7 responsibility or role. Without her, one of you guys
8 is going to do it. So Donna, if you would.

9 MS. McNULTY: Thank you. Good to see everybody
10 in person. So good morning, everybody. This is a
11 hearing before the Pilotage Rate Review Committee to
12 address the Palm Beach Pilots' Association's petition
13 for modification of the rate of pilotage for the Port
14 of Fort Pierce.

15 Commissioners are to consider all materials
16 presented and determine if the rate of pilotage of
17 the Port of Fort Pierce should be modified either up
18 or down or and while making such a determination
19 state on the record the reasoning for such a decision
20 based upon the evidence presented. Your decision
21 should be based solely on the record before you and
22 not upon any independent knowledge or personal bias.

23 As you know, in determining whether the
24 requested rate change will result in fair, just and
25 reasonable rates, the Committee is required to give

1 primary consideration to the public interest in
2 promoting and maintaining efficient, reliable and
3 safe piloting services.

4 Section 310.151 (5) Florida Statutes sets forth
5 a number of factors for the committee to consider,
6 which include the following: Average net income of
7 pilots, reasonable operating expenses of pilots,
8 pilotage rates in other ports, amount of time spent
9 piloting, prevailing compensation available to
10 individuals in other maritime services, the impact
11 the rate change may have in individual pilot
12 compensation and whether the change will lead to a
13 shortage of licensed state pilots, projected traffic,
14 cost of retirement, physical risks inherent in
15 piloting, special characteristics of the port, any
16 other factors the Committee deems relevant and CPI or
17 other comparable economic indicators may be useful
18 but may not be the sole factor in fixing rates.

19 Section 6 provides the basic outline of the
20 vessel characteristics that you can consider:
21 Length; beam; net tonnage, gross tonnage, or dead
22 weight tonnage; freeboard or height above the water
23 line; draft or molded depth; any combination of these
24 are relevant characteristics.

25 So after the Committee's decision on this

1 matter, I will draft an order, notice of intent, for
2 the Committee to review and presumably you'll have a
3 teleconference call to review that and make any
4 modifications or approve it and then it will be
5 issued.

6 The Committee will then -- any substantially
7 effective person will have an opportunity to
8 challenge that notice of intent. This is a simple
9 reminder that you need to find competent, substantial
10 evidence to support whatever decision you make today.
11 And that concludes my remarks for now.

12 CHAIRMAN BENSON: Thank you very much.

13 MS. McNULTY: Thank you.

14 CHAIRMAN BENSON: Okay, why don't we move on to
15 the findings of the investigative committee, Richard
16 Law.

17 MR. LAW: Thank you very much. I guess
18 everybody knows our new member of the investigative
19 committee, Captain Tom Bushy. This is the first time
20 that he and I have worked together on an application.
21 So I welcome him. He's a very knowledgeable man and
22 I look forward to working with him in the future.

23 Our report follows the format of Chapter 310
24 which Ms. McNulty just outlined for you. And,
25 therefore, you can follow the evidence that we're

1 presenting in relation to the statute in making your
2 decision. I do have a couple of edits that I'd like
3 to go through -- more than a couple, and some
4 supplemental pages that I'd like to hand out to you,
5 if I could ask Mandie to do so. And while she's
6 doing that, I have some edits that are not on pages.
7 If you could follow along with me in our report, we
8 can do that.

9 On page A2, I don't know how the department may
10 have bate stamp numbered the pages but I use A2. Can
11 you find that? Okay. There were instead of 80 mega
12 yachts in the middle in that middle paragraph,
13 there's really only 40. I thought there were 80
14 handles and there are only 40. Eighty in total
15 instead of 160. So that changes the calculation of
16 projected revenue from 240 to 120 and 300,000 to
17 150,000.

18 MS. McNULTY: Do you mind repeating those, Mr.
19 Law?

20 MR. LAW: Yes, okay. Instead of 80 mega yachts,
21 it's 40. And 40 times two handles is 80 in total.
22 Not 160. And then the estimated pilotage revenue
23 would be 120,000 instead of 240,000, and 150,000
24 instead of 300,000.

25 On page C1, we were notified after we issued a

1 report that Captain Messer is no longer available to
2 serve Fort Pierce and only Captain Hansen is serving
3 that port. So the port is served primarily by one
4 pilot, Captain Hansen. Although there are some other
5 cross-licensed pilots in the state, they are so far
6 away that, practically speaking, it's Captain Hansen
7 that's serving this port.

8 We've given you a page to replace on page C3 and
9 on page C5 there's a correction to Miami's gross
10 tonnage rate. Instead of \$11.93, it's .0119386.

11 MS. McNULTY: What page?

12 MS. ACKERMANN: C5.

13 MR. LAW: On C5 on Miami on the third column,
14 third column from the right to left. Gross tonnage
15 rate, instead of \$11.93 plus 86, it's .0119386.

16 And the last correction is on page C8. In the
17 second paragraph, second to the last sentence, I left
18 out the word \$650 per handle hour. I left "hour" off
19 of that sentence.

20 COMMISSIONER KURTZ: Handle hour?

21 MR. LAW: Per handle hour.

22 COMMISSIONER KURTZ: Per handle hour.

23 MR. LAW: Per handle hour. The next sentence
24 talks about handle hour but I left off that word.

25 So the other document that I gave you is in a

1 supplement to the CPI analysis but what we tried to
2 do is show you the difference between a 5 percent as
3 to later versus a two and a half. Two,
4 two-and-a-half is what some other ports have asked
5 for. Yes, sir.

6 COMMISSIONER JACCOMA: Richard, on that C5, page
7 14 of 38 where you corrected the \$11.93, also one
8 underneath it for over 10,000 gross tons would be the
9 same thing.

10 MR. LAW: Okay, thank you.

11 MS. McNULTY: And for clarification, that would
12 be .0159181?

13 COMMISSIONER JACCOMA: Correct.

14 MR. LAW: Yes.

15 MS. McNULTY: Thank you.

16 MR. LAW: Okay, I'd like to start off with just
17 a brief history here because I think it's really
18 important for the Committee to understand what's been
19 going on in Fort Pierce for a long, long time.

20 The Palm Beach Pilots have served during two
21 economic downturns of this port. From 2002 to 2007,
22 there was no pilot here and they served that port
23 from Palm Beach and then Captain Wetzell attempted to
24 make a go of the operation between 2007 and 2013
25 until the one customer in 2013 ceased operations.

1 And so from 2013 to present the Palm Beach Pilots
2 have been serving this port.

3 It was really an interesting thing back in 2009
4 when Captain Wetzell was trying to make a go of it
5 here. The rate was just so horrendously low and he
6 could barely afford a pilot boat and even when the
7 rate was given to him to increase the rate some it
8 really was bare, hardly sufficient to even buy the
9 pilot boat. And then that rate was so high that it
10 drove ACL, the one customer, to just close up.

11 It was almost insulting that that rate that this
12 board granted Captain Wetzell in Fort Pierce going up
13 to \$386 a handle was even challenged in
14 administrative hearing by the customer being such a
15 marginal amount of revenue to even support an
16 operation and so and then I think it's just really
17 sad what happened to Captain Wetzell. Of course it
18 was sad because there's no -- it was hardly any
19 traffic here and the vessels that ACL was operating
20 were so small and they just weren't gonna pay it and
21 so just a little background on that.

22 The current minimum right now is \$386 and the
23 average fee based on the last six or eight handles
24 that have come in is now was \$527 per handle and so
25 when the pilots are paying \$230 for a pilot boat to

1 Tow Boat US or another provider, they are really only
2 their net fee is \$297. You know, considering their
3 commute time, their staging time, their handle time
4 and whatever, you know, we're estimating it close to
5 five hours, just rounding it, which is \$60 an hour
6 and that's hardly worth a pilot's time to come off of
7 the Palm Beach watch schedule to handle Fort Pierce
8 when Palm Beach has the highest number of handles per
9 pilot of any port in the state.

10 So this isn't -- it's not like they have slack
11 time in Palm Beach under non-pandemic circumstances
12 but hopefully that's behind us and they get back to a
13 normal traffic. And so looking ahead having Captain
14 Hansen cover this port, especially with the projected
15 increase in what this port may provide is going to be
16 a higher volume for him when his volume picks back up
17 in Palm Beach. So it's quite a commitment for him to
18 serve that and so, you know, \$297 net would just
19 be -- well, you determine for yourself.

20 But looking ahead, even if the traffic in this
21 port increases to 80 handles in a year, which would
22 be pretty good for that drive-out operator is still
23 not going to be enough to have a resident pilot
24 afford his own pilot boat and have the normal
25 operations of a pilot association even for one port.

1 We almost proved that when Captain Wetzell was here.
2 The pilot boat he was able to afford with a minimal
3 volume and a minimal rate was not a suitable pilot
4 boat. It was -- I don't know if anybody knows what a
5 twin vee fishing boat is but it didn't have the
6 bumper capability to bump up against a vessel in, you
7 know, 3 to 5-foot seas and so but that's all he could
8 afford.

9 The requested rate is analyzed on page C7 and 8
10 of our report and I'm starting on C7 and I'm even
11 comparing it back to the pre-2010 to see where
12 they've been and where they've come for so long. But
13 the requested minimum fee would be \$900 before you
14 get into the pilot boat estimate and then the transit
15 fee that they are requesting. The pilots are
16 requesting kind of a blank check on the pilot boat
17 fee. In our report we present some analysis there
18 where I'm not sure that's the best way to proceed by,
19 say, whatever it is the pilot, the tow boat or Sea
20 Tow can have the Board's authority to pay whatever
21 they want. I think that the pilot needs to negotiate
22 the best rate he can for the users of the port but
23 that's just opinion, not fact. But I think the blank
24 check, this seems like an odd thing to set as a rate.
25 That's our main point.

1 The other part of the fee is a \$400 transit fee
2 and we have discussed the merits of that, trying to
3 relate the total time to a minimum charge and relate
4 it to what is the pilot earning on an hourly rate, is
5 that fair? Again, the analysis that we present in
6 the report is just for your consideration. It's just
7 an analysis. It's not a conclusion. But it's
8 important for you to consider.

9 That \$400 transit fee would only apply if
10 there's not a resident pilot in Fort Pierce but I
11 think it's highly unlikely that you're going to find
12 a resident pilot in Fort Pierce any time soon.

13 Our analysis of the CPI on page C11, really the
14 comparison to CPI on these current rates are whatever
15 I think is just not very -- it just doesn't provide
16 any reliable evidence relative to the CPI. It's
17 just -- this is just -- these are just the analysis
18 that we normally do, apply the CPI to the rate, the
19 old rate, then the new rate and then the difference
20 and it's just not comparable because the old rate is
21 just so low.

22 As far as the analysis of income to pilots,
23 we're supposed to normally evaluate the income,
24 annual income of a pilot at a port. We can't really
25 do that. You don't have enough operations to come up

1 with what's his annual income in Palm Beach -- I mean
2 in Fort Pierce? It's just what does he make compared
3 to what he normally makes somewhere else? So the
4 standard analysis that we have in any other port
5 where we say here are the audited financial
6 statements, here's the projected financial
7 statements, here's the net income, divided by the
8 number of pilots, here's what they make. Are they
9 making enough? That's your normal analysis here.
10 And we don't have that here.

11 The only thing we can relate that to is does the
12 revenue per handle hour come close to the revenue per
13 handle hour in other ports? Is that fair and
14 reasonable to the pilot? Is it fair and reasonable
15 to the customer? So, again, this is a very different
16 application and a very different report by the
17 investigative committee because there's so much stuff
18 that's just not relevant, so many elements of Chapter
19 310 that just aren't relevant. Like, reasonable
20 operating expenses of the pilot's operation, it's
21 just not relevant.

22 So I'm going to turn the rest of our
23 presentation over to Captain Bushy. He's going to
24 present the Section 4 and Section 11 of our report.
25 So Captain Bushy.

1 CAPTAIN BUSHY: Thank you, Richard. Well, good
2 morning, everyone. Pleasure to be here.
3 Historically the analysis done for pilotage rates in
4 other ports was done by taking a sampling of the
5 vessels that had previously or in the last year or
6 two or previously had visited the port and paid for
7 the services and it presented a little bit of
8 confusion when you're dealing with ship, you know,
9 vessel going into Palm Beach versus a vessel going
10 into Port Canaveral.

11 And so Richard and I discussed that as far as
12 making a presentation a little bit more clear and
13 what we did was we chose to create a standard size
14 vessel for different classes. So if you look on the
15 bottom of page C2, we set up a small, a large and an
16 extra large. Don't ask me where the medium went but
17 we had a small, large and extra large vessel. And so
18 we based our computations on Section 4 based upon
19 these values and you'll see that in the case of Fort
20 Pierce, virtually all the traffic in Fort Pierce is
21 small vessel. They can't accommodate a large vessel.
22 They can't accommodate obviously an extra large
23 vessel.

24 Captain Hansen used the comparison ports of
25 Miami, Port Canaveral, Port Everglades and Palm

1 Beach. So that was what we did in Table No. 1. We
2 analyzed, we compared the rates and we see that of
3 the rates, Fort Pierce is higher based upon a small
4 vessel but that's all they get. So it's a little bit
5 deceiving but that's all they get compared to Port
6 Canaveral -- well, I guess that's not really true. I
7 am looking at the wrong column, I'm sorry. So yeah,
8 it's a little bit -- Port Canaveral, yeah, Port
9 Canaveral is lower but they don't have that many
10 small vessels. They have probably much -- they have
11 more large and extra large vessels.

12 Table 2 brings in the minimums. A little
13 confusion between Table 1 and Fort Pierce at \$519
14 versus Fort Pierce at the present, it says 386,
15 that's based upon the absolute minimum, so that's why
16 it's lower. Whereas the average for the table we
17 established was five, for the small vessel at 519.

18 If you look down at Table 3, we look at the
19 projection of the 5 percent increase per year and go
20 to the different size vessels and you see so today
21 this is a significant difference but if these rates
22 are approved, they'll go to a base line of \$900 for
23 the smaller vessels, all the smaller vessels between
24 a minimum and the maximum and it projects out equally
25 over 10 years to a rate of 1,396. So that's a

1 comparison between the two.

2 Table 4 shows the fee per nautical mile of the
3 pilotage and Fort Pierce remains below most everybody
4 except for Port Everglades. Did I say that right?
5 Fort Pierce will remain below everybody, including
6 Port Everglades. I'm sorry I'm not wording that
7 correctly.

8 Fort Pierce's proposed rate of \$231 is highest
9 only next to Port Everglades, but, once again, we're
10 dealing with a very low volume traffic port.

11 Table 5 gives you the revenue per handle hour as
12 Richard pointed out in Section 7. You see that for
13 clarification we use two different handle times of
14 two-and-a-half hours or one-and-a-half hours. So we
15 saw a revenue of handle of between \$211 and \$351
16 which is only second lowest to Tampa at 400. So Fort
17 Pierce remains well below the eight other ports
18 besides Tampa.

19 And finally Table 6 is a very confusing table
20 with all -- I tried to build a new table that would
21 make it clear to everybody what all the pilot rates
22 were but it's an untenable table and Richard and I
23 already talked about maybe making an improvement to
24 that table, notwithstanding the two typographical
25 errors that have been corrected already. That

1 presents table chapter Section 4.

2 I'll jump to Section No. 11 and the information
3 provided in Section 11 about the special
4 characteristics and dangers and risks of the port
5 remain accurate; however, during the visit yesterday,
6 the site visit, if you will, in Fort Pierce, Captain
7 Hansen took us out to the entrance channel and he
8 showed -- he wanted to show us the proximity of the
9 red and green buoys, so that's obviously the lateral
10 buoys entering the port, and the first thing I said
11 to him, I said, that can't be 250 feet. He kind of
12 chuckled back and it isn't 250 feet. What the exact
13 dimension is no one really knows but it's not 250
14 feet between those two buoys.

15 So I want to point out on the record that that
16 entrance channel is subjected to -- it's an east-west
17 channel. And it's subjected to east-west tidal
18 currents and it's predominantly affected by easterly
19 wind. That is a treacherous bit of waterway, a mere
20 two miles in length or 2.4 miles in length. That is
21 not easy to navigate a vessel 300 feet in length with
22 a 50-foot or more beam in that width. So that's a
23 challenge right there that should be noted about the
24 risks in this particular port. So that concludes my
25 comments, Richard.

1 MR. LAW: Thank you. We'll turn it over to you
2 and questions.

3 CHAIRMAN BENSON: A quick question. The 5
4 percent requested increase, it shows proposed year 7
5 of 10 being the same number.

6 MR. LAW: No, we corrected that.

7 CHAIRMAN BENSON: We did? Okay, thank you.

8 MR. LAW: Yes, sir.

9 COMMISSIONER JACCOMA: I have a question on
10 Table 5. You've got average handle time, it says
11 Fort Pierce two-and-a-half or one-and-a-half, I was
12 wondering why that is.

13 MR. LAW: I think the application gave us a
14 range that it's not quite always the same and so we
15 put both. And just to clarify, these tables where we
16 have nautical miles and handle time, we're always in
17 the position of getting corrective input from the
18 pilots and saying, no, we're another half hour here
19 and we change our tables. These things are kind of
20 moving on us and I think the nautical miles changed
21 some this year. And I said, wait a minute, I don't
22 know that that's what we have and so Tom is going to
23 go back and look at the charts and verify these a
24 little bit more precisely before we finish the Palm
25 Beach report. It's probably less relevant in this

1 one so we just said let's just move forward, excuse
2 me, in this application and the investigative
3 committee but we want to get this right but these
4 things -- these things move on us by input from the
5 pilots and we want to listen to them and say let's
6 get this right, but on the other hand, is a handle an
7 hour and a half? Two hours? Sometimes there's a
8 quick handle, sometimes there's a slow handle, the
9 speed of the vessel, weather conditions.

10 CAPTAIN BUSHY: Current.

11 MR. LAW: Current, everything.

12 COMMISSIONER JACCOMA: The reason I just asked
13 is I didn't see that in any of the other ports and I
14 saw it specifically for this port and I realize many
15 different handle times for many different ports based
16 on the characteristics of the vessel, the berth
17 you're going to, et cetera, but I just saw that this
18 particular one had two different times.

19 MR. LAW: Glad to do both.

20 CHAIRMAN BENSON: Any other questions?
21 Comments? Clarifications? We're good. Move on.

22 Okay, let's move on to Captain Hansen.

23 CAPTAIN HANSEN: I just have a short statement.
24 Good morning, I am Captain Reid Hansen, active
25 full-time pilot in Palm Beach since 2004 and

1 cross-licensed pilot in Fort Pierce since 2007. As
2 Mr. Law stated, the previous full-time captain,
3 Captain Wetzell, resigned from his post in 2013 to
4 pursue a more steady and lucrative employment.

5 Palm Beach Pilots have served as relief for Fort
6 Pierce Pilots since the mid 1990s. For the past
7 eight years Palm Beach Pilots have covered the port's
8 pilotage completely. Although the pilot jobs have
9 been sparse and inconsistent there's recently been an
10 uptick in large yachts expected to grow greater due
11 to the new director of shipyard facility.

12 Currently, I am the only cross-licensed pilot
13 that lives in the vicinity. My drive takes about an
14 hour 15 minutes door to door without traffic.

15 The revenue per handle in Fort Pierce is
16 currently much too low to attract additional relief
17 pilots or to attract a permanent pilot to the port.
18 The service the Palm Beach Pilots have been providing
19 is solely to uphold Florida Statutes requiring
20 pilots. Financially, it has been a losing
21 proposition with high risk.

22 Previous to the yacht venture the port serviced
23 low budget, often unreliable cargo vessels and the
24 occasional tug and barge. With limited manpower in
25 Palm Beach, currently operating with only three state

1 pilots, servicing Fort Pierce is quite burdensome.
2 It affects rest, time and work schedules of pilots
3 cross licensed or not.

4 By raising the rates to a level requested in the
5 application, the Board can eventually with the
6 regular traffic stream attract a permanent, local
7 pilot. In the meantime, other pilots such as the
8 newer pilots in Palm Beach will be motivated to cross
9 license as soon as possible, thus helping to provide
10 a dependable service and a safer environment.

11 CHAIRMAN BENSON: Any questions for Captain
12 Hansen?

13 COMMISSIONER ASSAL: I have a couple questions
14 based upon the investigative report and the former
15 Captain Wetzell, I believe. If you had brought up
16 that other ventures in the past felt that the rates
17 was already too high and they couldn't last in
18 business, first of all, I don't believe a company
19 does that but they are not drawing people here any
20 ways and if you go up on the pilot's request, I think
21 there should be a raise, should be an increase but
22 you got to look at the potential new business for the
23 port itself as well. Is that going to impact the
24 customers coming in? Will the customers want to come
25 in at such a high pilotage fee? I believe travel, I

1 get it. We have to pay that in every port, place you
2 pay per mile, you pay a fee. I think the dollars
3 that they are asking might be a little bit excessive.
4 I think we got to look at the percentage overall
5 because this is a new start-up business and we went
6 to walk it yesterday, there's an extension of thing,
7 beach and you got to look at the amount of boats. If
8 your pilot fees are too high, they are going to refer
9 to other destinations.

10 CHAIRMAN BENSON: What we'll do is when we get
11 into deliberations --

12 COMMISSIONER ASSAL: Okay.

13 CHAIRMAN BENSON: -- we will definitely have
14 that discussion. Right now if we have a question for
15 either Captain Hansen or Richard Law just to gather
16 all the data and then we'll have a discussion, you
17 should bring it up at that time.

18 COMMISSIONER ASSAL: I gotcha.

19 CHAIRMAN BENSON: Yes, Commissioner Kurtz.

20 COMMISSIONER KURTZ: I have questions. Are you
21 done?

22 COMMISSIONER ASSAL: Yes, ma'am.

23 COMMISSIONER KURTZ: Okay. How far offshore do
24 you board typically for an inbound for Fort Pierce?

25 CAPTAIN HANSEN: (Inaudible) goes out four miles

1 from the dock, and when it's calm enough we like to
2 board the vessel as soon as possible out there.
3 Sometimes yachts want to come in closer because they
4 are concerned about their vessel.

5 COMMISSIONER KURTZ: Okay. And you had
6 mentioned a no-wake zone. So given the currents and
7 how narrow it is, what's your typical approach speed
8 from offshore and then how long do you have to back
9 everything down, you know, to an appropriate speed?

10 CAPTAIN HANSEN: We try to make decent speed,
11 you know, 8 to 10-knot range in the beginning and
12 then immediately once we start getting into the jetty
13 we drop it down to about seven and then when we get
14 near the sign which they are very strict about, by
15 the way, unlike some other ports because there's a
16 lot of residential homes there, docks, private docks,
17 marinas, even a Coast Guard station with vessels in
18 the water, so you really got to drop it down to a
19 minimum almost no wake. So when you're there we
20 sometimes have made as low as 2 knots but generally
21 around four.

22 COMMISSIONER KURTZ: How do the ships handle
23 typically at 2 to 4 knots if you have current and
24 wind?

25 CAPTAIN HANSEN: Well, with the cross wind, of

1 course, you'll have a lot more set. The slower you
2 go, the more the wind affects you. So that's a
3 consideration. It just depends if it's flooding or
4 ebbing also. The yachts tend to handle a little bit
5 better than some of the cargo vessels we've had,
6 that's for sure. But there's more slide because of
7 your low speed and being affected by the wind.

8 COMMISSIONER KURTZ: How strong are the currents
9 typically at sort of a maximum current situation?

10 CAPTAIN HANSEN: Incredible. Most I've seen
11 around and much more than Palm Beach, even though
12 Palm Beach is strong, this is 4 knots,
13 four-and-a-half to five. It's even been as high as
14 six apparently with some, you know, with the rains
15 and a strong ebb on new moon or full moon.

16 COMMISSIONER KURTZ: Do you actually have like
17 some sort of real-time monitoring or it's all based
18 on predictions?

19 CAPTAIN HANSEN: It's based on the predictions
20 that we use from the computer and then, you know,
21 just sight.

22 COMMISSIONER KURTZ: Thank you.

23 CHAIRMAN BENSON: Any other questions? Okay,
24 thank you, Captain Hansen.

25 Next item on the agenda is presentations of

1 other affected parties. Is there anybody in the
2 audience, does anyone have anything to offer?

3 Public comments? Public comments? No public
4 comments, okay.

5 What we're going to do then is I announced that
6 we're going to take a break at 10:30, let people
7 check out. I'd like to take a 15-minute break now,
8 or let's take 20 minutes. A 20-minute break now.
9 We'll get back at 10:00 before we get into
10 deliberations and finalize what we have in front of
11 us. Okay.

12 (Recess 9:42 a.m. until 10:02 a.m.)

13 CHAIRMAN BENSON: Okay, folks, if we could get
14 started again, please. Okay, thank you for getting
15 back. Procedurally what we're going to do is we're
16 going to ask Donna McNulty to go through the various
17 factors that are under consideration that were in the
18 investigative report and we're going to entertain
19 motions to accept or not accept the question so we
20 can document exactly what was behind our ultimate
21 decision as to whether or not to accept these rates,
22 not accept these rates or some other modification.
23 After she goes through that, we'll open it up for
24 discussion among the commissioners in terms of
25 comments and any questions and I'll recognize

1 Commissioner Assal first because he had started down
2 that path and then your thoughts on whatever and
3 we'll kick it around to the other commissioners.
4 With that I'll toss it to Donna McNulty to go through
5 each factor and set a motion with regard to these
6 factors in the investigative report.

7 MS. McNULTY: Thank you, Commissioner Benson.
8 So the first factor is the public interest in having
9 qualified pilots available to respond promptly to
10 vessels needing their service. And that is
11 correlated to page C1 of the investigative report.

12 CHAIRMAN BENSON: Any motion?

13 COMMISSIONER KURTZ: So moved.

14 COMMISSIONER RUSSO: Second.

15 MS. McNULTY: What are you moving?

16 COMMISSIONER KURTZ: What you said.

17 MS. McNULTY: Well, I mean --

18 COMMISSIONER KURTZ: Do you -- I'm sorry. Do
19 you want us to say it that way? Like we approved
20 that and then we say so moved or do I need to
21 articulate a motion?

22 MS. McNULTY: I would articulate a motion that
23 you approve what was set forth in the investigative
24 report unless you want to change it or something.

25 COMMISSIONER KURTZ: I would like to make a

1 motion to approve what is set forth in the
2 investigative report.

3 CHAIRMAN BENSON: Second?

4 COMMISSIONER RUSSO: Second.

5 CHAIRMAN BENSON: Those in favor?

6 COMMISSIONERS: Aye.

7 CHAIRMAN BENSON: Next?

8 MS. McNULTY: The next one is a determination of
9 the average net income of pilots in the port as set
10 forth and this correlates to page C2 of the report.

11 CHAIRMAN BENSON: Motion?

12 COMMISSIONER RUSSO: Can we have discussion on
13 it at this point?

14 CHAIRMAN BENSON: Yes.

15 MS. McNULTY: Sure, if you want to do something
16 different, absolutely.

17 COMMISSIONER RUSSO: Well, the question for me
18 is timing. This is just a guess. We're talking
19 about the rate itself right now?

20 MS. McNULTY: No, we're talking about the actual
21 factors.

22 COMMISSIONER RUSSO: Okay, fine.

23 MS. McNULTY: And then you go through all of the
24 factors and look at the investigative committee
25 report and see if you agree or want to modify or

1 accept them, whatever you want to do with the
2 investigative committee report.

3 COMMISSIONER RUSSO: This is all the basis for
4 the decision and I would vote and comment?

5 MS. McNULTY: Yes.

6 CHAIRMAN BENSON: Yes. Motion?

7 COMMISSIONER KURTZ: I'll make a motion to
8 approve the investigative report as set forth in
9 Section 2.

10 CHAIRMAN BENSON: Second?

11 COMMISSIONER ASSAL: Second.

12 CHAIRMAN BENSON: All those in favor?

13 COMMISSIONERS: Aye.

14 CHAIRMAN BENSON: Next?

15 MS. McNULTY: Next is the reasonable operating
16 expenses of the pilots. As you can see that's also
17 C2.

18 CHAIRMAN BENSON: Just to point out, that
19 particular item you said there was no relevance to
20 the particular item which I agree with. Motion?

21 COMMISSIONER KURTZ: I'll make a motion to
22 accept the investigative report Section 3 as stated.

23 COMMISSIONER RUSSO: Second. Thank you,
24 Carolyn.

25 CHAIRMAN BENSON: All those in favor?

1 COMMISSIONERS: Aye.

2 CHAIRMAN BENSON: Next?

3 MS. McNULTY: Thank you. The next is pilotage
4 rates in other ports. This is Section 4 also
5 beginning on page C2, and, as you know, it was also
6 modified as handed out and discussed by Mr. Law.

7 CHAIRMAN BENSON: Waiting for a motion.

8 COMMISSIONER KURTZ: I will make a motion to
9 accept the investigative report Section 4 as set
10 forth.

11 COMMISSIONER RUSSO: Second.

12 CHAIRMAN BENSON: All those in favor?

13 COMMISSIONERS: Aye.

14 CHAIRMAN BENSON: Next?

15 MS. McNULTY: Section 5 is the amount of time
16 each pilot spends on actual piloting duty. That
17 begins on page C6 under the investigative committee
18 report.

19 CHAIRMAN BENSON: Motion, please.

20 COMMISSIONER KURTZ: No one is else is going to
21 do this. I will make a motion to accept the
22 investigative report Section 5 as set forth.

23 COMMISSIONER RUSSO: Second.

24 CHAIRMAN BENSON: All those in favor?

25 COMMISSIONERS: Aye.

1 MS. McNULTY: Thank you. Next is Section 6, the
2 prevailing compensation section and that also is on
3 page C6.

4 COMMISSIONER KURTZ: Mike, help me out at all?

5 COMMISSIONER JACCOMA: I'll make a motion to
6 accept Item 6 of the investigative committee report
7 as it pertains to the prevailing compensation
8 available to individuals in other maritime services.

9 COMMISSIONER ASSAL: Second.

10 CHAIRMAN BENSON: All those in favor?

11 COMMISSIONERS: Aye.

12 MS. McNULTY: You have fun now, okay. C7, I
13 mean, sorry, seven is the impact rate change may have
14 on an individual pilot compensation and that begins
15 on page C6 of the investigative committee report.

16 CHAIRMAN BENSON: Yes. Motion, please.

17 COMMISSIONER JACCOMA: Motion to accept Item 7
18 of the investigative committee report.

19 COMMISSIONER KURTZ: Second.

20 CHAIRMAN BENSON: All those in favor?

21 COMMISSIONERS: Aye.

22 CHAIRMAN BENSON: Eight?

23 MS. McNULTY: We just did seven?

24 CHAIRMAN BENSON: Yes.

25 MS. McNULTY: Sorry. That one also was modified

1 by the inserting the word per handle. I'm going to
2 include and make sure that that is codified too.

3 The next is projected changes in vessel traffic
4 beginning on page C8.

5 COMMISSIONER ASSAL: I'll make a motion to
6 accept the investigative report for Section 8.

7 COMMISSIONER RUSSO: Second.

8 CHAIRMAN BENSON: All those in favor?

9 COMMISSIONERS: Aye.

10 MS. McNULTY: Probably the easiest one today
11 would be Section 9, cost of retirement and medical
12 plans on page C8.

13 COMMISSIONER ASSAL: I'll make a motion to
14 accept nine.

15 CHAIRMAN BENSON: Second?

16 COMMISSIONER JACCOMA: I'll second.

17 CHAIRMAN BENSON: All those in favor?

18 COMMISSIONERS: Aye.

19 CHAIRMAN BENSON: Nine -- I'm sorry, ten.

20 MS. McNULTY: Ten, physical risk inherent in
21 piloting, beginning on page C9.

22 COMMISSIONER ASSAL: Make a motion to accept
23 Section 10 of the investigative report.

24 COMMISSIONER KURTZ: I'll second.

25 CHAIRMAN BENSON: All those in favor?

1 COMMISSIONERS: Aye.

2 MS. McNULTY: And the next section is special
3 characteristics, dangers and risks of port, and also,
4 this also includes I'm sure the commentary -- your
5 motion also includes the testimony today by Mr. Law
6 and Mr. Bushy; right?

7 CHAIRMAN BENSON: Yes.

8 COMMISSIONER ASSAL: I'll make a motion to
9 accept Section 11 of the investigative report.

10 CHAIRMAN BENSON: Second?

11 COMMISSIONER KURTZ: I'll second.

12 CHAIRMAN BENSON: All those in favor?

13 COMMISSIONERS: Aye.

14 MS. McNULTY: Next section would be other
15 relevant information. That begins on page C10.

16 COMMISSIONER RUSSO: I'll make a motion to
17 approve Section -- to accept Section 12 of the
18 investigative report.

19 CHAIRMAN BENSON: Second?

20 COMMISSIONER ASSAL: I second.

21 CHAIRMAN BENSON: All those in favor?

22 COMMISSIONERS: Aye.

23 CHAIRMAN BENSON: Next?

24 MS. McNULTY: The next is Section 13 related to
25 the consumer price index beginning on page C11.

1 COMMISSIONER RUSSO: I'll make a motion to
2 accept Section 13 of the investigative report.

3 COMMISSIONER JACCOMA: I'll second.

4 CHAIRMAN BENSON: All those in favor?

5 COMMISSIONERS: Aye.

6 CHAIRMAN BENSON: Okay, thank you. I know that
7 may appear to be somewhat burdensome, but at the end
8 of the day, it's important that we have documentation
9 as to what we consider in terms of each section.

10 Now I'll recognize Commissioner Assal and go
11 down the path of what you were referring to and then
12 open it up for the rest of the commissioners before
13 we make a determination.

14 COMMISSIONER ASSAL: Thank you. As I had
15 started saying before prematurely, of course, not
16 questions, first I recognize that coming from Palm
17 Beach an hour and 15 minutes is a long drive to get
18 to where you need to to accommodate Fort Pierce --
19 Port St. Lucie, I'm sorry. I just I am looking at
20 the increases of 309 percent. It sets the tone of
21 precedence throughout the country of the volume
22 because you have nothing to demonstrate that's
23 comparable for what they do here. I think that
24 anybody that goes over the call of duties should be
25 extra compensated because they are doing favors in

1 going out of their way to help. I just feel that the
2 percentage was a little too high. My personal
3 opinion on the overall for the amount of vessels for
4 community, for the port. I do value the safety of
5 the pilot and the safety of the pilot and what they
6 do and if you only have one person, no one else is
7 going to come in for \$60 or \$40 an hour. You're
8 losing money. He's correct. Captain Hansen is
9 correct, it's not even really worth it, we're doing
10 this as a favor and we have to look at what's fair
11 for both sides, for the end user who is the boat
12 owners or the shipping companies, whichever way it is
13 and the pilots because their safety, my personal
14 opinion. That's all I got to say.

15 CHAIRMAN BENSON: Commissioner Kurtz?

16 COMMISSIONER KURTZ: So as a cross-licensed
17 pilot, there is no obligation to service the second
18 port, as Commissioner Assal pointed out, you're doing
19 someone else a favor and I think there should be an
20 incentive, there should be a significant incentive,
21 especially if it impacts the primary port. So
22 there's that. And Captain Hansen is the only one
23 left at the moment. So if anything happens to him, a
24 port could theoretically be uncovered, and at the
25 current rate, I can't imagine anyone else would be

1 interested in doing this. We all saw the problems we
2 had even getting people to cover Pensacola, so I
3 would hate to see something like that happen here.

4 During the break, I just went online briefly to
5 see what the typical expenses of a mega yacht would
6 be because this is the primary customer are going to
7 be mega yachts coming in for dry docking servicing
8 kinds of things and just as a real broad
9 generalization here, 150-foot mega yacht experiences
10 about a \$2 million a year expense bill for crew
11 costs, maintenance, storing, you know, all those
12 kinds of things. Typically it's about 10 percent of
13 the cost of the vessel, sometimes it's a little bit
14 higher. The proposed pilotage fee is less than 1
15 percent of what their costs would be. If you don't
16 dry dock every year, typically you dry dock a vessel
17 every two years, two-and-a-half years, there are
18 regulations that govern the dry docking of vessels.
19 So the very loose math is, you know, .7 percent of
20 the annual budget for a mega yacht would be the
21 pilotage fee and it wouldn't even be an every year
22 kind of thing. So that's just, again, online,
23 believe it or not, but, you know, there's a website
24 and you can dial in length of the yacht and it gives
25 you sort of a typical expense structure. So I found

1 that to be very, very interesting. And, again, the
2 primary customer are mega yacht owners. This is not
3 a company that's trying to make a dollar on every
4 container. These are the ultra wealthy that are
5 trying to service their extraordinarily expensive
6 vessels that they are not operating to profit. This
7 is their own personal use.

8 So my question, Captain Hansen, would be is your
9 proposed rate increase really enough to attract
10 someone to be cross licensed or to attract a
11 full-time Fort Pierce pilot?

12 I think this is a drop in the bucket for the
13 customer. I don't see any hardship potentially and I
14 think it's long overdue. It's a challenging channel.
15 It's an inconvenience for a small port to have to cut
16 someone loose to go somewhere else and they can
17 potentially end up having to take an extra pilot in
18 Palm Beach just to service Fort Pierce, if Fort
19 Pierce doesn't have an income stream high enough to
20 support its own pilot.

21 CHAIRMAN BENSON: Do you want to ask him, any
22 questions?

23 COMMISSIONER KURTZ: Do you think that your
24 proposed rate increase would be enough to attract
25 enough cross-licensed pilots or possibly a

1 freestanding pilot in Fort Pierce?

2 CAPTAIN HANSEN: Well, in speaking with my
3 peers, this is kind of a number that we thought would
4 be fair. You know, especially including the increase
5 though, you know, with the 5 percent per year that it
6 would be okay and then, you know, there's also the
7 incentive with the rate to establish a permanent
8 pilot and if that were to happen, then the customer
9 would drop the \$400 travel fee. I had some responses
10 to Commissioner Assal.

11 COMMISSIONER ASSAL: Yes.

12 CAPTAIN HANSEN: Yes, so you were asking about
13 the potential traffic for the future and I think that
14 if the potential traffic and how the rates would
15 affect that. If the traffic picked up to a
16 significant amount, it would definitely attract a
17 permanent pilot in which case that \$400 fee would get
18 dropped and then the minimum charge would be actually
19 lower than a couple of the other ports. So it would
20 still be in line with probably I would, you know,
21 every pilot association is going to have their own
22 challenges and risks in each particular port but this
23 one is pretty significant. Talking about very
24 expensive vessels and narrow channels and we're going
25 to see our involvement towards the end when they are

1 trying to fit it into that little slip. You guys saw
2 that. So there's that as far as for the future.
3 It's a special circumstance so the port cannot
4 accommodate large vessels, so when you take that into
5 account, you have to think about the average revenue
6 per handle. It's going to be stuck. So it's not
7 like, oh, all of a sudden we're going to get
8 something huge in here and the rates going to be too
9 high because it's just physically impossible.

10 There are some other rate increases being talked
11 about in other ports, so these numbers are going to
12 go higher here. Director, they haven't had a
13 protest. They did not say we're not happy with this
14 and this also unique situation because each vessel is
15 owned by a different entity. So it's not like, say,
16 in Palm Beach where we're dealing with Tropical which
17 is 60 percent of our maneuvers and you're dealing
18 with one entity. This is every yacht is owned by
19 somebody else. So it will be tough to go and ask
20 every billionaire and you have to be a billionaire to
21 own a yacht, not a millionaire, a billionaire. And
22 it is 10 percent per year and some of the yachts are
23 in excess of \$500 million. So that number would go
24 much higher. I don't like to use, oh, they make a
25 lot of money so I should get more. That's not the

1 way I think at all but that is the case and it is a
2 very low cost for them.

3 Some of the conversations I had with the
4 captains on board just because I'm curious is, you
5 know, are pilots enforced strictly in other places?
6 They said, yeah, some places are very strict,
7 especially in the northeast. In the northeast the
8 transits are longer but he says the pilot cost is in
9 the thousands, thousands of dollars per transit.
10 That's about it on that.

11 CHAIRMAN BENSON: Yes.

12 COMMISSIONER RUSSO: I'm prepared to support
13 this action but I think what Commissioner Assal was
14 pointing out was not necessarily impacting this
15 particular special occurrence but the impact
16 industry-wide, we have to be concerned about that. I
17 think it was a good point. But the tools provided to
18 this commission don't seem to me to adequately
19 address the issues right now for us. This is a
20 unique situation and we're just guessing. It's not
21 like we have a track record, this particular port has
22 a track record for this size vessel over time. These
23 are all estimates and projections and guesses but
24 that's all we have to do. That's what our decision
25 has to be based on. We have to accept that and the

1 limitations for all of this. But in order to do
2 that, there's a question in my mind and that is is
3 there a way for us to put into the language of this
4 approval a limitation over time or at least a
5 consideration that we can look at this after we've
6 had a track record, after two years of service and
7 obviously they are just starting up, they are not
8 even ready; right? You said they are going to be
9 ready in a bit but after they do have some operations
10 and see what the costs are and limitations are and
11 the time it takes to go through this, that's the
12 problem. The time limitations is very severe. So in
13 order for us to address this it's almost like we have
14 to start now for the paperwork to prepare for
15 consideration of this after they've been in operation
16 for a while. So the question is is there any
17 safeguard we can put in here to reconsider this after
18 they are up and going because this is just a shot in
19 the dark.

20 MS. McNULTY: Well, I mean, it's not
21 reconsideration. Once you make your decision, your
22 decision, your rates are set. But keep in mind the
23 statute allows once the rates have been established
24 by final order, that 18 months later anyone can come
25 in and ask for a change in the rates. So if the

1 people who are the yacht, who represent the yachts if
2 they think this is not fair, they can file a request.

3 COMMISSIONER RUSSO: I'm not even sure that 18
4 months is going to be an adequate time period to
5 judge all this but so what you're saying is that
6 there is an adequate safeguard to --

7 MS. McNULTY: Yes.

8 COMMISSIONER RUSSO: -- moving forward over time
9 if there's any knowledge we haven't considered.

10 MS. McNULTY: Yes.

11 COMMISSIONER RUSSO: Good, thank you.

12 COMMISSIONER JACCOMA: I have a question
13 regarding the I think Richard Law called it an
14 unquantified charge on the pilot boat fee. That's
15 for Donna, if you can tell me is that something --
16 how can we handle that?

17 MS. McNULTY: It doesn't have a rate in there.
18 So I think you all should discuss this. I think you
19 are charged with actually setting a rate and by
20 saying that there's no rate but they can just charge
21 whatever they want should make you pause a little
22 bit. I mean, maybe you say, you know, whatever you
23 think is a normal amount. I mean, again, if the
24 pilots don't think it's fair, 18 months from now they
25 can request something different, but I would

1 recommend that you actually set something so it's
2 clear and there's a cap to it.

3 CHAIRMAN BENSON: Yes, I think in other
4 situations, other ports, you're not going to have
5 this fee, so to speak, but you're going to have it
6 built into the cost of the operation so you don't
7 have an expense unless you have that pilot boat
8 taking you out there or Sea Tow or whoever it is
9 captain can take you out there. So my initial
10 thought was, you know, let's build a rate, you know,
11 factor the rate or what have you with the
12 anticipation of either him taking a boat or somebody
13 having a pilot boat or whatever and just get a rate
14 as opposed to this kicker. I'm okay with a kicker
15 but not an open number, you know, whether it be,
16 again, we may or may not approve a CPI increase. So
17 we do that and we're setting the rates now for a
18 reasonable rate, then with the CPI increase
19 purportedly, you know, the tow out there is going to
20 hopefully stay within somewhat realm of that.

21 You know, I too had an initial knee jerk
22 reaction to a 300 percent increase. But when you get
23 into percentages, if something is woefully
24 inadequate, then tripling it to a number that should
25 be a reasonable number, you know, it doesn't give me

1 as much angst as initially going, you know, tripling
2 the number? I'm not worried about another port
3 coming back and saying, well, you know, Fort Pierce
4 got a 300 percent, you know, let's start with 275 or
5 300, see if it will stick to the wall. I'm really
6 not. It's more to me, you know, what's reasonable?
7 Candidly, if I were director, I'd be in this room
8 praying that they gave you the increase because they
9 are making an incredible investment. If you decide
10 you don't want to do this, what are they going to do?
11 They don't have a pilot to bring the ship in. So I
12 think they have huge exposure to make sure you
13 continue to stay healthy, motivated and everything
14 else to bring these yachts in and also somebody else,
15 you know, but, you know, and I think the fact that
16 they are not pushing back on this, obviously they
17 know that they have no choice, they have to get these
18 ships in.

19 But, you know, the open-ended Sea Tow, to me, I
20 really don't want to go down that path. Whether or
21 not we build that in and recognize that's your only
22 cost associated with coming in, you know, we can
23 discuss that.

24 The CPI, candidly, that is something that can
25 bite us with future requests because I think the

1 other, the CPIs have been 2 and 2-and-a-half percent
2 what the other ports and I'm not sure why, you know,
3 Fort Pierce should be double that, so to speak, but
4 those are my initial thoughts in terms of the way to
5 go.

6 I am totally supportive of getting it up to a
7 reasonable number and making sure that we have a
8 reliable pilot bringing these things in or that huge
9 monstrosity of a lift is going to be, you know, not
10 used and there's no way they are not going to be
11 bringing these things in without a pilot.

12 MS. McNULTY: I just want to point to page C8
13 for your edification. Mr. Law's commentary on the
14 pilotage, the pilot boat fee issue. That's so
15 basically he states that since the pilotage operators
16 have a historical use with a customary charge of
17 about \$250. So you might want to look at that part.

18 CHAIRMAN BENSON: Right.

19 MS. McNULTY: You know, what's in there.

20 COMMISSIONER JACCOMA: Where is that?

21 COMMISSIONER KURTZ: Page C8, Section 7.

22 MS. McNULTY: The last paragraph.

23 COMMISSIONER ASSAL: If there isn't, forgive me
24 to ask, if there isn't enough volume for a pilot's
25 boat because you need then to have a mechanic and

1 then you need to have a pilot, so now you have to
2 have a second pilot, I mean, there's a lot more than
3 just saying a pilot's boat.

4 COMMISSIONER JACCOMA: It's not a pilot boat.
5 It would be just a boat operator.

6 COMMISSIONER ASSAL: The cost of the boat --

7 COMMISSIONER JACCOMA: Right, boat operator.

8 COMMISSIONER ASSAL: -- for the port that not
9 knowing what the amount of vessels are coming in and
10 having a blanket check is really -- that's like it's
11 not mathematical because --

12 COMMISSIONER KURTZ: But they are not talking
13 about getting a pilot boat. They are talking about
14 the fee for a boat to take the pilot out.

15 COMMISSIONER RUSSO: Sea Tow.

16 COMMISSIONER KURTZ: It's a million dollars for
17 a pilot boat at least. That's not what they are
18 talking about.

19 COMMISSIONER ASSAL: It's 250, is that what they
20 say?

21 COMMISSIONER JACCOMA: I believe so. According
22 to the application they put in the fee and I believe
23 it was in 2016 it was \$175 and then in 2019 it was
24 \$235. So it went up \$60 over that period of time
25 which is about a \$20 a year increase. So I don't

1 know how you build that into it but I assume that
2 that price isn't going to stay even if you added that
3 \$20 you'd actually add \$40 to the 235, you'd probably
4 get 275 right now. What's it going to be in the
5 future, you know.

6 MS. McNULTY: But keep in mind that they have
7 asked for an increase every year to all of their
8 rates and if you establish a rate, that would include
9 that rate as well.

10 CHAIRMAN BENSON: That's what I'm saying. If
11 the Sea Tow goes up somewhere around what that CPI is
12 or whatever percentage we agree to.

13 COMMISSIONER KURTZ: It's only going to go up.
14 Sea Tow is not going to charge you less next year
15 because the fuel went up, it's not happening.

16 COMMISSIONER ASSAL: We put in there that they
17 are not taking out of their wages to offset the Sea
18 Tow cost.

19 COMMISSIONER RUSSO: We can have this
20 conversation about many different factors that go
21 into, everything will go up, all kinds of variables
22 can occur. So to focus on this is interesting but if
23 they are going to be asking for \$250 plus a CPI
24 increase, I agree there should be some word for a
25 kicker but somebody has to come up with that language

1 so we can and Chairman Benson I think you were well
2 on your way to coming up with language that would --
3 because I agree with you. Now we have to come up
4 with the language that everybody is satisfied with,
5 something reasonable.

6 CAPTAIN HANSEN: May I clear up a couple things?

7 CHAIRMAN BENSON: Yes.

8 CAPTAIN HANSEN: So the intention, the pilots
9 are not going to make any money on the pilot boat
10 fee. In fact, we want it, as Mr. Law said, to
11 negotiate it for the lowest cost possible. It's just
12 being passed on. I offered director, I said, you
13 guys handle the boat fee. I don't want anything to
14 do with it. You guys can do a contract, you can do
15 whatever you want and they had said we're not
16 interested. So luckily we have two competing
17 companies, Tow Boat US and Sea Tow. We have used
18 both of them. They are very friendly. They are very
19 skilled and they are fighting a little bit now.
20 We've gotten the rate down to sometimes 200 but it's
21 usually going to be around 250 and Sea Tow has a
22 caveat that if a maneuver takes a certain amount of
23 time, they can add more. So we kind of went towards
24 Tow US. Regardless, we're not -- the CPI was never
25 intended to be put on to that number. We just passed

1 their cost on. So if they say we have no raise, then
2 there's no raise to the cost of the pilot boat. That
3 was the intention because we're just passing that on.
4 So you can take the CPI off. It's just going to be
5 when Sea Tow says, hey, your new rate is 275, then
6 I'm just going to pass that exact rate on to the
7 vessel and if they don't raise it, then we don't.

8 MS. McNULTY: What if they made it a thousand
9 dollars or \$10,000? At some point, you know, there
10 is a concern and a risk.

11 CAPTAIN HANSEN: There is and the reason I
12 didn't put it into the rate and just add it on to the
13 rate and take away the pilot boat fee was with the
14 thinking into the future with the possibility of
15 there being a pilot boat. Perhaps director says that
16 they want to be in charge of that now, they want to
17 use their tugboat as the pilot boat to save their
18 customers' costs, for instance. So that's why we
19 just went ahead and did a pass-through whatever they
20 are charging, but, yes, of course there is a risk
21 that they can charge as much as they want. Luckily
22 there's two entities.

23 COMMISSIONER KURTZ: Is there not a way to put
24 language in there that it's a direct expense to the
25 user? That, you know, the customer? So that you

1 know to ensure that the pilot isn't getting any extra
2 money for that because it is, right now it's 250 but
3 if fuel goes up, you can end up short or if their
4 costs go up but director, you know, has to pay for
5 the transportation for the pilot, can't we put some
6 kind of language in there that, you know, that the
7 pilot is to bill the customer directly for?

8 MS. McNULTY: I think that's not setting a rate.
9 Because that could be true for the fuel. It could be
10 true for so many things that you're really passing it
11 on to the customer. So I think you need to set a
12 rate, and again, if all of a sudden the rate is out
13 of control, the pilots can come back in to try to
14 change it, right?

15 COMMISSIONER KURTZ: Right.

16 CHAIRMAN BENSON: We have the same situation in
17 Tampa with pilot costs, there's some major costs of
18 the pilot boat or whatever, you know, it's similar to
19 this situation, the two competing things. I mean, I
20 assumed that the CPI on the pilot boat was going to
21 go up. Thank you for that clarification. At the end
22 of the day, we have to find some way to say, okay,
23 what is the approved rate, what did we agree to? I
24 think there's going to be a base rate, a
25 reasonableness of the travel, clearly experience some

1 kind of travel whether or not we stamp that one or
2 whatever, the boat fee and then the CPI.

3 COMMISSIONER KURTZ: To me the boat fee with the
4 CPI sounds totally reasonable. Things go up.

5 COMMISSIONER JACCOMA: Can you just put it on
6 the user of pilot services to make arrangements to
7 get the pilot on board, therefore, they pay whatever
8 the rate is.

9 COMMISSIONER KURTZ: But Reid said he --

10 CHAIRMAN BENSON: He said he tried to do that
11 with the director.

12 COMMISSIONER JACCOMA: Right, but what I'm
13 saying is not the director but the entity.

14 CAPTAIN HANSEN: The yacht itself? Sea Tow is
15 not happy with that. They prefer dealing with us. I
16 give them a credit card, I pay for them right there,
17 and, you know, otherwise he's going to have to bill
18 the yacht, it's going to a foreign country and they
19 don't even want to deal with that. They are a
20 mom-and-pop operation in Fort Pierce.

21 CHAIRMAN BENSON: The CPI and the boat fee, we
22 agree to a boat fee, say we can keep it. Whatever
23 the CPI is we agree to, you know, he's got some --

24 CAPTAIN HANSEN: Protection.

25 CHAIRMAN BENSON: -- opportunity to cover it

1 because then you rule in terms of what that fee is
2 going to be. Now you're saying this is my approved
3 rate, this is what I'm going to do with Sea Tow. If
4 you can negotiate things, that helps you out
5 economically a little bit. You're going to be at
6 some risk with these but so is everybody else in this
7 room in terms of the other ports.

8 CAPTAIN HANSEN: That sounds fair.

9 CHAIRMAN BENSON: Comments on the reasonableness
10 of the rate. Yes.

11 MR. LAW: Can I make a suggestion?

12 CHAIRMAN BENSON: I need to stop leaning to my
13 commissioners while I'm talking. Yes, of course you
14 can.

15 MR. LAW: Our analysis of this indicated that,
16 you know, fix a number that's fair and reasonable,
17 let the pilots negotiate for the lowest cost. If you
18 gave them 300, let's say, plus you're getting them 5
19 percent a year in case of escalator but the pilots
20 can go to Sea Tow or Tow Boat and say, what will you
21 do it for? If it's 230, you are saving the customer
22 the money and the pilot doesn't put it in his pocket.
23 Set a rate that they can negotiate that's a
24 pass-through, that the customer is not getting stung
25 by an open-ended blank check and he's getting the

1 competitive quote from Sea Tow or Tow Boat. That's
2 just an idea.

3 CHAIRMAN BENSON: Yeah, we weren't -- I don't
4 think we were considering a blank check. What I'm
5 saying is we said whatever that rate is, we take your
6 250 or take another number and let it just be subject
7 to a CPI increase, whatever that number is we're
8 going to agree to, that would be the number.

9 MR. LAW: Right.

10 CHAIRMAN BENSON: From there similar to any
11 other port they have a pilot boat, you know, take
12 incredible care of it, so whatever they are going to
13 benefit from economically, so to speak, so I think, I
14 mean, that's where my head is right now. Let's talk
15 about what that number, is maybe what the rate is now
16 and let the CPI or whatever that increase is run with
17 that. Yes?

18 MS. McNULTY: You're inclined to Mr. Law's
19 suggestion, it could be something like this, a pilot
20 boat fee in the amount equal to the amount billed to
21 the pilot, not to exceed \$250 if boat not provided by
22 or obtained by the owner/agent and include into the
23 CPI increase. Would that work?

24 MR. LAW: Yeah.

25 COMMISSIONER KURTZ: So that would be a base

1 amount of 250 subject to CPI.

2 MS. McNULTY: Well, it would be 250 or less
3 depending on what was actually incurred and then
4 every year that 250 goes up with whatever the CPI
5 increase goes.

6 COMMISSIONER KURTZ: As a cap to what they get
7 charged.

8 MS. McNULTY: As a cap. Just a suggestion.

9 MR. LAW: Yeah. And as Captain Hansen said they
10 didn't apply 5 percent because it was open ended.
11 You can't apply 5 percent to nothing.

12 MS. McNULTY: Right.

13 MR. LAW: So if you go back to a fixed allowance
14 is all you're saying and then 5 percent of 250 added
15 to the other rates gives you an escalator for
16 changing costs. You know, I think in the interest of
17 trying to protect the users of the port if that fee,
18 if they get a lower fee, that is the fee that's
19 charged the customer, not the higher fee, and so
20 building it into the rate gives any excess to the
21 pilot which is maybe not intended but it's showing
22 that your interest in protecting the users of the
23 port is part of this whole analysis, give them the
24 lowest possible rate on the pilot boat, especially if
25 the service is good.

1 CAPTAIN HANSEN: I'm happy to put in language in
2 there that says something like if the fee doesn't go
3 up, then they are not subject to the extra 5 percent.
4 If you want to throw that in there, that's fine.
5 Just say the rate stays steady for two years. It's
6 unlikely but if it does, I won't apply the extra 5
7 percent on the boat fee because it's just a
8 pass-through.

9 MS. McNULTY: Can I just read what it says? I
10 mean, because really what we're doing is just setting
11 the cap.

12 CAPTAIN HANSEN: I'm not trying to make extra
13 money on that and whatever the cost is the cost is,
14 that's all.

15 MS. McNULTY: If I may repeat it, I think it
16 does what you're saying because really what it's
17 doing is setting the cap, so it protects you, the
18 pilot, right, but then you're doing the pass-through
19 so long as it's under the cap. It would say, a pilot
20 boat fee in the amount equal to the amount billed to
21 the pilot, not to exceed \$250 if the boat is not
22 provided by or obtained by the owner/agent. And then
23 it will be included with the CPI increase because
24 it's a fee then; right?

25 CHAIRMAN BENSON: Okay.

1 CAPTAIN HANSEN: And it gives them the option to
2 have their own boat or whatever they want to do.

3 CHAIRMAN BENSON: We'll leave the language to
4 her. We'll leave the piloting to you. I'm not
5 taking her to piloting.

6 MS. McNULTY: Oh, no, no, no.

7 COMMISSIONER RUSSO: I'm confused on why we're
8 doing this. I mean, there's how many different items
9 can we -- this is a bad, precedent-setting function
10 here. We can pick on any one of these costs and have
11 the same discussion. We can gin up the discussion,
12 how important it is and say, well, we have to protect
13 the end user because and therefore we have to make it
14 more complicated. I think the simpler we do this the
15 better it is. How they run their business after we
16 set the fees is their business. We should only go so
17 far. Making it more complicated with the expectation
18 that it's going to show that we care more is
19 nonsensical. It should just be we're here to set a
20 rate, not to create more formulas to make it more
21 difficult for people. Just set the rate.

22 CHAIRMAN BENSON: Well, I agree but this is one
23 of the few ports or any port that doesn't have a
24 pilot boat. Again, it's being covered by a pilot
25 that's in another county or what have you. So I

1 think if we set, again, the rate, reasonableness of
2 travel fee, the boat fee and the CPI, you know, I
3 don't think it's going to be difficult for anybody to
4 look at that and say, you know, here's what I'm going
5 to be paying for.

6 COMMISSIONER RUSSO: The functionality of
7 protecting the pilots of the cost or the end user of
8 the cost, it's irrelevant in terms of whether there's
9 a pilot boat there. The cost is the cost, period.
10 Therefore, why pick this one cost out of all the
11 other costs that go into the pilotage function and
12 say, well, we have to have special language just for
13 this. The cost is the cost.

14 CHAIRMAN BENSON: It's his only cost. Other
15 than the cost of getting up here, it's the only
16 out-of-pocket, it's the only check he's writing or
17 the only credit card he's taking out. Whereas in
18 another port, you're going to have all the costs
19 associated with it.

20 COMMISSIONER RUSSO: There's insurance costs,
21 there's other administrative costs, there's other
22 things he has to pay. We can ask for a list. We can
23 argue about each one of them. It doesn't make sense
24 to pick one and come up with language just because in
25 this particular case they don't have a boat. The

1 cost of the boat, whether it's the rate of service of
2 the boat or the buy your own boat is the cost.

3 COMMISSIONER ASSAL: And I agree with
4 commissioner in making it as simple as possible.
5 What we're talking about, guys, is splitting hairs
6 over a few dollars. I think the 250 is a starting
7 point. CPI, if CPI goes up, then we can change the
8 CPI to 3 percent as an example for that particular
9 line item. It's not overcomplicated. We're talking
10 about maybe a difference of 5, 10 dollars. This is
11 what we're all putting our valued time on. Pilot
12 boat is 250, okay, done. That's what it is, plus the
13 CPI. Okay, finished, move on. I don't think that
14 their intent is to make money on every one of their
15 partners they are going to do business on. I think
16 personally 250 is a fair number with the CPI and the
17 only thing if there is no changes in the CPI or if it
18 goes to a minimum, then we can ask for a less CPI on
19 that item. That's my personal opinion. I think make
20 it simple and easy throughout.

21 CHAIRMAN BENSON: Our history with the other
22 ports as opposed to CPI we've had a specific increase
23 per year.

24 COMMISSIONER ASSAL: But this is exceptional.
25 This is an exceptional port that really none of us

1 have thought about and not having their own pilot
2 here changes the whole dynamics of this whole port
3 and this is just setting the tone for their future
4 for them wanting to come from Palm Beach. That's
5 what I'm thinking is that I think that the pilot boat
6 fee is what it is. I think it's pretty -- it's not
7 that far off to what they get. Let's say there's a
8 savings, it's a savings. I mean, is it 5, 10
9 dollars? Are we going to question them for the
10 amount of calls, as we talked to the gentleman
11 yesterday, the manager, they are anticipating maybe
12 30. That's not even the first year. Max they'll
13 ever be able to mount is 50 calls, so it's a hundred
14 handles? That's only, I mean, they got to build the
15 whole business. That's three, four years down the
16 line. So I get it. Simple.

17 CHAIRMAN BENSON: I'd rather build into the base
18 rate where there's the exceptional situation. The
19 increase per year, I think all the ports are going to
20 come back with why are we five? Why were we two when
21 the other one is five? It should be some
22 consistency. What we're saying is increase --

23 COMMISSIONER RUSSO: That's fine.

24 CHAIRMAN BENSON: -- cost, I think we should
25 have something consistent with others and then build

1 into the base the unique situation along with the
2 travel situation, along with the boat situation. I
3 don't think, you know, any port is going to be -- if
4 they come back and say you gave Fort Pierce 300
5 percent and I want 300 percent, you're going to get a
6 deaf ear from me.

7 COMMISSIONER RUSSO: This is a whole new thing.
8 It's like a whole new port.

9 CHAIRMAN BENSON: It is, I agree. That's why
10 I'm saying it's not going to happen.

11 COMMISSIONER KURTZ: I have a comment about the
12 percentage versus dollar amount argument. 300
13 percent sounds like a lot but when you look at the
14 dollar amount, it's really not that much to get the
15 rate to where it should be. When something goes from
16 a dollar to \$2, it's a 100 percent increase but it's
17 a dollar. Okay. That argument was used at a rate
18 hearing previously, it didn't hold any water with me
19 because they were arguing about a dollar container
20 and they talked about percentages and it was a
21 dollar. So please keep that in mind is that 300
22 percent sounds shocking but no one in their right
23 mind from a port that's viable that's generating a
24 lot of income and thousands of ship handles a year
25 would come to the table with a 300 percent increase.

1 You know, this is a completely unique situation.
2 They are trying to get themselves up to a manageable
3 level. Even a 2-and-a-half percent I think is, you
4 know, to even suggest that it not be 5 percent is
5 insulting. They are trying to get up to a minimum
6 handle amount that makes it viable, and, again, no
7 hardship on their customer. No one's complaining
8 about this. They have the support of their only
9 customer for future billings. So to me the whole
10 thing is splitting hairs, not just the \$10 more than
11 they might make on a Sea Tow but the 5 percent a
12 year, I don't think that does set a precedent for
13 other ports. You can't possibly compare it to a port
14 that earns millions and millions of dollars a year,
15 where the tiniest percent makes a big difference in
16 the income stream. You're talking about a very small
17 number. That's why the percentage is so high.

18 CHAIRMAN BENSON: My previous comment was that I
19 have no angst over 300 percent because we're taking
20 it from a base that was no one can make happen, you
21 know. The service stopped, the resignation or
22 whatever, the 300 percent means nothing to me. What
23 I'm saying is why not build the base rate at a
24 reasonable number for these customers and stuff like
25 that and then keep the annual increase consistent

1 with other ports. That's all I'm saying. And I'm
2 not saying I won't approve a 5 percent when we have
3 this collective discussion. But to me is let's build
4 that base rate so it's fair to the pilot, it's fair
5 to the customer, you know, and do our job as opposed
6 to the 5 percent, you know, as opposed to
7 two-and-a-half or whatever.

8 COMMISSIONER RUSSO: What is the standard CPI
9 for ports? Or do we have a standard CPI?

10 CHAIRMAN BENSON: We have that chart. What we
11 have agreed with.

12 MS. McNULTY: It's not a standard.

13 MR. LAW: It changes monthly.

14 COMMISSIONER RUSSO: Average?

15 MR. LAW: It changes monthly.

16 COMMISSIONER KURTZ: It's not negotiated.

17 COMMISSIONER RUSSO: So if you were a pilot,
18 what would you say to this conversation? With all
19 the economic and political things that could happen,
20 has happened over the last two years, it could happen
21 over the next two or four years, who would be out of
22 their mind enough to lock in a particular rate? 5
23 percent is okay by me. Again, we're talking about
24 pennies here.

25 COMMISSIONER KURTZ: Right, because down the

1 road if somebody doesn't like it, they can petition
2 for a change. This isn't a far-reaching proposal for
3 a certain amount of time, but after a rate is set,
4 you can come back and ask for a different rate after
5 a certain amount of time.

6 COMMISSIONER RUSSO: I'm fine with \$250 and 5
7 percent CPI and would like to hear an argument
8 against it.

9 MR. LAW: That's why on your CPI question, I
10 mean, nobody knows the future of the CPI right now
11 but that's why I put in that supplemental analysis of
12 the difference between a two-and-a-half and a five
13 because if you're applying the five to a lower
14 number, it's just not that big but if you apply 5
15 percent to a \$3,000 handle at a larger port, it's
16 pretty big and it's bigger than the CPI. CPI hasn't
17 been 5 percent since 1982 when inflation was crazy
18 but CPI has been averaging 2, 2-and-a-half percent.

19 COMMISSIONER RUSSO: Whose crystal ball are we
20 looking at now?

21 MR. LAW: Right.

22 COMMISSIONER RUSSO: I have no idea what's about
23 to happen.

24 MR. LAW: But that's why I put, you know, the
25 other ports have asked for two, two-and-a-half in the

1 recent rate hearings. Everybody's been agreeable to
2 that CPI historical over the last 10 years, okay, but
3 that's why I put in the 5 percent analysis compared
4 to two-and-a-half.

5 COMMISSIONER RUSSO: I understand.

6 MR. LAW: Because on a small number it's
7 insignificant.

8 CAPTAIN HANSEN: Can I say a few more things on
9 my behalf?

10 CHAIRMAN BENSON: Yes.

11 CAPTAIN HANSEN: So to ease the concerns on the
12 percentages, there's kind of two things you have to
13 look at and it's the revenue to the pilot difference
14 and then the cost to the yacht. These are kind of
15 two different things.

16 If you take, and this is regarding a permanent
17 pilot, if you take the old minimum of 386 and then
18 you go to 1,135, which would be the new fee without
19 the travel, that difference is only 194 percent. The
20 revenue to pilot, and if you go to the old average,
21 the average is not 386, even though 386 is the
22 minimum, we're generally receiving, as Mr. Law said,
23 a little over 500 because the drafts have been deeper
24 than the minimum draft fee. So if you take a
25 permanent pilot from there to the 1,135, the old

1 average of 527, it's only a 115 percent increase.

2 Now revenue to pilot, if you take the old
3 minimum and you go to -- if you take the old average
4 527 and you go to a new minimum of the travel pilot,
5 13, that's \$1,300, it's only 147 percent. So the 300
6 percent would be the extreme.

7 Okay, and as far as the CPI, Mr. Law, am I not
8 correct in saying that the CPI in the past couple
9 months hit as high as 4.6 percent? Have you been
10 following that?

11 COMMISSIONER RUSSO: We're going down a rabbit
12 hole with these percentages.

13 MR. LAW: Right now you can't look at two
14 months.

15 CAPTAIN HANSEN: Of course, but since 1982 and I
16 just wanted to bring it up that it's approaching five
17 again. Okay.

18 COMMISSIONER RUSSO: So the issues with
19 percentages of a 300 percent increase, that is as
20 irrelevant in this conversation as you can possibly
21 get. It's a whole different animal. Where this is a
22 new venture as though there had been no experience in
23 this port before, and, therefore, using that as some
24 kind of a statement to influence the commission, I
25 just think is not appropriate.

1 On the other hand, the 5 percent, again, who has
2 the crystal ball? And that's why you have what you
3 said before about the 18 months is good for 18 months
4 and somebody can come back and do whatever they want
5 to do. We're talking about pennies here, and one
6 interesting thing, some of us here that are here to
7 represent the interests of the people of Florida.

8 MS. McNULTY: Let me respond a little bit, let
9 me be clear that these rates go out 10, they are the
10 rates until they are changed.

11 COMMISSIONER RUSSO: Yeah.

12 MS. McNULTY: So it's not just 18 months but 18
13 months is when someone can come in.

14 COMMISSIONER RUSSO: Of course. But it doesn't
15 seem to me that the residents of Florida are owning
16 these mega yachts, at least that's not what we heard
17 yesterday. So who are we representing here? And so
18 I concur with I think is a consensus as 250 for 5
19 percent works.

20 CHAIRMAN BENSON: In the application, part B.

21 COMMISSIONER ASSAL: When we make motions, are
22 we making it on each line item or are we making
23 motions as a whole?

24 MS. McNULTY: You have the flexibility to do --

25 COMMISSIONER ASSAL: No, because the reason I am

1 asking because on this report it's just about the
2 rate and then we got the travel, which, I mean, are
3 we really going to set CPI on travel? I'm trying to
4 understand that.

5 CHAIRMAN BENSON: If we go to part 2 of the
6 application.

7 MS. McNULTY: Page 24 of 38.

8 CHAIRMAN BENSON: It's No. 2, it has a detailed
9 explanation of the rate change. We can either
10 entertain a motion to accept that or we can carve
11 something out.

12 COMMISSIONER ASSAL: What page is that?

13 COMMISSIONER RUSSO: 22 of 48.

14 MS. McNULTY: 24 of 38.

15 MR. LAW: Mr. Chairman?

16 CHAIRMAN BENSON: Yes.

17 MR. LAW: When you said you'd like to bill the
18 pilot boat fee, let's say 250 into the rate, it would
19 cost 12.50 a foot on the draft times 20-foot minimum
20 to generate 250 just for your consideration. So the
21 rate on the draft would be 42.50 rather than 30 to
22 generate an additional 250 and then you got the CPI
23 on the rate and you simplify the entire analysis.
24 What you've done is just given that to him to charge
25 and if he gets it lower, he makes it. If not, he

1 bears a little burden there. But I'm just trying to
2 give you a way to build that in if you wanted to do
3 it that way.

4 CHAIRMAN BENSON: No, I think we talked about
5 it, the language that Donna had written in terms of
6 things. I think we are beyond that in terms of
7 building it into the draft charge.

8 MR. LAW: Okay.

9 CHAIRMAN BENSON: Thank you.

10 COMMISSIONER RUSSO: Thanks.

11 COMMISSIONER KURTZ: Would we apply the same
12 philosophy to the travel fee because the cost of gas
13 and wear and tear on your car and all of those
14 things, you know, will escalate as well. So if we're
15 going to apply that philosophy to the pilot boat, I'm
16 just trying to come up with a motion in my head and
17 so I just want to understand what the feeling is
18 amongst the group with that. I see all of it going
19 together and being subject to the escalator or
20 whatever it is that we decide.

21 COMMISSIONER JACCOMA: I agree.

22 CHAIRMAN BENSON: You have the motion in your
23 head.

24 COMMISSIONER ASSAL: I'd like to make a motion
25 to accept it, the exact submission at 2-and-a-half

1 percent increase every year. I'm making a motion to
2 accept their submission at 2-and-a-half percent CPI
3 for every year in everything as a whole.

4 CHAIRMAN BENSON: Keep the CPI language out of
5 it; right?

6 MS. McNULTY: Just say 2-and-a-half percent
7 increase.

8 COMMISSIONER ASSAL: Every year.

9 COMMISSIONER RUSSO: I would second that for
10 discussion.

11 CHAIRMAN BENSON: Okay, motion has been
12 recognized, seconded. Now open up for discussion.

13 MS. McNULTY: That as you have made your motion
14 then that's that unopen, that unopen, I guess the
15 whole --

16 COMMISSIONER ASSAL: At the pilot's rate, at the
17 pilot boat as starting at the 250.

18 MS. McNULTY: Okay, so you're modifying?

19 COMMISSIONER ASSAL: Modify at \$250 for the
20 pilot's boat. I apologize. I forgot about that
21 part.

22 MS. McNULTY: Are we doing it not to exceed that
23 or just flat out 250?

24 COMMISSIONER ASSAL: I said 250 in my motion.

25 MS. McNULTY: Okay, so 250, 250.

1 CHAIRMAN BENSON: Subject to the same increase.

2 MS. McNULTY: Subject to the CPI and then with
3 the proviso if the boat is not provided blah, blah,
4 blah, that thing, okay.

5 CHAIRMAN BENSON: Okay, it's been motioned and
6 seconded. Commissioner Kurtz?

7 COMMISSIONER KURTZ: I feel that 2-and-a-half
8 percent is insufficient. I cannot support that.

9 COMMISSIONER JACCOMA: I would say I'd go back
10 to what Commissioner Kurtz asked Captain Hansen and
11 that was we have a substantial investment in this
12 port that needs pilotage and will he be able to get a
13 second pilot, not just himself, willing to come up
14 here and do these jobs and I think these are the
15 criteria he's established. So I think we should go
16 with 5 percent.

17 COMMISSIONER ASSAL: If I may interject. First,
18 we're not asking for him or the pilot, forgive me
19 Captain Hansen, to give refunds. So if the 250 is
20 the base on the boat and if he actually gets it for
21 230, that means they just made an extra 20.

22 COMMISSIONER KURTZ: \$20?

23 COMMISSIONER ASSAL: It's \$20. So what I'm
24 saying is if he gets it for 200, which was what he
25 said earlier, it's \$50, Commissioner. So we're

1 saying is that is a flat. You get it cheaper, less
2 expensive, let's use that word, they are making
3 money. We're splitting hairs over dollars. So we're
4 not saying to modify the pilot boat down to exactly
5 what he's being charged and that's all he pass
6 through. We're giving him a rate to start with.

7 COMMISSIONER KURTZ: What about the pilotage
8 fee? The motion is not just for the boat fee. It's
9 for the pilotage fee.

10 COMMISSIONER ASSAL: I made my motion. It's up
11 to you guys for discussion.

12 CHAIRMAN BENSON: Commissioner Russo?

13 COMMISSIONER RUSSO: Just a point of
14 clarification, you said we have made a major
15 investment.

16 COMMISSIONER JACCOMA: Not us, the port.

17 COMMISSIONER RUSSO: Whoever is doing the port.

18 COMMISSIONER JACCOMA: Right.

19 COMMISSIONER RUSSO: If this was an established
20 port with years of experience and costs, et cetera,
21 there still would be an enormous number of unknowns
22 going forward, not because of what's happening at the
23 port but what impacts the port from other forces.
24 And anybody think that 5 percent is too much go to
25 Home Depot and try to buy a 2 x 4. There's so many

1 unknowns. If this was my business and I was sitting
2 there, I would never agree to this. You're
3 restricting me. So many variables it would kill my
4 business in weeks. So 5 percent is just an unknown
5 but at least it gives them the opportunity to be more
6 flexible within that fee and then how you do that is
7 up to you because without you there's nothing here,
8 nothing. It impacts the general economy. We keep on
9 talking about the economy of the mega yachts but the
10 mega yachts in this whole port has an enormous impact
11 to the economy of the citizens of the State of
12 Florida and that's what we're here to protect.

13 CHAIRMAN BENSON: There's a motion on the floor,
14 it's been seconded. So what we can do is go with or
15 vote on the motion with the 2-and-a-half percent?

16 COMMISSIONER ASSAL: Yes.

17 CHAIRMAN BENSON: All those in favor of the 2
18 percent?

19 COMMISSIONER ASSAL: Aye.

20 CHAIRMAN BENSON: All those opposed? Motion
21 fails 4 to 1. Accept another motion.

22 COMMISSIONER JACCOMA: Do you want me to do it?

23 COMMISSIONER KURTZ: Go ahead, be my guest.

24 COMMISSIONER JACCOMA: I'll make a motion to
25 accept it as a 5 percent increase as requested.

1 CHAIRMAN BENSON: Motion on the floor, second?

2 COMMISSIONER RUSSO: Second for discussion.

3 CHAIRMAN BENSON: Second for discussion. Any
4 additional discussion?

5 MS. McNULTY: Can I clarify? Just make sure
6 it's all clear to me.

7 CHAIRMAN BENSON: Yes.

8 MS. McNULTY: The shifting vessel says minimum
9 charge but in the material it actually it increases
10 from a minimum of 386 to a minimum charge of 900.
11 That the motion as stated, that 5 percent increase it
12 applies to the pilotage pilot boat fee of 250 and the
13 \$400 travel surcharge. Just want to make sure I'm
14 clear as to your motion.

15 COMMISSIONER JACCOMA: That's the motion.

16 MS. McNULTY: That works.

17 COMMISSIONER RUSSO: That's cheating.

18 CAPTAIN HANSEN: There will be no pilot boat fee
19 on shifts of course because you're shifting from one
20 berth to another.

21 MS. McNULTY: Whatever is in here, right? Okay.

22 MR. LAW: The shocking fee is also there.

23 COMMISSIONER KURTZ: As requested to include the
24 pilot boat and travel fees.

25 MS. McNULTY: Everything that is on here. So

1 the 5 percent applies to everything.

2 COMMISSIONER JACCOMA: Correct.

3 MS. McNULTY: I just want to be clear for the
4 record.

5 MR. LAW: That they approve the docking fee.

6 MS. McNULTY: And approve the docking fee.

7 CHAIRMAN BENSON: Good?

8 MS. McNULTY: That's good.

9 CHAIRMAN BENSON: Okay. We have a motion on the
10 floor, it's been seconded. All those in favor? Aye?

11 COMMISSIONERS: Aye.

12 CHAIRMAN BENSON: Opposed? Did you vote?

13 MS. McNULTY: You have to vote.

14 COMMISSIONER ASSAL: I accept an aye, that's
15 fine.

16 CHAIRMAN BENSON: It passes unanimously. All
17 right.

18 I want to thank everybody for the work you did
19 prior to the meeting as well as our consultants and
20 our attorney that straightened me out again.
21 Everybody here, I believe that is it for the day.
22 The end of discussion.

23 COMMISSIONER RUSSO: Do we have an estimated
24 meeting?

25 MS. McNULTY: Just a reminder that I'll be

1 drafting a notice of intent to modify the rate. It
2 will take me a little while to draft that. I will
3 need a copy of the transcript and then hopefully you
4 will have a teleconference meeting to review it.

5 CHAIRMAN BENSON: Coordinate through the office,
6 yes.

7 COMMISSIONER RUSSO: Are there any plans or
8 estimations on when our next in-person meeting will
9 be?

10 MS. ACKERMANN: After the appeal time runs out
11 on the order, then we'll go ahead.

12 COMMISSIONER RUSSO: On this order?

13 MS. ACKERMANN: Yes.

14 COMMISSIONER RUSSO: What about any other
15 anticipated actions that we may need to consider from
16 any other ports?

17 COMMISSIONER KURTZ: So this has to be all
18 wrapped up before the Palm Beach one can start.

19 MS. McNULTY: We also have noticing requirements
20 for Palm Beach. You have 45 days.

21 COMMISSIONER KURTZ: Okay.

22 CHAIRMAN BENSON: The Chair recognizes Captain
23 Hansen.

24 CAPTAIN HANSEN: Yes, I just want to clarify
25 when the increase, the 5 percent would go into

1 effect. The application says January 1st, 2021, but
2 of course there was the one-year COVID delay and so
3 would that go into effect January 1st, 2022?

4 COMMISSIONER RUSSO: Never ask a question.
5 Don't ever ask questions like that.

6 MS. McNULTY: From the date the order becomes
7 final or one year from like a January 1 date?

8 CAPTAIN HANSEN: It will be a lot cleaner if you
9 started on the 1st.

10 COMMISSIONER KURTZ: Why (Inaudible)?

11 MS. McNULTY: Well, because the application --
12 well --

13 COMMISSIONER KURTZ: What works for you?

14 CAPTAIN HANSEN: I mean, the 1st is cleaner and
15 just easier for the books.

16 CHAIRMAN BENSON: That's January 1?

17 CAPTAIN HANSEN: 2022.

18 MS. McNULTY: We can make it January 1, 2022?

19 CHAIRMAN BENSON: Yes.

20 MS. McNULTY: Is that --

21 CHAIRMAN BENSON: Take a vote?

22 MS. McNULTY: Yes, have to take a vote.

23 CHAIRMAN BENSON: Motion for January 1st, 2022?

24 COMMISSIONER KURTZ: Second.

25 CHAIRMAN BENSON: All those in favor?

1 COMMISSIONERS: Aye.

2 CHAIRMAN BENSON: Anything else? Make sure I
3 hit this and not my phone. We are adjourned. Thank
4 you, everybody.

5 (Meeting adjourned at 11:07 a.m.)

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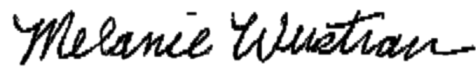
MEETING CERTIFICATE

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STATE OF FLORIDA)
COUNTY OF ST. LUCIE)

I, Melanie Wustrau, RMR, CRR certify that I was authorized to and did stenographically transcribe the Board of Pilot Commissioners Pilotage Rate Review Committee Hearing, and that the transcript is a true and complete record of my stenographic notes.

Dated this 18th day of June, 2021.



Melanie Wustrau, RMR, CRR

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