DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

BOARD OF PILOT COMMISSIONERS
RE: PORT OF MIAMI RATE CHANGES

Hyatt Regency Miami
400 Southeast 2nd Avenue
Miami, Florida 33131

May 19, 2017
APPEARANCES:
DAVID WILKINS, Chair
LOUIS SOLA
JAMES WINEGEART
CHRIS OATIS
CLARK JENNINGS
CAROLYN KURTZ
SHERIF ASSAL
RICHARD LAW
CAPTAIN MARLO
CAPTAIN HANSEN
MS. WHITE
MS. ANN
UNIDENTIFIED SPEAKER
(Thereupon, the following proceedings are had:)

CHAIR: Good morning. It's Friday, May 19th at 9:00 a.m., and we are now starting the last day of our pilot rateage (phonetic) committee rate hearing, so we are in the last agenda item of our three day agenda, which is the deliberations. And where -- this is continuation from last night, where we were discussing potential rate changes in relation to the application to raise rates by the Biscayne Bay Pilot Association. So what we're going to do today, as we discussed last night, is we'd asked Mr. Law, who worked with --

MS. KURTZ: They can't hear you, David, in the back.

MR. LAW: Just turn more towards them.

CHAIR: Okay, what we're going to do today is -- last night we had asked Mr. Law, with Commissioner Oatis, to model a couple of structure changes, if we were taking on a modified structure similar to another port, so we're going to spend a little time talking about that. But before we get into that, Board Members, I thought it would be good for us to just make sure we're all grounded in our, back
to our original mission, and our original
statutes as it relates to understanding the
facts that we are using to, to reach the
conclusions, or reach -- and so if you look
back at what we've just gone through this wee,
Mr. Law presented his detailed investigative
report. We then heard presentations from both
sides on the issues they saw in the
justifications for, for their applications.
Now --

UNIDENTIFIED SPEAKER: That's a lot there.

CHAIR: That's after 2:00 -- okay, so --
we'll just keep going. All right, so what I'd
like to do, Mr. Law, is just go back through
your report, really just focusing -- I believe
it starts on Page 18 of your report, where
you've organized your report by, you know, the
twelve statutory responsibilities that we have
to address. And we -- we've heard both sides
talk about these different twelve items in
various orders, but I'd like us just to go
through each of, each of the twelve.

And, Board Members, I would like you to
just look at Mr. Law's comments in relation to
each section to get agreement amongst us, do we
agree to the facts that he has presented, and/or if we don't what adjustments, I mean what do we disagree with, so that when we do go back and finalize great changes we can then compare that back to the areas we disagreed to see have we addressed some of those concerns in the, in the rate changes. Does that make sense? Does everybody sort of understand what, what I want to do?

So I -- this -- I want to do this quickly, so, yeah, this isn't large testimony, everybody doesn't have to sit there and explain their, their detailed point of view, but let's go through each one of them. And, Mr. Law, maybe you can help us do that, starting on Page 18.

MR. LAW: Okay, on Page -- I'm sorry. The first point -- well, let me -- let me just say that of the -- it's actually thirteen points, because the first point is not one of, it's one of twelve, but most of these thirteen areas are just facts, as far as rates and, and the trafficking report, and things like that, so I think there is not a lot of counter evidence that was presented in a lot of these things. I just want to give you that as like a preface
to, before we run through these.

So the first one is the public interest of having qualified pilots to respond promptly to vessels, and so that's the first one. I don't think there's been any negative comments that are negative in that area, the pilots are doing their job.

CHAIR: Right, so everyone agree that we, we as a Board are happy with the conformance of that, that point? Okay.

MR. JENNINGS: Mr. Chairman.

CHAIR: Yes, sir.

MR. JENNINGS: We either needed the conclusion of this portion to have an omnibus motion accepting all the facts presented as the findings of fact of the, of the committee, or have an individual motion at each of these sections. I don't know how you wish to handle that.

CHAIR: You meant to vote on it?

MR. JENNINGS: Yes, sir, you need to vote on it. So -- and -- and the motion would be to accept the facts in the investigative report as the findings of fact of the committee.

CHAIR: Okay. Can we just vote on the
MR. JENNINGS: You can if, if you're agreeing with all the facts that are going to be presented, yes, actually a single motion would do that.

CHAIR: Okay. All right. Mr. Law, question?

MR. LAW: Well, I think that based on the evidence that we've heard there's a number of these things, like the number two, determination of net income, we've heard, you see what I presented, and you see what FCCA presented, and you see, you've heard what the pilots have presented, and there's three different numbers.

CHAIR: Right.

MR. LAW: And I think you -- this is probably one of the more important pieces for you to say, or to acknowledge, which one do you think you're relying on to set rights, and so when we get -- I don't think you can just do all thirteen and say I agree with what they've admitted --

CHAIR: Okay.

MR. LAW: SO I think --
CHAIR: I got it. All right, so let's hit number one. Someone make a motion that we can concur with the facts presented in Mr. Law's report on Item 1?

MR. OATIS: So moved.

CHAIR: Okay, motion made by Commissioner Oatis. Second by Commissioner Kurtz. Any discussion? All in favor say aye.

(Aye.)

CHAIR: Opposed? Okay. Number two is the -- I'll just go through this order on all of them. Does the Committee agree on the presentation of fact from Mr. Law's report on the point about net income represented in Point 2? Do I have a motion? If we have a motion and a second, then we can have a discussion. Or do we want to have discussion first?

MR. JENNINGS: It's up to you, Mr. Chairman, you can discussion -- you can have discussion first if you wish, Mr. Chairman.

CHAIR: Okay, well, I mean my perspective is what's presented here is a representation of fact. I saw counter-presentations on what could be adjustments in income if certain things change. I saw counter-presentations on
comparables to other locations, but in terms of the actual costs this seemed to reconcile to what I heard from the other sides.

MR. ASSAL: Mr. Chair, but isn't this based upon the numbers and the facts that Mr. Law received, correct?

CHAIR: Yes.

MR. ASSAL: So this is based upon facts, so it's not guessing.

CHAIR: Right.

MR. ASSAL: Even though we heard from both sides, whether it was higher, or lower, or whatever the case may be, this is the facts.

CHAIR: Right. Even if I disagree with any of the calculations that Mr. Law presented here?

MR. WINEGEART: Well, I think that --

CHAIR: Mr. Winegeart.

MR. WINEGEART: I think some of the add backs could be -- there's different opinions on what should be considered add backs, is the only thing that I, you know, I have a problem with.

CHAIR: Yes, I think -- I mean I think that's fair, yes. But you didn't disagree that
those were costs incurred, the question is, you
know, are you classifying it as their income or
a cost to the business. I think we all
understood that theoretical discussion. Mr.
Law.

MR. LAW: Well, I think that the way Page
19 is laid out is that at least -- you see at
least the first sub of what I would
characterize as what's cash distribution, and
then you see a summary of the add backs, which
comes to another subtotal. And then you see at
the bottom where we came up with the estimate
for the unfunded pension that can be added to
that number. So you see all of the elements,
and those are the facts that we saw, and how
you perceive those totals and subtotals, and
adjustments, it's there. And you've seen other
calculations of the unfunded that we think is
highly variable, but that's our -- these are
our estimates based on, you know, our, our
estimate, and the factors we considered. But
we're not actuaries, but either are they, so I
think it's laid out to where it's factual, it's
just comprehensive.

CHAIR: And in -- and in this point it's
talking about the determination of the income. It's not the judgment of whether this is the right number, right, so -- and -- and of course, also this is the 16.58, and we saw some other numbers with 18 pilots, which of course reduced the number. Any other concerns about that? Commissioner Sola.

MR. SOLA: Yeah, for the most part I concur with the, the numbers that he has. I have some questions on some of the expenses, if a political expense, or lobbying expense, is an expense or not, but I think that would come out to within $1,000 or $2,000 per month per pilot, so in, in general I believe the numbers are fairly represented.

CHAIR: Okay, so would somebody like to give us a motion?

MR. ASSAL: I make a motion that -- I make a motion that the numbers are factual, how they're categorized are, it's up to the pilots to, or the FCC to determine whether they're right or wrong within certain areas, but if you talk about the grand total of numbers, I make the motion that the numbers are accurate.

CHAIR: Okay, do I have a second?
MR. SOLA: Second.

CHAIR: Second by Commissioner Sola. Any other discussion?

MS. KURTZ: Yes.

CHAIR: Commissioner Kurtz.

MS. KURTZ: I just want to be clear, you know, if we approve the motion, you know, will the record reflect that we all agree with, that certain things should be added back, or we're just saying that we think Richard Law presented accurate numbers for all the categories?

CHAIR: Yes, that's what the second point is --

MS. KURTZ: So we're not questioning the accuracy of his accounting or anything.

CHAIR: Correct.

MS. KURTZ: Even if we have a philosophical disagreement with some of the categories that's applied to the bottom number.

CHAIR: Right, correct, those are two different points, yeah. So this is just agreeing that we've factored in all the, the costs, and the, the number is the number.

Okay, all in favor, say aye.

(Aye.)
1       CHAIR:  Opposed.
2
3            (Aye.)
4
5       CHAIR:  Okay, number three --
6
7       MR. JENNINGS:  I'm sorry, Mr. Chairman, is it one opposed?  One opposed.
8
9       CHAIR:  I'm sorry, thank you for clarifying.  One opposed, Commissioner Winegeart.  Commissioner Winegeart -- Commissioner Winegeart, do you oppose that the facts are not represented here?
10
11       MR. WINEGEART:  I -- I don't think that the motion was -- that's not how the motion was stated. The motion was stated that we agree with the bottom number, basically is what he said.
12
13       CHAIR:  No. Well, your disagreement was the, the allocation of certain expenses into the calculation of a number. That's -- you're not disagreeing that those numbers are accurate, or right, but in presenting those as part of the conversation, that's your disagreement, right?
14
15       MR. WINEGEART:  Correct.
16
17       CHAIR:  Okay. All right, duly noted.
18
19       Number three, reasonable operating expenses of
pilots. That's on Page 22. Mr. Law, do you have a comment on that?

MR. LAW: No.

CHAIR: The issue I have here is the word reasonable. You know, my concern is I do not think some of these costs are reasonable. But going back to the point, is it does appear to be an accurate representation of the costs that are being incurred in my opinion. But what we're focusing here now is the term reasonable, is it a reasonable representation of the costs being incurred.

MR. LAW: That's correct. That's the heading, not the conclusion.

CHAIR: Not the -- thank you for saying that --

MR. LAW: And so I've presented the information, and I, and I think that's accurate.

CHAIR: Okay, so do I have a motion on that? Commissioner Sola.

MR. SOLA: Yes, I just wanted to comment on that. On some of the operating costs that we have in here I believe that the Board has the right, or we have the ability to, to fund
the pilots, but we really don't have a say on
how they have their operational for this, so
for example if a rate increase was given we do
not know what that, if those funds would be
given for capital improvements, or for a pilot
vote, and we have no way of checking on that.
I would like to propose -- or I would like to
have discussions on, at a future date, that we
come up with some way of having maybe auxiliary
fees, or something like that that would
actually specifically go towards capital
improvements, or pilot boats, so that we would
have a little bit more control over those type
of expenses, operating, operational expenses.
And that's just commentary. I'm not making a
motion at this time.

CHAIR: The same -- I had the same
thought. That becomes a deep conversation, and
there's statutory implications of that, right?
You know, the legislature, it has the same
problem every year as they look at
appropriations, and where they see expenditures
are not being spent the way they think, but
they don't have control other than determining
the allocation of the expenditure. So that's
sort of how we are too, so the only power of
the purse that we have here is, is the amount
of money we give them, but they have to decide
how to spend it, right?

MR. SOLA: Exactly. I would hate to have
the conversation about the pier and the pilot
boat ten years from now, or, you know, twenty
years from now, et cetera. So if we had some
sort of control over that -- and I don't
believe that adjusting the entire rate would be
the way to do that. That maybe we could, we
could find a way administratively to, to
address some of those issues, so that maybe
they can make a proposal to us, or, and then we
can address them.

CHAIR: I think it's a topic that really
we could even bring up at the larger Board, and
so I will take that as a responsibility, to
talk to the Chairman of the larger Board to
bring that as an agenda item for our next
meeting, because I think that's a core point.
Okay, other comments, or a motion? I'd like a
motion that this represents the operating
expenses as we know it of the pilots.

MR. WINEGEART: So moved.

(aye)

CHAIR: Opposed? That was unanimous.

Okay, number four, if we can move a little faster. Pilot rates in other ports. That was represented on Page 26-29. No, it kept going --

MR. LAW: 36.

CHAIR: 32.

MR. LAW: I don't think any of this was disputed, it's just data.

CHAIR: All right, we'll see if we can speed this up. Is there a motion?

MR. SOLA: I -- I just wanted to add that I really appreciated having a formula that uses the six rate factors that we have, including (unintelligible) and I just didn't see a formula applicable towards us for this. I think that would have been, it would have, it would have made our life a little bit easier throughout this whole process. So when we were looking at that, you know, now something like
that would have, would have applied to us, and
I believe I asked both sides if they could give
us some sort of formula that they would approve
on that, so that was my, my comment towards,
towards that paragraph.

CHAIR: Any other concerns about the way
it's presented in number four? Do I have a
motion?

MS. KURTZ: Motion to accept the
calculation in number four is accurate.

CHAIR: Thank you, Commission Kurtz.

MR. OATIS: Second.

CHAIR: Second from Commissioner Oatis.

Any other discussion? All in favor say aye.

(Aye.)

CHAIR: Opposed? Number five, the amount
of time each pilot spends on actual piloting
duties versus the amount of time spent on other
essential port services. This was a topic
discussed at length by the FCCA, as well as the
facts presented here.

MS. KURTZ: And just to be clear you're
asking for approval that this is an accurate
representation of what Mr. Law received and has
presented. We're not making a judgment on
whether or not we agree with the numbers.

MR. JENNINGS: That -- that's correct.

Mr. Law's -- you're adopting these facts as your findings of fact based upon the information that has been provided to Mr. Law and the investigative committee. You're going to base your findings only on the information as presented, and so if this is the information presented, and there's no contradictory evidence that's been presented, these would be your findings.

CHAIR: I didn't know if it would, if there was contradictory evidence, but I felt the FCCA provided a lot of additional data points here that, on this issue that are not represented in Mr. Law's commentary.

MR. JENNINGS: Yes -- yes, Mr. Chair. And where in fact there is no contradictory evidence, but there might be evidence that, that would enhance the report, it is certainly acceptable to include that as a finding. If you can part to particular things that were submitted by FCCA and say we would like to also include this as a part of our findings of fact that is perfectly acceptable, and in fact it's
encouraged. The more data that you have the more support you will have for whatever decision you tend to make in the future.

CHAIR: Okay.

MR. JENNINGS: And, Mr. Chairman, if I might add --

CHAIR: Now you've -- you're making this job awful complicated.

MR. JENNINGS: It's my job as a lawyer, isn't it?

CHAIR: I was just trying to get to the point --

MR. JENNINGS: Well -- well, and this is why I was going to throw in this caveat. If as we go through the process today you, a lightbulb goes off, and you say, oh, wait a minute, FCCA or BBP had this data that they provided to us, you know, here, I got this, you gave this to us, it's Exhibit W, or what have you, which supports this position. You can include it at that time. You don't have to do it all right now. But whenever you think of that type of stuff I think it would be wonderful if you would include it into the record, similar to what Commissioner Winegeart
1 did last night when he was supporting the
2 motion that he made on one of the petitions, on
3 one of the petitions.
4     CHAIR: Yeah, the issue that -- I mean I
5     need to think through this, how to articulate
6     it, but the FCCA pointed out statistical
7     analysis that implied that these services could
8     be done in less expensive ways, or in
9     alternative ways that would bring more money
10     into the average net income calculation. And
11     but the pilots didn't counter that explanation,
12     they did not provide statistical data to either
13     agree with it or disagree with it, and the FCCA
14     didn't really explain how it could be done,
15     they just showed that these logic points
16     implied that this could occur. All right,
17     Commissioner Kurtz.
18     MS. KURTZ: I'd like to speak to that. I
19     think the FCCA was creating an impression that
20     perhaps pilots instead of driving ships and,
21     you know, time in task for, you know, their
22     main purpose, you know, that perhaps was a
23     pilot was, you know, painting, or, you know,
24     doing boat maintenance, or something that you
25     could pay someone else, but pilots do this in
their off time. They might come in for a day, or two days, or a few days if they're preparing for a meeting, or doing boat maintenance. It's not taking time away from them piloting vessels, this is in addition, so to hire a building manager would certainly cost more, because now you have another employee that you're paying to do certain things.

Pilots take on the extra tasks in their areas of interest, or as needed, and, you know, for example I'm supposed to be working right now, but I'm here for four days at a rate review because it needs to be done, and so, you know, this is my task as, you know, as part of being a pilot, is to be on a board, so these things do take up time, and it's not an either or, it's in addition to. So I think it would be very difficult to put a number on that, because to hire extra people to do some of those things would certainly cost more, to have more employees. I think they're using their resources to, to do all of those things internally without hiring other people.

CHAIR: Yes, but -- I mean I agree with everything you just said, and I think that is,
what you just said is what they represented. The -- the fact though, it they could quantify it, and prove that what you said is true with, with math, and they didn't do that. And the premise from FCCA was, yeah, you're doing all the tasks that need to be done, but there are alternative ways and lower cost sources that, that could be accomplished. And if it -- if that's not true they should have proved it, and they seem to not even address the issue by using the explanation that you just provided.

So -- Commissioner Winegeart.

MR. WINEGEART: Just in my opinion they, they did -- it comes down to how many pilots they need.

CHAIR: Right.

MR. WINEGEART: And they did inform us about the peak periods on the weekends with cruise ships, and I specifically asked are there, which are, which are kind of predictable, and I specifically asked are there other days where you have a peak period that isn't anticipated, and they responded, yes, so it's unpredictable. So they have the number of pilots needed for the unpredictability of the
business, and so they're using these pilots to accomplish other tasks, essentially in my opinion saving money. So that's -- that's what I got out of it.

MR. ASSAL: To ask the Commissioner, Mr. Law, basically this is information from his investigation, so this is things that I'm assuming he got from either the Biscayne pilots, or he has observed himself; is that correct, Mr. Law?

MR. LAW: And -- and Commander Dunton.

MR. ASSAL: And Commander Dunton. So what we're saying is that the number five, the information that Mr. Law -- is that correct or not correct? Isn't that what we're really trying to say? And we have -- our -- as the review board we have our own investigators, not FCCA, or not Biscayne Pilot Association, who gave us the facts with Commander Dunton. Isn't that what we're really trying to motion? We're not trying to come up with the stories that was some after, we're talking about the motion of number five; am I correct, sir?

MR. JENNINGS: Yes, Mr. Assal, that's correct.
MR. ASSAL: So this is information that they got from the pilots, from their investigation, from doing the work that we appointed them to do to get us the facts. So is the motion then -- I'm trying to understand. Are we not agreeing to his investigative report in number five, or are we just saying it's, we accept it or we don't accept it?

MR. JENNINGS: Commission Assal, what I was hearing, and correct me if I'm wrong, that the consensus was that the facts presented in Item 5 are perfectly acceptable, and should be adopted as the findings of fact of the committee. There was some concern as to whether or not once you made that determination do you shut the door to finding additional facts that might accentuate, or add to these facts, and, and my response was you can do that at any time.

You can accept these facts, and unless something occurs later where you say, oh, I would like to find this particular fact, which sounds in contradiction to something that you just approved, you might have an issue. But to add to, to enhance your findings it's perfectly
acceptable. And you don't even have to do that
now. You can do it any time in the process.

MR. ASSAL: From what I understood, that
this is something that we should have done in
the very beginning prior to the hearing.
Correct me if I'm wrong.

MR. JENNINGS: No, sir --

MR. ASSAL: It could be done at any time.

MR. JENNINGS: It could be done at any
time, just as long as you do it while the
hearing is going on, because the whole purpose
is to building the foundation to justify
whatever determinations you make.

MR. ASSAL: Got you.

CHAIR: Commissioner Sola.

MR. SOLA: Yes, I fully understand that
while the pilot is not working, or on a down
time, that you want to keep him productive, and
there's all sorts of things that they could do
that they're, they're experts at, and I
definitely applaud that, rather than them doing
other things. From the information that Mr.
Law has, and also I would like to include the
FCCA slide -- I believe this is what you were
looking for. Because some of the things that
they have on here kind of, like my attorney billing me while he's sleeping, you know, and some of the things, some of these things that definitely require a need to be done, and other of them, you know, they could be questionable as is it, is it a personal development, or is it an active part of doing their job, that the truth lies somewhere in the middle, so we'll leave that for a future, a future time to determine.

MR. JENNINGS: Commissioner Sola, I want -- don't get excited. Unfortunately none of these were marked with exhibit numbers or identification, so 202 hours per week every week, question --

MR. SOLA: And that -- that-- that comes -- that comes right off Mr. Law's -- that comes right off Mr. Law's report information in here on exactly 611 hours per year per pilot versus port services.

CHAIR: Okay, do I have a motion?

MR. SOLA: I make a motion to accept the facts that Mr. Law presented, including this slide --

CHAIR: The 202 hours per week every week
slide. Do I have a second?

MR. ASSAL: Second.

CHAIR: A second by Commissioner Assal.

Any other discussion? All in favor say aye.

(Aye.)

CHAIR: Opposed. Okay, moving to number six, the prevailing compensation available to individuals and other maritime services of comparable professional skill and training. We have this information here. I would personally say we received a lot more information on this. Actually in testimony from Biscayne Bay pilots as well, but there was nothing in number six that I personally saw wrong, so I think what he said was accurate, and Captain Click confirmed the couple of the points in there in his testimony. Do I have a motion?

MR. WINEGEART: I move we accept number six as --

CHAIR: Commissioner Winegeart. Is there a second?

MR. SOLA: Second.

CHAIR: Second by Commissioner Sola. Any other discussion? All in favor say aye.

(Aye.)
CHAIR: Okay, we're rolling now. Seven, the impact the rate change may have in the individual pilot compensation, and whether such change will lead to a shortage of pilots, certified pilots, or qualified pilots. This starts on Page 38, and goes through 42.

MR. LAW: 37.

CHAIR: It's 37. I'm sorry, yeah. Once again, you know, I don't know if there was -- I don't disagree with any of the facts presented. I think there was additional data presented by Biscayne Pilots that further reiterated that, you know, we do not have a, shortage of pilots, or deputy pilots, or qualified pilot applicants as the moment. But as it relates to this point is there any, is there a motion?

MR. SOLA: I make a motion to accept the --

CHAIR: Thank you. Commissioner Sola makes a motion to accept as fact --

MR. SOLA: To accept -- as presented by Mr. Law.

CHAIR: Okay, second?

MR. ASSAL: I second.

CHAIR: Second. Any other discussion?
All in favor say aye.

(Aye.)

CHAIR: Opposed? Okay, number eight, projected changes in vessel traffic. This was one that we had lots of discussion on by both sides. It's represented on Page 42-45.

MR. SOLA: I move we accept the investigator's report on Item 8.

CHAIR: Thank you, Commissioner Winegeart. Second.

MS. KURTZ: Second.

CHAIR: Second, Commissioner Kurtz.

Discussion? All in favor say aye.

(Aye.)

CHAIR: Opposed? It passes. Number 9, cost of retirement and fringe benefit plans. This is the cost, not alternative models. I personally felt the costs were represented here. I felt the alternative models was not well represented by either side in presenting what is market relevant health care and retirement plans that should be utilized, but that's a different point. So the question is costs, are they represented appropriately here.

Do I have a motion? Mr. Law?
MR. LAW: On Page 48 we do try to analyze the valuation. It's not just the historical costs, but also project estimated valuation factors, so it's a little bit more, want to be sure that your observations included the entire section.

CHAIR: That's evaluation of the existing plan?

MR. LAW: No, that's the benefits, the 30,000 to 45,000 --

CHAIR: Of the current base --

MR. LAW: -- estimate in --

CHAIR: Yes, the current -- yeah, okay.

Yeah, my -- my comment was alternative benefits.

MR. LAW: Correct.

CHAIR: Okay. Commissioner Sola.

MR. SOLA: I believe that Mr. Law did the best that he could. This is a very complicated issue that we saw, and we had numbers that were all over the place. I just don't know, you know, the numbers vary so much that, that I definitely believe that we're going to have to retouch this topic in the future. Would it be possible to include both, both sides of the
proposals, or information on what they, they believed was the actual current value of the benefit plan, and for the record?

CHAIR: Mr. Jennings.

MR. JENNINGS: Well, it's already in the record. Everything was presented. That's all the record. Everything for the last three days is the record, so it's there. I only offer this for your consideration, not to persuade you one way or the other. Accountants and actuaries, I think even actuaries, are much like lawyers and economists, you get a bunch of us in a room and ask us a single question, you will probably get multiple answers. It's all based upon how we review the facts and analyze them in our minds. You have -- you've heard information from the parties, both sides have given you numbers, and their accountants have presented their opinions as to this issue.

You have your investigative committee, someone without a vested interest in the discussion who is giving you their opinion. So it's up to you now to decide whether or not you want to accept the investigative committee's conclusions, one party's conclusions, the other
party's conclusions, or something totally
different. It's entirely up to you, but those
are your options.

MR. WINEGEART: Mr. Chair.
CHAIR: Go ahead.
MR. WINEGEART: I just would like to point
out on Page 48 Mr. Law states that the
valuation is a highly judgmental issue, so
because that is there I, I do support a motion
to accept it.

CHAIR: Okay, we have a motion. Second?
MR. SOLA: I second the motion, with the
highly judgmental.
CHAIR: Thank you. Any other discussion?
MR. JENNINGS: Once again all we're saying
is we believe the costs of the retirement and
medical plans are accurately represented here,
not the alternatives, or whether it's
reasonable.
CHAIR: All in favor say aye.

(Aye.)

CHAIR: Opposed. Okay, it passes. Number
ten, physical risk inherent in piloting.
MS. KURTZ: I make a motion to accept that
as --
CHAIR: There is a motion. Second?

MR. WINEGEART: Second.

CHAIR: Second. And any discussion?

Everybody understands the risks. So all in favor say aye.

(Aye.)

CHAIR: Opposed? Number eleven, special characteristics, dangers, and risks of port. Motion?

MR. WINEGEART: I move to accept number eleven.

CHAIR: Commissioner Winegeart motion. Second by Commissioner Kurtz. Any discussion?

All in favor say aye.

(Aye.)

CHAIR: Opposed? Any other factors, the famous any other, or other relevant information on 53.

MS. KURTZ: If this is sort of the opinion part of it are there facts to validate, this is kind of what the whole thing is about.

CHAIR: Well, this is your famous other category that you can factor anything else in. I think the only question at this point is, is what he included in other relevant information
agreeable to you. This doesn't have to be all inclusive.

MR. JENNINGS: I think maybe Mr. Law --

CHAIR: I'm sorry, Mr. Law --

MR. JENNINGS: No, I saw his face. I thought maybe he wanted to add something to it, or an explanation to the paragraph. I apologize. But along those lines, Mr. Chairman, yes, you are correct. If you adopted this that doesn't mean you can't adopt others.

CHAIR: Is there a motion?

MR. OATIS: So moved.

CHAIR: So moved by Commissioner Oatis.

Second?

MR. SOLA: Second.

CHAIR: Commissioner, by Commissioner Sola. Any other discussion? All in favor say aye.

(Aye.)

CHAIR: Opposed? Okay. Do we need thirteen too? I guess -- is that -- is thirteen -- thirteen -- do I need to hit thirteen?

MR. JENNINGS: Yes, sir.

CHAIR: Okay. Thirteen is about the
considering, considering the CPI on relevant economic indicators when fixing rates. As to that I'm not sure -- basically it's just saying it's not to be used as the sole factor. I don't think we ever said we were -- show the financial implications. Can I have a motion to accept number thirteen?

MR. JENNINGS: If -- if I may, Mr. Chairman? And maybe I'm, I should ask Mr. Law to do this, but it seems to me that thirteen is simply Mr. Law's analysis showing, or the committee's analysis showing what CPI, what the affect, what CPI would be, what it's projected to be, and what impact it would have. Is that a fair summation, Mr. Law?

MR. LAW: Actually -- sorry. There's not a projection of what it would be. It's really a historical comparison of CPI in this section. The only part where we project the CPI was a rate analysis of the, looking forward on the requested, requested rate, and on the financial projections for policy.

CHAIR: Okay, do we have a motion?

MR. SOLA: I motion.

CHAIR: Commissioner Sola. A second?
MR. ASSAL: Second.

CHAIR: Commissioner Assal. Any other discussion on number thirteen? Okay, all in favor say aye.

(Aye.)

CHAIR: Opposed? Okay. All right, that was kind of long but it was good. So now -- yes, Commissioner Jennings.

MR. JENNINGS: You've -- you've promoted me --

CHAIR: Counselor.

MR. JENNINGS: -- Mr. Chairman, but I will refrain from voting. No, there -- there is still the issue of the, I think for lack of a better term, air. Do you want to discuss that now?

CHAIR: Help me out.

MR. JENNINGS: Well, the -- it's the concept of air, as opposed to -- go ahead.

MR. OATIS: The concept of air is somewhat addressed in Section 12 under relevant information, where it talks about the FCCA, the FCCA assertion about the increase in size of the cruise vessels, vessels, and how that is impacting the fee rate that they're being
charged. But I'll open it up to additional discussion.

CHAIR: Okay. I mean, yes, the concept was discussed. I don't think anybody would disagree with the concept but what are you asking?

MR. SOLA: That was the reason I made the motion, because I agreed with that aspect --

CHAIR: Right. And I think what Clark is looking at here is just to kind of solidify that as a finding of fact for the concept of, of the air, or the --

MR. SOLA: Let me go ahead and -- the reason that I made the motion in Section 12 was because Mr. Law's assertion of the difference in rates, and the epical tonnage of the air, which was --

CHAIR: So is that adequate?

MR. JENNINGS: Yeah, I think that that -- yes, sir.

CHAIR: Okay.

MR. JENNINGS: Yes, sir, I just wanted a little bit more explanation on where we were going with that, because clearly when you start talking about GRT, and we heard the FCCA talk
about, you know, Admiral Baumgartner explaining
gross tonnage, and how much of that was in fact
air, and we just, we didn't consider that as a
-- excuse me. You just needed to consider
that. And I wanted, I wanted that on the
record.

CHAIR: Okay, that's good. Any other
items like that that you can think of that --

MR. JENNINGS: No, sir, not at this, not
at this time. Oh, sorry, Mr. Law does. Mr.
Law.

MR. LAW: Just from being an observer on
what I heard from both sides, in addition to
what is in Section 12, it seems to me that
there were two presentations with air factor,
by the pilot's value, passenger, other factors,
and those were two very significant parts of
this whole pay rate I believe, and so if you're
finding a fact -- you just accepted the air
factor, but are you also acknowledging the
passenger value tonnage assertions that are
made by this side?

Are you taking it directly from FCCA's
perspective, or are you blending it with these
factors on that side to come up with a fair
adjustment rate? I'm just -- I'm just an observer, but I think a fact needs to be -- I think what we need to have is something on the record of what you think about what was presented.

MR. JENNINGS: No, that's absolutely correct. And as we go through this process I suspect that we will have more of a discussion, but I think what Mr. Law is suggesting, and it's a valid, you know, welcome suggestion, because if you want to have some general discussion of that right now, and point to the record to explain where you're going, because that is a key element to, to any type of rate adjustment that, that seems to be coming down the road here, so do you want to discuss it now, and start pointing to the material presented by the pilots, and by the FCCA, or do you wish to just incorporate that as we go through, but you do need to be cognizant of that, and you are going to have to add some more material.

CHAIR: Okay, Commissioner --

MR. OATIS: And I guess in discussing that I think there's a differentiate in there
between a characteristic of the vessel being
the air, the GRT, and how it inflates the fee,
versus the passengers not necessarily being a
characteristic of the vessel, and how we
consider that in the rate pricing.

CHAIR: Commissioner Kurtz.

MS. KURTZ: There's this assumption that
all cargo vessels, you know, the deck sort of
stops close to the water, and that there's
nothing above it, and so the cargo that's on
deck, you know, isn't part of the equation.
There are other kinds of cargo vessels that do
have very high enclosed decks, the car carriers
and lumber carriers, and they look like cruise
ships but they don't have balconies, and
they're big, wind affected, high sided, and
their tonnage is higher, and they pay according
to tonnage because, you know, that's how it's,
it's done, you know, the draft accounts for how
much cargo is on board, but the design of the
ship is to serve their purpose specifically.

It looks more like a cruise ship running
around than it does, you know, like a tanker.
So, you know, not all ships look like these,
you know, nothing on the deck that had been
presented, that, you know, between here and here there's nothing. There are plenty of ships that run around that have something between here and here.

CHAIR: Commissioner Sola.

MR. SOLA: Yeah, I -- I totally agree with some of the cargo vessels are different. I would like to point out in Mr. Law's Exhibit B where the differentiates, and the end of, cargo vessels are charged after a certain tonnage, for it to be 100,000 -- basically the way I see it is 100,000 GRT. After that it's exclusively cruise vessels. I strongly believe that a formula should be done in the future that would take everything into consideration for cargo vessels and cruise vessels, to include length and beam as I've said many times before. I don't know if we're going to get to that today.

But in -- in the assertion done by Mr. Law, and the motion that I made for Section 12, I believe that the cargo vessels are being charged additionally for air on that, on that area of over 100,000 GRTs.

CHAIR: Commissioner Winegeart.

MR. WINEGEART: I think the gross tons...
that you pointed out is an accurate indicator of revenue that a vessel can generate, and that is how pilots should be, should be based, because if not why don't you charge the same dollar amount for every vessel that comes in? There has to be a sharing of the expense to port users for the infrastructure of the pilot association, and the way to do that is to -- the vessels that have the ability to pay more because they can make more money with their vessels, which the gross tonnage is an indicator of that. That's how you have the infrastructure of the pilot --

MR. OATIS: I guess my only thoughts on that, one, was that at some point we talked about dealing with the cargo vessels, and the capability to carry, carrying certain loads, could have higher value or lower value, so I think what we're trying to quantify is the passenger vessels, if they have a fixed value they can produce because of the passengers on board, versus cargo vessels, their value can fluctuate. It's a different -- and trying to integrate that into a calculation I think in my perspective steps away from fair and
reasonable, because it's not necessarily an
ability to pay that should be determining what
the rate is, it should be, the service being
provided, whether it's to someone who is wildly
profitable or on slim margins, it's the service
being provided that should be driving that.

MR. WINEGEART: Well, that goes back to my
comment that in that, if that was the case then
essentially every vessel pay the same amount,
and it's not a formula that would work.

MR. OATIS: Well, but the formulas that
are there are not necessarily to recognize the
value that the vessel is creating, but more
the, the challenge and the risk that each one
poses, and that's why the gross tonnage and the
draft have an impact on the, on the fee. The
larger the draft the larger the gross tonnage,
in theory, the more risk that it would present.

MR. WINEGEART: Correct. And the larger,
these 165,000 gross tons and higher vessels
that we're talking about are, in fact the
Biscayne Bay Pilots have had to make
restrictions, wind restrictions on the 225
gross ton vessels on (unintelligible) which
indicates that they in fact are more difficult
than other vessels.

CHAIR: Commissioner Kurtz.

MS. KURTZ: There was -- I don't remember whose presentation it was in but the, the port charges dockage according to gross tonnage also, and I'm wondering if the ports have been subject to this kind of controversy about how they're calculating rates. You know, particularly if a ship is taking up 1,000 feet alongside a dock it's taking up 1,000 feet alongside a dock, and if they're charging gross tonnage it seems to me that at least someone else is accepting the way that calculated.

MR. SOLA: Commissioner Kurtz, I tried to find that online, and I looked through their website, and I couldn't find it.

MS. KURTZ: I'm just going by what I heard here yesterday, and the day before.

MR. ASSAL: Port Everglades has a harbor master, and they get -- I don't know because I'm not a pilot, and I don't know how that works, but I'm assuming that the harbor master controls --

MS. KURTZ: I'm not talking about harbor master, that vessel control. I'm talking about
the port charges a fee for how many, how much
room you take up at a dock, and there's a graph
that the Biscayne Bay Pilots presented having
to do with port fees and, you know, all sorts
of other things, and it showed, you know, the
pilots revenue is squat and everyone else's
revenue is going up. And we were told at some
point, or it was written down, the, you know,
that the vessel is charged according to its
gross tonnage, not its physical dimensions. So
I found that very interesting, and wondering
why it's acceptable for one entity to charge
you according to that and, and not another.

MR. JENNINGS: Commissioner Kurtz, did he
help --

MS. KURTZ: Would it help if I could find
it?

MR. JENNINGS: No, no, no, no, no, no, no,
I was just going to ask as a lay person -- I
heard the term wharfage, is that what you're
talking about?

MS. KURTZ: Yeah.

MR. JENNINGS: Okay. I'm trying to recall
which one -- I recall the conversation. I'm
trying to recall which --
MS. KURTZ: Right. And then there's a fee that's charged, you know, it's like you're paying for your parking spot basically, and it was stated to us that that's how the charge is assessed, is according to the gross tonnage of the vessel, so I was just wondering, just out loud.

MR. SOLA: Going back to what Captain Winegeart said, I really don't believe that what the cargo is carrying should basically have anything to do with the rate. I believe that he was correct when he said that it should pay by the, by the characteristics of the ship, by length, the beam, the tonnage, and the draft. And unfortunately we don't, we don't have that, that formula with us, so we're, we're trying to do the best we can and apply it. Some people really like the, the beautiful, the beautiful glass sides, and the stuff of the cruise ship. I prefer the other side, I believe, you know, the cranes and stuff look, look more beautiful, and are more appealing, and have a wonderful impact here on the community.

CHAIR: Yeah, I agree with Commissioner
Sola. I mean there's a lot of presentation comparing passenger revenue to different statistics models that is irrelevant because the profitability of the cruise lines is not an issue here, it's the costs recovery of the service, so. Any other discussion? Okay.

All right, last night some of us slept. One of us did not. And you've put together a homework assignment looking at the rate structure, and can I just turn it over to you to sort of present what you've put together?

MR. OATIS: Yeah. We had some difficulty.

We ran out of paper.

CHAIR: We have plenty of people here.

MR. JENNINGS: Well, Mr. Chairman, if I may probably just one protective motion so I don't run afoul of something later, if I could have a motion from someone on the committee to essentially say that with regards to all the exhibits attached to the investigative report, where they relate to those facts, to have adopted that you include those in your motion to adopt. Essentially I want you to adopt the exhibits where they support the findings that you've already made.
MR. WINEGEART: So moved.

CHAIR: All right, why don't we take a five minute break, a restroom break while we get paper, and we'll come back --

MR. JENNINGS: Do you want to take care of that motion?

CHAIR: No, let's -- two -- we got two Board members that have gone out --

MR. JENNINGS: Sorry.

CHAIR: So let's convene at 10:10.

(Thereupon, a brief break was taken off the record and the proceeding continued as follows:)

CHAIR: Okay, let's reconvene here. It's 10:15. Ms. Ann sent an e-mail to all the Board Members, and some of the interested parties. The first e-mail should be deleted, I cannot open it, and -- the second and third. But it's actually going to be presented here on the screen. Mr. Oatis, are you ready?

MR. OATIS: Yeah. I was hoping to get it to a full screen so everyone could see it, but --

CHAIR: Do the printouts not work?

MR. OATIS: Well, the printouts don't have the, the notes, unfortunately. I guess in here
we can still pass them out. The notes can be seen up there.

CHAIR: And this handout is what?

MR. OATIS: Essentially consistent with what's on the presentation, just formatted differently, and comments coming through.

MR. WINEGEART: Okay, before we jump into that -- are these two different --

MR. OATIS: Yeah, it's Bate's (phonetic) case -- it's two different pages.

MR. WINEGEART: It's two different pages.

CHAIR: All right, so we had a motion on the floor from Commissioner Winegeart to accept exhibits from the investigative report. Do I have a second?

MS. KURTZ: Second.

CHAIR: A second from Commissioner Kurtz. Any other discussion? All in favor say aye.

(Aye.)

CHAIR: Opposed? Okay, that passed. Okay, Commissioner Oatis, you have the floor.

MR. OATIS: Thank you. As Joe Wilkins mentioned last night following the, the conversations we had, we had a lot of tasks ahead of us, as far as trying to consider what
a rate structure would look like in order to, to integrate all of the, the findings of facts as we have now accepted them into the record, and so the initial concept was looking at the, the Port Everglades application, because it provided a rate, a tiered structure. And I think what we saw on that tiered structure was the benefit, and the value that would provide in recognizing the different levels of vessels, basically looking at the concept of air, that we had just been discussing.

An when we got into the actual calculations I realized it was a lot more complex to try and apply the Port Everglades application on its face using the same numbers, using the same ranges, and so the approach that was taken basically looked to apply concepts from that application, concepts from that tiered rate structure in order to integrate them into our current facts, so a lot of thought went into it. Again I think that it's important to keep in mind what we're going to be using it in are the 2016 actual amounts that were provided in, in Mr. Law's report, but they are, they're aggregated such that you can see
that they are in their gross tonnage ranges,
and so to some extent when you aggregate the
information like that it almost functions as an
estimate, because we don't have each specific
handle, we don't have any specific handle
information, and so the -- the purpose in all
of this is to provide an apples to apples
comparison to that report that was provided in,
in Mr. Law's findings.

So what you'll see here that we have
currently on the screen is basically a break
down of that report, and the way that it's
broken down is showing the vessels under
100,000, and then the vessels 100,000 and
above. It breaks down the total revenue as
provided, so this, this amount ties out to the
dollars which was in the report. It somewhat
breaks it out then into the two different fees,
one being the gross ton fee, and the other
being the, the draft fee.

Now the -- it's somewhat of a challenge,
again, because we're dealing with what I'm
going to say is our estimates, is that when we
got to the, the draft fee, and tried to back
into the amounts that were shown in the report,
there was a large margin of error. I think it was 10 to 15 feet, right, if I were, if I remember correctly, that, you know, the feet of draft in deriving what the fee was that had to have been charged based on the overall revenue, and so -- again keeping in mind that these are estimates, what we're attempting to do here is essentially to focus on the, the gross rate fee, in order to determine on a tiered level, looking at every 10,000 of GRT once you get past the first initial 5,000, and how it was calculated.

So again this is the initial amount as reported. Unfortunately I'm sure you all can't really read that too well, can you? You have that there? Okay, wonderful.

So as I mentioned what we ended up working through was trying to integrate the findings of fact into a rate structure that would be fair, reasonable, and just. I think that's, that's the ultimate goal here, is to produce that rate structure, and so in going through some of the, both applications, and some of the requests that were there, the, the first item that you see was added here was the harbor control fee.
And again this is on a per handle basis of, you know, the request from the BBP was for $100 per handle, and so that has been integrated into this calculation in order to provide that fee for their, the harbor control services they provide that are essentially currently not being compensated for.

The second aspect, and obviously the, the one that probably took the most thought, and the most time, relates to the GRT rate structure. And again I think the, the thought process, again hearing our conversations, hearing the findings of fact, hearing the view of the way that the higher gross ton passenger vessels and how their fee is calculated as originally was, based on a flat rate. Everybody was charged the same flat rate for the gross tonnage.

And included in the findings of the facts that from, from Item 12, as we've recently discussed, there are a number of considerations that are included in here in order to reflect -- I think that the, what you'll see here in these three tiers is the, the mathematical depiction of the marginally decreasing risk
that these modern highly sophisticated
passenger vessels contribute to the pilotage
service, and so in that consideration it
reflects the, the skill and the expertise of
the captains and their crew. It reflects the
advances propulsion technology with the
azipods, with the thrusters, and the ability to
maneuver.

It reflects the advanced technological
navigational systems. Also within that it
reflects the, basically the concept of the air,
the concept of how the gross tonnage
calculation was based on a space of air that
wasn't necessarily commensurate with the
overall, I'd say risk that was created. And so
the, the rate structure as we have set it up,
and again this is in consideration of the, the
sums in both applications, and trying to come
to a place where we are acknowledging
everything that's been discussed, and again as
a conduit for that two days of discussions,
trying to translate that into numbers.
Again this is somewhat based on estimates,
ultimately looking to do an apples to apples
comparison. And so the Tier 1 structuring for
the fee is a, it's a 12.4 increase. Again some of the challenges we face here in doing this analysis is that we can't necessarily look at it on a five year projection right now, so this is taking a one year snapshot. And this -- this provided the 12.4 increase to the base rate, and so that is, what that is is that's a two year compounded increase of 6%. So from that rate we then have a decrease based on a marginally increasing gross tonnage, so once we get to 50,000 there is a 35% decrease to the rate for all gross tons over the 50,000, 40,000 amount.

That continues on until a third tier. Once you get to 100,000 it provides for another 35% decrease to the rate for the marginal increase in gross tonnage over that amount. And so that applies consistently, again, to passenger and cargo vessels. You can see that the rates are being applied in that handle. The note here, and this was something that we had talked about last night during our discussion, was the neopanamax, in the request for two pilots on a neopanamax, so again to have a discussion, to have an integration of
that concept into this calculation, the, the
90,000 gross ton cargo ships were deemed to be
the neopanamax ships, and so they had a double
grade for the use of two pilots.

MR. SOLA: Which ones?

MR. OATIS: The -- the 90,000 cargo ships,
the very last line. And then the -- the other
aspect we addressed, as was addressed in the
Port Everglades application, relates to drafts,
and again the approach taken here was to look
at the request that was made for a six year, or
for a 6% increase over five years for the draft
rate, and the way that we kind of tiered that
into a structure, a tiered structure, was to
say that first implementing the 18' minimum,
18' minimum as requested, so from an 18' to 28'
the rate would remain the same.

For any ship from 28' up marginally would
pay at a higher rate, which was calculated
based on that five year compounded increase of
6%, in order to have a tiered rate structure
for the higher draft ships that within Port
Miami are more challenging to pilot. And so
that is the tiered structure again implementing
a concept similar to what you had seen from the
Port Everglades application, but fine tuning it to the extent we could for our current case here. So the -- the overall impact is somewhat measured here just to show what the increase in revenue is overall for all handles from the base case of 2016, ultimately shows a around 27,000 increase per pilot FTE, which roughly represents around 7%, while also looking at the different tiers and levels of passenger ships and cargo ships, roughly seeing a 17% decrease in large passenger vessels over 100,000 pounds.

And again the, the overall concepts here are essentially estimates using the actual numbers that we had in order to reflect the findings of facts that we discussed.

Questions?

MR. SOLA: Well, I look forward to hearing from -- sorry.

MS. KURTZ: Thank you.

MR. WINEGEART: I look forward to hearing from both sides after they analyze this, but right off the bat I believe the testimony on the neopanamax was that they were not going to put two pilots on every job, but occasionally because of circumstances, that they were so --
did you say that you included two pilots on every job over 90,000 tons?

MR. OATIS: At the 90,000 tons, yeah, just to, just to reflect some inclusion of the neopanamax.

MR. WINEGEART: So how many jobs would that be that you have double pilot --

MR. OATIS: A hundred and two.

MR. WINEGEART: I think that's a miscalculation, a good way to say it, But I'll leave that to the Biscayne Bay Pilots to let us know.

MR. JENNINGS: Mr. Chair, we look to you now for procedure --

CHAIR: Let's finish the Board comments first -- yeah, I wanted to follow up on that comment from Commissioner Winegeart. So that's the.0818, and basically, I mean basically you just doubled, is that -- okay. And that number of handles isn't there today, right?

MR. ASSAL: It's not there.

CHAIR: Right. Okay, so did you take -- just the methodology I hadn't bounced back, did you take a hundred and two handles away from other categories, or add, was that added to --
MR. OATIS: Well, the hundred and two handles is just the, that was the amount for that level, so I didn't, I didn't adjust the number --

CHAIR: That already was there.

MR. OATIS: Yes. Yeah, all -- all those amounts were taken from the base case.

CHAIR: Okay. Okay.

MR. OATIS: The only amounts that theoretically would have changed are the ones highlighted in yellow.

CHAIR: Okay. And what is the -- I don't have it on your budget. If you add up the harbor control fee in totality what, what's the annual numbers that would come out of that?

MR. OATIS: It's about 500,000 --

CHAIR: Did you already say that?

MR. OATIS: No.

CHAIR: Okay, so that's 500,000 of a new revenue for a new fee that you're introducing, and that fee exists at Everglades today. Do you --

MR. OATIS: It's actually high -- it's higher than most other ports, was my understanding.
CHAIR: Does any -- do you or any of the other Board members know how much money they collect in the Everglades for that? I was just curious.

MR. LAW: Yes.

CHAIR: Mr. Law.

MR. OATIS: And also I think --

MR. LAW: It's in the report. It's $937,000 a year. So they're, they're roughly asking for half, about half -- it's a tiered rate based on tonnage.

CHAIR: Okay. I personally liked that concept, because like you said it's a capability that they've been doing for years, but have been hidden in the rate structure, so you're bringing it out.

MR. OATIS: Right. Does it make sense, that Mr. Law comment at all, that to some extent on the process that we had gone through, with your involvement, is there anything you would like to add to what I have said?

MR. LAW: To everything?

MR. OATIS: Yes.

MR. LAW: Or just on the harbor control --

MR. OATIS: No, to everything, before we
get too far into the details.

MR. LAW: I think he's done a lot of hard work very quickly, and I'm just concerned about the -- does the result of all that -- will the end result be what you intend, and is it fair and reasonable, and just to everyone. And -- and I think it's really, as you said it's very hard to -- it's a lot of aggregated information, and when you get down to the detail information we don't know, you know, the affect on some, some individual, individual vessels, so I just think there's a, a little bit of a, I mean I think there's a risk in, I mean in the consequences of this --

MR. OATIS: Well, I mean to some extent, I guess for the rate adjustment there, I wouldn't necessarily look at it as unintended, I mean at some point in a rate adjustment there's going to be a shift, so it's going to shift from some, one side to another, from, from one group to another, and I think doing through the process there was an attempt to consider all groups that are represented within this calculation. Not necessarily within this room, but within this calculation in the, the fair,
reasonable, and just analysis.

CHAIR: Commissioner Kurtz.

MS. KURTZ: One of the things that jumps out to me right away is that for passenger vessels you start the decrease at a pretty low tonnage. It seems to me this didn't become an issue until all of this air became an issue, and so to start that decrease at 50,000 tons, that doesn't seem reasonable to me. This whole thing didn't even come up until ships got over 100,000, or 120,000 gross tons. You know, and if you want to take all those arguments about air because you have a philosophical disagreement with the use of gross tonnage, I'm not really sure how you could apply that to the smaller ships fairly. And that seems to be a big, a big leak in the argument.

MR. OATIS: And the way that -- and, you know, we actually had good discussions about that as well, because to some extent you have to tier into this, because if not you end up with a -- if you have a vessel that has 49,000 tons, versus another one that came in at 51,000 ton, if you, or at any different breaking level, if you don't have a tiered structure.
that 51,000 ton vessel could pay less than
49,000 tons, so you have to somewhat start an
integration process. So rather than going from
0-100, and then having a larger percent
decrease it's slowly starting to phase in a
decrease at higher levels.

MS. KURTZ: Okay, but I still think 50,000
is way too low as a place to start the
decrease, again because the, the opposition to
even -- this wasn't even on anyone's radar
until ships got really, really big, and so I --
I see what you're saying about a bigger ship
paying less than a smaller ship, and, and I
really appreciate all the work you did, because
I'm trying to wrap my mind around it, and this
would have taken me a month to do, but --

MR. OATIS: But I think that's also --
that's our responsibility. Obviously the
environment has changed, you know, from where
the original formula was set up, you know, we
are in a much different world with the size of
these ships.

MS. KURTZ: But no -- no, no, I get that,
but I -- I still -- I really feel that starting
that decrease at 50,000 is, it's just way too
1 low.

MR. OATIS: Okay.

CHAIR: Is that how the Everglades is?

MR. OATIS: No, theirs is at I believe 80.

CHAIR: 80.

MR. OATIS: 80 to 130 is where the tiers are.

CHAIR: Commissioner Assal.

MR. ASSAL: But you had an increase of 12.4.

MR. OATIS: Correct.

MR. ASSAL: Which I think is a little aggressive.

MR. OATIS: It is. And again is that something that we would look at in the --

MR. ASSAL: And on top of that, in the $100 handling fee, of harbor control fee, when you add all that up the small ships, or the small boats are going to be affected heavily. If you look at the numbers from 335 to 618 that's almost 100% costing. I like the tier. I'm going to give my opinion. At least I like the structure. Whether we agree on the percentages, or where it should decrease, or get that volume discount, whatever you want to
call that, the break, I think it's great, I just -- my concern is that the increase of 12.4 plus the handling fee, it adds, when you talk about 5,000 per handles, increases, and the 12.4%, it's just a significant amount to get hit at one time.

MR. OATIS: It is. And that was also considered as well in our discussions. And the thought being that this was an attempt do a snapshot, intentionally it's an increase that gets phased in over a four, five, six year period, so that vessels have the ability to account for, it was definitely something that was considered.

MR. ASSAL: So just understanding your mind, the 12.4 came, you calculated that by just recognizing they had this 6% annual thing, and instead of accepting that, saying we'll do a one time 12, and you were, sort of planned the what ifs to get it close to total revenue, right?

MR. OATIS: It shows roughly a 7 to 8% increase.

MR. ASSAL: Okay.

MR. OATIS: In the total revenue, but --
but correct, yeah, still looking to the
original applications, and some concepts within
there.

CHAIR: Other questions?

MR. WINEGEART: I'll -- I'll just -- I'll
just say as far as -- and I had that same
concern yesterday about the smaller vessels,
but when I reviewed the information there's
actually a letter in support of Biscayne Bay
Pilot's increase, which would be much more than
this, from the small vessel operators in Miami
River, so that kind of allayed by fears on
that.

And I also agree on the, where the tiering
starts. I agree with Commissioner Kurtz. I
think we all -- we discussed how the, some of
these tons, just 40,000, 50,000, 60,000, 70,000
were already, the cargo was already paying more
per handle, or per whatever, per whatever, so I
think the tiering points need to be adjusted.
And then again I'll just reiterate the, the
amount of money on the neopanamax. I don't
think that would come to fruition.

MR. OATIS: That was in the report. The
hundred and two handles for the 90,000 ton
cargo vessels was provided for in Mr. Law's investigative report from the information he had received.

MR. LAW: Correct, there's an assumption that they're neopanamax.

MR. OATIS: That -- that is also correct.

MR. WINEGEART: Which they are not today, so --

MS. KURTZ: And also there's no guarantee that they're going to put two pilots. I think they were looking for permission to put two pilots in certain circumstances, so, you know, to assume a double pilot, I don't think they can just go ahead and say, well, we're going to put two pilots and charge you double. I think they need permission from the committee to be able to do that, but I don't know that that's a guarantee, they're putting two pilots on all of these ships, so, you know, I would be careful about that, because that goes into their operations, you know, and a big assumption is being made.

MR. OATIS: Understood. A lot of -- a lot of assumptions.

MS. KURTZ: There are. And, you know, I
don't have a problem with the tiered structure,
I just don't agree --

MR. ASSAL: With the starting point.
MS. KURTZ: With this particular tiering.

And I'm just wondering, you know, how many
different scenarios, you know, we have to look
at to get to a place where, you know, people
are feeling they're paying equally.

CHAIR: Well, the beauty of this is it
takes into account a model that most of us
think in another jurisdiction is the best
practice, and it recognizes a discount for
higher end sized vessels, which we all think is
consistent with the future of the, of the
business, and the points you made early about
these views. I also like the harbor control
fee feature, because that gives them a way to
get some money back. And the reality is
neither side offered something like this so the
Board was forced to come up with it, and so
there's going to be, you know, just like in a
typical organization when all sides don't agree
it gets all the way up to the management, and
sometimes people aren't going to agree with
what management comes up with, but they were,
we were forced to be put into this position.

So -- and I'm saying that because I'm reacting to Mr. Law's comment. We've probably got some unintended consequences we can't see right now that are going to be a problem, and so, you know, we can also think through how to deal with unintended consequences of some form, you know, I mean we got to, so, you know, if this thing turns out in models and it's off, make up the number, 30%, and then it creates a real revenue shortfall there, then, you know, we would have to figure out how to address that.

I think, you know, I don't think we're basically saying, you know, we're going to throw this in there, you're going to sink or swim with it, and, you know, call us back in six years, right? So -- and it sort of goes back to the comment that one of our, the comment people made yesterday, is we would need to probably come up with a model that we can adjust in a efficient way for this committee that's not going to cost all parties millions of dollars to prepare.

MS. KURTZ: Exactly.
CHAIR: So I mean I just think that's critical to this, because I think the issue, what I see in everybody's faces, they're all going I like this, this sounds right, but I don't know what, I don't what I don't know. Am I out of line there, or do you all agree with that?

MS. KURTZ: I think unintended consequences are definitely a consideration, but I have to just stress again I feel that the break points for the tiering are, are really out of line. I don't think it addresses the problem, or the issues that's been brought before us. I think this is an across the board punitive measure that does not enable the pilots to continue to operate their business in a safe and efficient way.

And again, you know, I'm receptive to a lower rate for these really large ships, begrudgingly, but I do understand the position, and, you know, the escalating scale, but to start that at 50,000 tons --

CHAIR: I fully agree that I do not think this is the solution -- I'm not -- and I don't think you did, you didn't, you definitely
didn't assume that either, so I think we're open, we're all open to negotiations here.

MS. KURTZ: Right, but were we able to sit here, you know, today, and come up with all the different scenarios of numbers, and come up with something that is fair, or are we going to suggest that we bring, somebody --

CHAIR: I don't see anybody else. Can you model it?

MS. KURTZ: -- brings a tiered structure before us that we can --

MR. OATIS: Change it out.

CHAIR: Well, that's going back to, you know, we've been put in this position.

MS. KURTZ: I understand that. But I don't think that we should be, you know, someone's going to make a motion to accept this as presented. I think that would be a huge mistake. But I think to get to the right number it's going to take more than us sitting here talking for a couple of hours. This is, you know, I think it -- I think philosophically it's a good starting point. I think the harbor control fee is a great way to do an equitable add on to, you know, all vessels, that doesn't
depend on size. You know, you cannot dismiss gross registered tonnage, it's the international standard for measurement according to the International Maritime Organization that has member countries all over the world, and they're charged by tonnage for membership and no one is arguing with them, so, you know, to destroy the revenue structure in the, in the middle of, you know, as opposed to the high end, which really seems to me to be where all of this started, these ships are gigantic and we're paying this exponential rate, you know, and then you attack the middle -- I really have a problem with that, and --

MR. OATIS: Yeah, I see your point.

MS. KURTZ: And how are we -- and how are we going to do that by noon? I -- I just -- I think there's a lot of information here.

MR. ASSAL: My biggest concern -- my biggest concern, Commissioner Kurtz, is that we still missed the concept that we have, yes, the ships are getting bigger, but it's less (unintelligible), so you're still going to have a pilot out there, so your revenue has increased, it's not really decreased. Your
amount of handles have gone down, so that means
the amount of work has been reduced, instead --
instead of having a smaller ship now you've got
a bigger ship. And that has to go in
consideration as well.

I mean we really have to look at how many
handles, as well as the volume, so that's the
starting point of something. We're not saying
it's perfect, we're not saying -- and just like
you disagree on where it starts I disagree on
the volume, okay, but it's a starting point of
something that we have to come together. We've
been put on the spot to make a decision, and
whether people like it or not that is our role
here, and we asked Commissioner Oatis to start
something, that he's the only one that came
together with an idea that at least we can have
a discussion upon.

Right now if you go to one side or
another, one wants 25%, the other one wants 40,
38%, so I mean, so where do we go from here?
So we have to come up with something to try to
feel what is best -- at the end of the day
safety is the biggest consideration, but cost
is a consideration for any of the industries,
and the wages of the, of the pilots. Now, we heard testimonies from twenty million different CPAs, it's potatoes or potatoes, so we're going to go this way or that way. It's up to us to dissect each individuals', as Commissioners, what we think our opinion is, and what we value what it is, what's fair and reasonable.

So I commend Commissioner Oatis for having a starting point, at least we have something to start with. I think we have to finish, it's not a choice. It's not like we can just walk away and say nothing. This is what we've been asked, and tasked to do by both parties.


MR. WINEGEART: So are you able to change the numbers, and they show up on the screen?

MR. OATIS: Yes.

MR. WINEGEART: Could you take the neopanamax double pilotage out and just see what we end up with?

MS. KURTZ: And can you change the tier to 80,000 gross tons as a starting point please?

MR. SOLA: Could you change the 12.4 down to 6 -- I mean we can go back and forth, let's do it one step at a time. Let's do it one step
MR. OATIS: I agree, let's take it one step at a time.

MR. SOLA: I mean what -- our other option is to leave the status quo, and find somewhere where we scale it, and we go on. And I think that this is probably the best, the best thing that we can do for today, so let's take, let's take it one step at a time.

MS. KURTZ: I agree. The status quo means that everyone is in the same place that they were in three years ago, and billions of dollars have been spent, and, and there's been no change. And this is not going to be the last one of these things, and I think to continue that precedent of doing nothing is very harmful to all parties.

CHAIR: And remember the one thing I proposed yesterday, and I thought I saw all the heads agreeing here -- wait Commissioner Sola, was that we were going to convene a workshop on how to design a rate review process that would be inexpensive to all parties. And in doing -- and I think that's critical because my fear here is we may have to come back and deal with
these guys in a year, and we can't consign
something that is six months, so, I mean that
is six years down, you know, that we can't come
back and fix for six years, so I mean that's
absolutely critical of this group to do that.

And that will require the industry to be
in support with us, but, you know, quite
frankly the industry creates the, you know, a
legal process that we just can't get through
because they're going fight it in courts, than
try to work solutions, then they may
(unintelligible), but -- but we'll have to come
up with a model that works for all parties.

MR. JENNINGS: Mr. Chair, just as an
aside, I've heard six years, I've heard six
months, the statute provides that once you
establish a rate of pilotage for a port there
can be no change for a year and a half. After
that new applications may be filed.

CHAIR: That's no change. That doesn't
mean you couldn't meet and determine it. It
couldn't go into effect, right? I haven't read
the statute yet.

MR. JENNINGS: No, sir. What -- what I
mean is once you've established a rate of
pilotage -- at the conclusion of this hearing, at the conclusion of what may be inevitable appeals, once that rate of pilotage is established that is good for a minimum of eighteen months. Now, after the eighteen months parties can come back and file an application for a rate change, but for those eighteen months it's locked in.

    CHAIR: So you couldn't expedite it, expedite a series of meetings to determine what changes could be before that came up, even though they don't go into effect until the eighteen month --

    MR. JENNINGS: So, sir. No, sir, the statute says -- you operate based upon applications for a change in rate.

    CHAIR: Right. So therefore it really is a two year -- so it's a two year commitment.

    MR. JENNINGS: Essentially, yes, sir. Now, if you're talking about having a workshops to take about potential changes to 310 that's, that's certainly your option.

    CHAIR: Yeah. We have session in January.

    Mr. Oatis, are you playing numbers or --

    MR. OATIS: So I guess let me -- let's get
to the details a little bit. I mean how do you want to see this presented? Do you want to see one step at a time?

CHAIR: Right.

MR. OATIS: Delete the neopanamax and we take a look, or do you want to --

MR. SOLA: One step at a time.

CHAIR: Well, let's just --

MR. SOLA: That's my suggestion.

CHAIR: I mean let's just sort of inventory the issues. I mean, okay, so I think we all like the multi step rate, rate model. The only question is where, where the rates change, right? I think we all -- I think we're all agreeing on that. Do we all accept the harbor control fee concept?

MR. ASSAL: Yes.

CHAIR: Okay, so I think we're all sort of in agreement with, with that concept. You're also trying to get to a total number that is just slightly above current revenue today, right, so you've got a control factor that you're trying to put in place that doesn't dramatically increase total revenue, right? Do we all like that?
MR. ASSAL: Are we talking about percentage, or are we talking about --

CHAIR: The eleven million in -- the eleven million --

MR. ASSAL: Oh, yeah, it's an increase of almost $500,000 so --

CHAIR: Which coincidentally is the harbor control fee --

MR. ASSAL: Right.

CHAIR: But for -- to me that smells about right, yeah. I don't -- I didn't want to create a model that was going to be dramatically less in total revenue, right?

MS. KURTZ: But you're talking about also not providing any increase overall. You're talking about keeping the revenue the same, just changing the rate structure.

CHAIR: Correct. That's what I was talking about.

MS. KURTZ: So no accounting at all for any of the factors that were brought up, increasing expenses, cost of living, erosion of compensation, none of those things.

CHAIR: Well, in my mind the harbor control fee addresses some of that, because
that, that to me is new revenue, so I would accept that that's over the base, and, you know, conceptually that's money that can help fund some of the asset replacement types of issues.

MR. WINEGEART: So, Commissioner Wilkins, are you, are you satisfied that the, essentially there's no net income we might change of the pilots, and so you're saying that the pilot compensation as it is now is, makes the 310 comparable professions compensation?

CHAIR: Yes. The -- my issue with that is I believe the testimony was adequate that showed there is levers they can pull that could dramatically improve the revenue of the harbor pilot, but they have chosen not to do that in the way they incur costs. And it -- and so my personal opinion is they're under paid. You know, I see the value of that, you know, just my simple logic -- and this is, you know, just looking at different professions in the world, and, and the comparables they show, and all those kind of things that, you know, between a $400,000 and $500,000 salary for a harbor pilot is not only comparable to other industries, but
it's very fair, and there is absolutely no evidence that we have any problems with harbor pilots in this state.

I mean we have adequate -- it's proven they, they, you know, we have no retention problems, we have backlog, the ones we have are great, but in this market particularly they are slightly under paid, I'm not talking about some other markets, and so I do think they ought to get paid more, but I'm frustrated with the fact that I don't think they have proven to this committee at all that they have managed their costs to maximize their income, and they could do that.

If they had come back and said, look, here is all the leverage that we have, and this is what we did, and this is the result, and this is the best I can do, and then I would have said, okay, yeah, they would need more money. But what I saw was, no, I'm not even going to talk about that issue, about costs, I'm going to instead just show you comparisons of others, and compare it to revenues of the cruise lines. I just saw a complete avoidance of tackling that issue, and so my belief is if they tackle
it over the next couple years, and, and then
truly realize that they have, you know, run
this, pruned, they're running this business as
efficient as it can, then I think we ought to
raise the rates.

Because going back -- I mean this is a
cost recovery model, is what it is, and it's
all based on, you know, the biggest costs in
the recovery is the harbor pilots' salary, and
so it all depends on what we think that ought
to be. But I definitely don't think they ought
to be paid less. I think they ought to be paid
more, but, you know, I just don't have the
confidence that they have pulled all their
leverage.

MS. KURTZ: Could you be more specific,
what exactly do you think they could be saving
money on?

CHAIR: Well, yeah. Well, I mean it was
presented by the, Mr. Panza's team on, on those
items. The retirement costs, there are other
retirement models that could be implemented.
The salary structure of a harbor pilot, every
pilot is paid exactly the same, you know,
there's no tiering of, of compensation. The
costs --

MS. KURTZ: What -- what do you mean by that?

CHAIR: Well, in a typical partnership, you know, you would have partners, but they don't all get paid the same. You know, you go to Ernst & Young and their partners, they don't get all paid the same, they get paid different amounts based on their roles in the organization, their years of experience, their competencies, their performance, you know, those types of things.

We have a model that everyone gets paid the same. I know that's a historical model, that's interesting, but that's not how, you know, corporate, the corporate world works.

MS. KURTZ: Well, in the maritime industry a third mate on a ship gets paid what a third mate gets paid on a ship regardless of whether they've been a third mate for a month or ten years, you're, you're paying for the position, so that model carries through to the higher levels. Deputy pilots do make less because the value of their work is lower, but once you become a full partner and qualify to take a
regular turn to do any sized vessel when it's your turn it has always been considered fair to pay equal partners an equal amount, because you might do a big ship day one day and a little ship another day. You don't pay pilots per the size of the vessel that they're on.

CHAIR: That's a choice.

MS. KURTZ: Wow. I think there might be some things about how an association operates that I'm not sure you really understand the, the consequences of what you're suggesting.

CHAIR: And that -- and that may be fair.

MS. KURTZ: Because it's a really unusual industry, and, you know, you call people at 3:00 in the morning to go to work, well, am I going to get a little ship or a big ship, how much money am I going to make? You're on a fair rotation, and you get over the course of a year a very close equal number of handles, and hours, and sizes of ships, and, and all of that, which is why they're paid equally. And that's why it's a partnership. That's why it's structured that way rather than having an employer/employee relationship.

CHAIR: Well, okay, I mean I accept that.
It sounds fair. I mean that, that's -- that's just one of the items. There's probably, you know, a dozen or more different cost items that can be affected, right? We also talked about health care. We talked about operational activities in, in, you know, the harbor control house and, you know, those types of things, so, you know, there's a lot of different cost items. We talked about lobbying fees. We talked about political kinds of issues, so there's -- there's a lot of line items that, you know, you had questioned why we spend so much money on those kind of things, and if you were able to reduce those then that money flows to the bottom line of --

MS. KURTZ: Okay, but as a regulated, and I hate to use the word, as a regulated monopoly, which is how this is always referred to, lobbying and political costs are part of the process. That -- that's been accepted as a legitimate cost because there's no other way to (unintelligible) for the changes that you want, so --

CHAIR: Well --

MS. KURTZ: You know, you're -- you're
conducting a very small private business within
the confines of a very high level of government
regulation, and so, you know, the expectation
that you're going to run this business, and,
you know, cut 3% here, and 2% here, and it,
it's not a realistic model. There's no letting
go of a pilot. Once you make a pilot you deal
with the ups and downs, they take home less,
they take home more, people leave unexpectedly.
When you have deputies to replace your, your
proposed retirees, there's overlap and so
you're actually paying more to those eighteen
pilots. If you have two people scheduled to
retire, or have given their notice, and you
take two more pilots, you're paying twenty
people, and so there's a cost to training, and
that overlap of personnel that, that really
doesn't get accounted for.

CHAIR: No, that cost is in the cost
structure.

MS. KURTZ: I -- I just think it's a very
unusual business model. It doesn't follow
other business models, and to say that you can
just look at these line items and if they have
haven't addressed them, I don't agree. I think
FCCA has tried to create an impression that these guys, you know, go ride a ship and then go home, and they're, you know, hanging out. There is a lot of work that happens in the pilot association that, that you don't see. You know, when you're the chairman of your group, or the co-manager of your group, you're, you're working on things all the time. You're -- you're in the office, you know, so much of your off time, and in between, or after working all night long. It's arduous. And, you know, to suggest that they haven't tried to trim the fat I think is really a disservice to all of us.

You know, that -- and I -- you know, that to propose to the pilots, okay, if you want to control your income have less pilots -- that's not how you can control your income as a pilot. You're -- you're staffed properly for your peak time so you don't affect service. And I'd like to know what these guys think their service would like if they went down to twelve or fourteen pilots to maintain their compensation. I don't think their customers would be happy. And I think it's very important for everyone to
consider that.

I would urge my fellow commissioners to really consider what we're talking about here. You know, this is not an emotional plea. I'm a pilot, and I imagine we're going to be down the road that one of these things at some point, and it's offensive to me the way that certain people try to marginalize, you know, what we do, and how we do it. We're not sitting around, you know, planning our around the world vacations, or, you know, how to retire at fifty five, you know, we're working hard just like the rest of you. And I know it's hard for some people to swallow that, you know, we make more than $200,000 a year and work two weeks on, two weeks off, but I'll tell you what, I earn every penny of that, and I have a lot of respect for my fellow pilots around the world, you know, and I just find this whole process just deeply insulting, and that to suggest that no increase is warranted, you know, because you're trying to, to satisfy one particular customer --

I understand equity, and maybe raising it here and lowering it there, but overall to go with a net result, I don't know what these two
groups have spent millions of dollars doing in the last three years.

(Appause.)

CHAIR: Okay. Other questions.

MR. SOLA: Yeah, I'd like to, you know, accommodate you, and nobody respects the work of pilots more than this Board, or has come to respect them, and the job that they do, more than we do, but the time that we have with the Florida legislature, and what they've gone through, and other things, it's really hard to ask for an increase on anything at this time, and that -- when we talk about what our mandate is under the Florida statute 310.151(5) fair, just, and reasonable rates in consideration to the public interest, and that's what the obligation of this Board is, has to do, and that's what we're going to do today.

MR. WINEGEART: I would just like to comment on the, the number of pilots, and the availability, about leaving the association -- some -- what we have to consider is what the, the impact of whatever change we make today has on the ability to attract pilots in the future, not, not what has, not that we have good pilots
now -- we have good pilots now because in the past the compensation and the benefits were, warranted top notch people going through this rigorous process, so we have to consider what our rate change, if we make a rate change today what, what our actions will do for the future, not the, the people that are already here.

And -- and some -- you asked about pilots leaving, and you might have to consider the pilot, the associations, although it's different than a lot of places, they are set up so that pilots have a connection with the port that is hard to break. You don't walk away from something that after twenty years you have a retirement for just a spur of the moment type of deal. So that's -- these associations are set up in a way to encourage people to stay.

CHAIR: Okay. So we were talking about what are components that we agreed on in the model. And so we agreed on the step up. We agreed on the harbor control fee. Trying to keep the revenue neutral is something obviously we don't all agree on. The issue of the largest cargo ships if something we want to change. Then we have the rate, the overall
MR. KURTZ: There was also detention and cancellation, was that addressed anywhere?

MR. OATIS: No. I guess the -- one, it seems like it's almost discretionary, it's not currently charged so it wouldn't be applicable, but I guess I'm not necessarily sure how you would quantify which ones in the future would be penalized. It's not something easily quantifiable with this information.

MR. WINEGEART: I think -- from what I understand that change is more to deter the delays that are going on now, and that the anticipation is that the agents and whatnot will pay better attention -- it's in their ability. They have the ability to not get charged that if they do their job properly, and so the, at least I would not agree with adding any revenue based on that. But I would agree on changing the rates.

MS. KURTZ: Right. I wouldn't figure it into a revenue calculation, but it needs to be on the books so that they have the ability to say this is what the charge is, to avoid a rate increase which was going across the board basically.
1 charge order your vessel correctly.
2 CHAIR: Right. Okay, so have you made the
3 adjustment on the first item?
4 MR. OATIS: Yes. So the first request of
5 adjustment was to remove the double fee for the
6 large cargo, so that was completely eliminated
7 so that it is coming in under a single pilot.
8 So basically no, no impact to any of the other
9 gross ton tiers. The overall impact was to
10 reduce income.
11 CHAIR: Okay, next item. Do you want to
12 address the step up rate on the cruise ships?
13 MR. OATIS: Well, the two things I think
14 we need to address there, one, where is that
15 break going to be, where are they going to be, and two, what will the percentages be in the
16 decrease, because they, they work hand in hand.
17 MS. KURTZ: The Port Everglades model that
18 we're sort of trying to work around, what, what's their break point for tonnage and
19 percentage?
20 MR. OATIS: It's 80,000 --
21 MR. LAW: 80, 250 --
22 MR. OATIS: And 130, right?
23 MR. LAW: I think it's up to 130, and then
above 130.

MR. OATIS: So 80 and 130.

MS. KURTZ: Could we try that, just to see what --

MR. OATIS: And with the magnitude of the adjustment -- we can't compare to -- Port Everglades was a different model. The adjustment was a much smaller adjustment. We would --

MR. ASSAL: If I may have a discussion while he's working on some of this. I'm assuming that with the possibilities of acquiring in, or looking to acquire new pilots' boats, wouldn't that reduce some of the costing of the maintenance, and that kind of stuff, in the first few years? Because you buy them new I'm assuming they're a year old, or something of that nature, with a warranty, versus the same maintenance costs are going to be -- on a pilot's boat, I'm trying to understand.

CHAIR: Mr. Law.

MR. LAW: I don't know that we can draw a conclusion on that, because to replace one of the boats, we still have two other boats, and there's some unpredictable events that may
happen with either boat. But generally if you get a new boat you're going to be under warranty and have lower costs for a number of years, so I don't know that it can be quantified at this point, what would the savings be versus the cost to acquire, the shape, and whatever on it. I think it'd be really hard to quantify.

MR. ASSAL: Thank you.

CHAIR: You'll just tell us when you get that crunched?

MR. OATIS: Less than a minute. Okay, the second layering of change related to moving the tiers to 80,000 and then 130,000 -- I can't see it. Yes, the increase to the income, overall decrease to the marginal reduction to the GRT air concept of large passenger.

MR. WINEGEART: I would -- it would please me if we can refrain from using the air concept. It's not really a maritime term. (Unintelligible) volume, so I'm -- as a mariner using air, it's not really -- I'm not -- I'm not trying to be funny here, but it's not really, it doesn't -- it's not a term that is acknowledged, or used in the maritime industry.
MR. OATIS: Okay. All right, so we've got that changed.

CHAIR: Which --

MR. OATIS: The layers of which the reduced GRT fee would apply, so than them receiving that volume discount at 50,000 it doesn't start until 80,000.

CHAIR: You applied that to cargo too?

MR. OATIS: Correct. Only -- only the 90,000 would even get into the benefit of that reduced rate.

CHAIR: Okay. All right, the next issue was -- yeah, the next issue was the harbor control fee.

MR. OATIS: I think we're good with that.

That's --

CHAIR: Everybody is good with that, okay. The next issue was overall rate increase, which was the --

MR. OATIS: Well, I think the -- the second tier, sorry, going back to the tiers, the two assess -- one was the breaking point for each level, the second was the percentage.

CHAIR: So when you just changed it you left it at 35, right?
MR. OATIS: Correct.

CHAIR: Okay. Anybody want to change, propose a change to that? Mr. Sola says keep it there.

MR. OATIS: No, not -- not talking about the 12.4. Talking about these two columns as we go from Tier 1, to Tier 2, and Tier 2 to Tier 3, as it was originally set up there was a 35% reduction. Now that we have moved tiers away from the 50,000 to the 80,000, and then again to 130,000, do we also want to address the percentage decrease to compensate for the movement of the tierage (phonetic)?

CHAIR: I would say leave it for now, and let's apply the other model, or let's affect, affect the Tier 1 percent and see what that looks like, and then come back and revisit that. All right, so the Tier 1 percent is at 12.4 right now. What would you like to say to that?

MR. ASSAL: At the 6% that they're asking.

CHAIR: So adjusting that back to 6%.

MR. ASSAL: At the 6% that they're asking for.

MR. OATIS: So one times --
CHAIR: One time 6%.

MR. ASSAL: Correct.

MR. OATIS: That's the number.

CHAIR: That's the 6%. Are you looking at
the, the revenue?

MR. OATIS: 11,974,234.

MR. ASSAL: Could you go up to the cruise
lines area and comparable, try to make it --

MR. OATIS: I'm sorry, Mr. Assal, you want
to see it compared -- you just want to see that

--

MR. ASSAL: Yes, to the other chart, to
the original chart. Oh, you can't --

MR. OATIS: I can. I can go back to
there. The original chart as where I just came
from?

MR. ASSAL: No, no, I got it.

MR. OATIS: Or the base case.

MR. ASSAL: No, no, go ahead. Bring it
back to that. I got it right here. Thank you.
Is the draft rate the same as Everglades there?

CHAIR: No. No, there's was --

MR. OATIS: I'm sorry, it was a -- it was
a significantly higher draft rate, and some of
the feed back I received was that it was not --
comparable to mine.

CHAIR: Is anybody proposing to change that, or --

MR. WINEGEART: I'm sorry, to change what?

CHAIR: To change the draft rate.

MR. OATIS: The question -- I don't know.

Did the pilots ask for an increase in draft rate? They did, okay.

CHAIR: 6% commensurate with the --

MR. WINEGEART: Is that the current number? Where'd you get 17.4 --

MR. OATIS: That's the current number.

That's the current number. So sliding over the draft --

MR. WINEGEART: Why don't you up that --

MR. OATIS: 17.433 is the current model.

Again, what I had plugged in was the tier model that rates at 28'. It provides for -- it's a significant increase. It's basically the 6% compounded over five years, applying that to the rate for 28' and above. So will say that's a hybrid.

MR. WINEGEART: So the current draft rate --

MR. OATIS: 17 is current. 17.433 is the
MR. WINEGEART: And you're suggesting 23, got it. All right, so that is the new model. Go back to the summary numbers on the revenues there at the -- I'm looking at the tier, the draft tier, and I'm just trying to figure from the -- this is the original chart, and is -- am I looking at the right place here where it says this 23, decimal 325, it starts at 40.4?

MR. OATIS: No, it starts at 28'. That is determining an average fee of draft for each of those tiers.

MR. ASSAL: And could you go to the top with the scroll please?

CHAIR: It's not really two year compounded in interest.

MR. OATIS: It was originally.

CHAIR: Yeah, but it's just now a flat 6, right, you just applied 6, right? Okay.

MR. SOLA: Could you go down?

MR. OATIS: Keep in mind we were adding the harbor control fee, which is a $500,000 immediate thump on top of the rate --

MR. SOLA: So what you've done is you've given the pilots about $500,000, $700,000 extra
per year?

MR. OATIS: Closer to $500,000.

MR. SOLA: $500,000 extra per year.

Increase the rates. Decrease (unintelligible) for the GRT.

MR. OATIS: In a tiered structure.

MR. SOLA: In a tiered structure.

MR. OATIS: Saved the draft.

CHAIR: Any other changes anyone would like to make to the model? All right, is it -- Mr. White and Mr. Panza, would you all like to comment on where we are, or just give us your observations?

MS. WHITE: I'm going to let Captain Marlo speak to that.

CAPTAIN MARLO: I have done this, and you're getting a taste of the intense iterated process that this is, and I did it actually in trying to determine what our application rate formula would be, and it was a sophisticated model. And this is a fairly simple one, just because of the fact that it, you know, was put together in a few hours. I'm not saying that you didn't do an amazing effort in the amount of time that you had, but I'm saying, I think
you would agree it's something that you had to throw together the night before the hearing.

One of the things that we considered was a tiered option, and we looked at Port Everglades, because they're right next to us, so it, I see why you're drawn to it. It's kind of like, well, gee whiz, it's -- people kind of look at the geography and say, well, it's almost the same place, right? And the -- the issue is that every port has a rates formula that is crafted based on the mix of traffic in that port. For example, Commissioner Kurtz mentioned cargo ships with high, high volume metric area, like car carriers. They're just giant boxes that are full of air. It's gross tonnage, and, and that gross tonnage is used to carry high value cargo, and they pay a rate just like cruise ships do. But we don't get those ships in Miami so -- we get largely container ships here.

The issue with comparing to Port Everglades is Port Everglades has a completely different mix of cargo and cruise, and they have a lot more cargo. Specifically they have a lot of tanker traffic. And what I encounter
with trying to figure out, well, what if we could give a discount to cruise, via through a flat rate discount, or through a tiered tonnage type of discount, is that because the revenue mix is essentially 65/35, or whatever the exact number is today, any discount to cruise would have to be compensated by amplified increase to cargo, and the --

The issue right now is that the container industry right now is undergoing a very difficult economic cycle for all kinds of reasons, but the number five, I think it was, container ship carrier in the world went bankrupt recently, and they owed us some money. But the point is that it's I think unfair and unreasonable to apply large increases to the cargo sector right now for the sole purpose of giving a discount to cruise simply because they, they demand it. They -- they come in and they demand it.

So the -- the rate structure for Port Everglades being tiered, it's based on the nature of their composition of traffic. The rate structure for Jacksonville, for example, where, where they get car carriers, and things
like that, it's just, it's based on that. If you were to compare our port to say Key West, which is 100% cruise, I think their rate is nearly identical to ours. I'm not sure, it might be a little bit different, but it's similar. Is it unfair if, if one cargo ship comes in there, that cruise pays the majority of, of revenue, and you have to readjust the rate now because they also have cargo? I mean they pay 100% of the revenue there.

So it -- it's very -- it's very complex, and the, the ripple effects of cobbling together a formula last minute are unquantifiable. And I know there's an effort here with a simplified model, but I'm looking at this and I'm saying, gosh, I don't know, I don't know. I would -- as Commissioner Kurtz said, I mean I know how to do these things, and I do them routinely, and I would take quite a while to really, really, really consider, and check, and recheck, and everything, on my model before I would put a rate structure in the application.

So where we ended up with a small incrementing annual increase in our rate,
versus a decrease to cruise and large increase

to cargo, is, is that we just wanted to say,
okay, let's do something that's flat, and fair.
I think the -- the risks of this, this process,
are, they far outweigh the possible benefits of
what you're trying to do.

CHAIR: Okay, thank you. Mr. Frances.

MR. FRANCES: Thank you very much. I'll
be very brief. I'm not going to argue any of
the points that we, you know, have argued.
We'll just talk about the graphs, and I would
also want to thank Mr. Oatis for doing all this
hard work. We would want the first chart that
was put up there that Mr. Oatis addressed
earlier on in this proceeding. We think out of
all the charts involved, the different ways you
can manipulate the numbers, and I don't mean
manipulating them in a negative way, just
changing the numbers, or modifying them, or
whatever, and putting them into different
buckets, and different categories, that seemed
to be probably the fairest.

I of course from my client's standpoint
would agree with Mr. Assal on the rate that the
pilots are going to receive, the 12.4%, I think
that's aggressive, and I think it's high. I think the starting at 50,000 GRTs was an appropriate level. It gives the tiering -- I think this is a system that can last for a period of time, and as Mr. Jennings said it, the maximum, or I mean the minimum period of time would be a year and a half, and I think this will give some, some rate relief to what the cruise ship has been asking for as far as their large vessels, and you know, spreads the risk, and it also gives the pilots additional income of over $500,000.

And the only one thing that I would argue, and it's similar to what Mr. Sola was -- the numbers -- you know, we can argue about what the numbers mean but the numbers are the numbers, and they're undisputed in this case. It was 10,500 handles in 1995 I believe, and this year it was 5,500 handles, or in 2016, so the numbers are 50% basically. And regardless of what the pilots do, the pilots never suggested one thing that was different in '95 than it is now, as far as what their workload was, so they did get a raise, and they've gotten a raise continuously all through this.
And by any measure of standards for any business if you're decreasing your workload and remaining the same amount of salary then you did receive an increase on some end, and that end would be an increase in your compensation.

So I would -- I would -- we would agree with the first model that was put up there. I think that's the model that Mr. Oatis had suggested initially, I think with Mr. Law. And it seems to me like they must have spent a lot of time on it last night to do it, because I would have never been able to do that. Thank you.

CHAIR: Thank you. Okay, any other suggestions or comments from the Board, cause the next step is we're going to vote?

MR. SOLA: Can I ask --

CHAIR: Yes. I'm sorry, yes.

MR. SOLA: Yes, I could I ask the Captain a question? There are -- for the 70,000 GRT there is 623 handles, I presume by the cruise lines. What are the technical -- are those newer ships that have the modern advanced technology, or are those older ships? I mean we, we talked before that the newer ships were...
coming out in the year 2000, 2002, and had modern technology, or had the new azipod technology, or are these the older ships?

CAPTAIN HANSEN: Yes, first of all I don't think it's the size that decides if they have (unintelligible) or not. In -- in our fleet, our smallest ships, they are equipped with Becker rudders and ball thrusters, so they are similar, as maneuverable as the ships with pulse, a Becker rudder is an active rudder that makes the ships ore maneuverable, so in, in our fleet with the oldest ship being built in 1999 I would say they're, equally is not the right word, but they have different propulsion, but they are all very manageable.

MR. SOLA: Okay, thank you, so it's going to be a mix in that range.

CAPTAIN HANSEN: There would be -- there would be somewhat, somewhat a mix, three or four ships with the conventional, and the rest (unintelligible) --

MR. ASSAL: I do agree, and would like to see it, me, you started at the 60,000 -- no, let me rephrase that, the 70,000 range, versus going starting at the 80,000 -- the majority
of, of the fleets, and that goes from whether it is cruise or cargo, is in up to the 70,000, the majority, so we're emphasizing on the minority here. So my personal opinion, I get that 50,000 might be low, but I would look at starting at the 70,000.

MS. KURTZ: I continue to disagree with how we're doing this. I think that it's obvious that several commissioners are working their very hardest to accommodate one customer, and I think there's apparent inherent unfairness in that. You know, you could simply not change the rate at all and add a harbor master fee, you know, rather than trying to satisfy a customer, if you're looking at, you know, maintaining something flat, or not impacting people unfairly. So think this, you know, trying to capture the largest group of ships that were up until a certain point really never even an issue for anyone to be paying for, is really inappropriate, and it makes it quite obvious that there's an extra effort afoot here to accommodate a particular customer.

We're supposed to be accommodating the
pilots, all of the customers, the public safety, and, you know, the more focused we get on this largest group of midsized ships makes it more obvious to me what the goal is.

MR. ASSAL: With all due respect, Commissioner, there is increases. It's not that we rea bias to anyone, we are seeing what's out there. We run businesses. The audience can speak, and say whatever, but we have a business to run, and the pilots have a business to run. We can't tell the pilots how to run their business but they can tell us how to do our jobs, and which I don't think that's fair either. But what we're saying is what is fair and equitable for everyone.

MS. KURTZ: But that's not what you're doing.

MR. ASSAL: Well, I mean, I don't know why you feel that way.

MS. KURTZ: An increase for cargo ships and a decrease, a much larger proportional decrease for one customer, for passenger vessels, that results in net neutrality does not --

CHAIR: It's not net neutrality. What is
that percent increase, that 40,000 --

MS. KURTZ: Okay, 7% --

MR. ASSAL: No, 7% was the first. It's not 40,000, right, so that increase --

MR. SOLA: Excuse me, Commissioner. Would you be content with the status quo adding, adding the handling fee, and say a 25% reduction for all ships over 100,000 GRT? Is -- is that what you're saying, without --

MS. KURTZ: I'd have to see what it looks like. I don't know what those numbers look like --

MR. SOLA: Can you run that, Commissioner Oatis?

MS. KURTZ: I'm not going to commit to something that's going to decrease the revenue, and I'm not going to agree to something that --

MR. SOLA: We're trying to -- we're trying to get not, not neutrality, we're trying to add onto it.

CHAIR: This is just to clarify Commissioner Sola's comment, the option on the table right now is a 12% increase on the net, net income increase (unintelligible).

MR. SOLA: No, I didn't say that. I
didn't say that at all. I said what --

CHAIR: No, the original model was 7%, and we, since we've made these changes it's gone up to 12%.

MR. WINEGEART: Mr. Chair, if it's appropriate, how much time, I'd like to ask Captain Marlo -- the -- this issue came up as the ships got larger, actually over 140,000 gross tonnage, it became like a neon light flashing, and I would like to know if Captain Marlo has ever been in calculations that would essentially have a maximum gross tonnage charge, say, you know, a maximum of 140,000 gross tonnage, stop it there, and, and then no tiering. Have you ever done calculations like that?

CAPTAIN MARLO: I did. One -- one of the version, maybe it's -- I'm not sure if it's exactly what you're saying, but you can correct me on that. I think one of the things that, that we considered, was we look at, you know, they say big ships are coming, big ships are coming, but what we presented, that we had big ships in 2003 and 2008, 130,000 tons and 150,000 tons, and we had a lot of them, a lot
of handles at those, at those levels, so I think one possible scenario if you're, if you're considering this, is to, you know, start the tier at the, the ships that are upcoming. Okay, the Oasis is coming at 225,000 tons, but maybe start -- again I'm very concerned about modeling on the spot based on a simplification, okay, I'll stipulate everything I'm saying to that, but if you were to start at say 150,000 tons and, and figure out a number that would satisfy the cruise lines' concern about ultra large cruise ships, you know, there, there are other fees that we meet as well, such as the harbor control charge, increasing the minimum draft, which affects small ships, not -- it was -- that was part of putting a smaller, spreading out the burden across the, the whole spectrum, but the harbor control charge, the minimum draft, the, the tension charge that we added is not something that we expect to generate revenue from but that we need to help manage our, our workload, and our allocation of pilots, because essentially we have certain consumers that, that abuse our time by requiring us to be at ships when they really
have no idea when they're going to sail, and we end up sitting on their ships for sometimes through hours plus when we could be on another ship and, and fewer pilots could be on duty at that peak time. 

So that -- that's one option, is to apply, you know, a harbor control charge, the increase in minimum draft, the detention charge, is that procedural tool for tightening scheduling. And then looking at tonnage of the, the biggest ships that are yet to come. Right now the biggest ship we have coming in is the Estate, at I believe 165,000 gross tons. I mean I think a reasonable break point for you to consider would be 150,000 gross tons, and that, that would account for their comment that the biggest ships are coming, because 150,000 gross tons is what we had coming either in 2003 or 2008, but we've already had lots of those ships for a really long time in ports.

MR. WINEGEART: Thank you, Captain. The reason I ask that is because I am afraid of unintended consequences in having this tiered system, and we came here because the very large cruise ships, well, they wanted a 25% reduction
on all passenger vessels, but the numbers
didn't prove that was a valid point, or that
cargo vessels would pay more money at certain
tonnages.

But if there was a, just a simple maximum
gross tonnage charge that seems like it would
be an easy way to, for the largest cruise ships
to get their, the new ships that they're
concerned about that are reasonably built. And
by the way they're built with a model that's
known to them, and evidently the cost of
pilotage is still warranted, the best that can
be built. But you got to estimate -- we could
still give -- we could give them, the larger
ships a discount, like a cap to gross tonnage,
and not have any unintended consequences on the
other vessels other than there would have to be
a rate, an overall rate adjustment to make up
for the revenue.

CAPTAIN MARLO: I do see what you're
saying. Eventually -- essentially you could
accomplish the, what they're asking for by
giving a discount to large cruise ships by
capping our scale, okay, and the biggest ship
probably in Miami right now is 165,000 gross
tons, and I think that would be one way to do it. If you could say that, you know, our gross
 tonnage rate applies up to 165,000 gross tons, and then beyond that there's no charge for the
 additional tonnage. But with the other fees that we, we need, that essentially impact cargo
 in, in reasonable ways, I think that's a way to consider.

MR. WINEGEART: I apologize if I'm muddying the waters, but I just -- I am concerned about the tiering without having time to digest it all.

CAPTAIN MARLO: And if I can continue, just one thing to that point. I get what you're saying. When we -- when we considered a tiered tonnage model the issue was it requires, and you're seeing it, it's like a watch. It requires -- it has so many interconnected parts, and they all have to be perfectly implemented. And if -- my concern -- our concern is that when we put together -- if we were to put together an application of a tiered tonnage rate and submit it to you that this would happen, when the committee would say, well, we like that part but not this part, and
it would become, fall apart, when in fact the entire thing would have to function as a unisex, a machine, in order to be functioning. It was a deep concern, because there's unknown, unknown downside, and effectively you could approve an application that we submitted for the tiered levels but it would not be exactly the way we submitted it, and that would confuse the process of dealing with the consequences. So what you're suggesting, if I understand it correctly, is since these ultra large ships are not coming into port yet there isn't a downside to where we're at today, that we would earn less money off of those ultra large ships, which is, is what they're, what they're asking for, what they're planning. That's -- that's worthy of consideration.

CHAIR: Okay, so we all say different opinions amongst the Board, but do we want to model this anymore? Do you want to make any other model changes, or -- I'm prepared to go to a vote.

MS. KURTZ: What if -- what if we capped the tonnage at let's say 130,000 gross tons, you know, at the same, at the same rate, not
with a rate decrease but just cap, cap the rate. Could you run something like that, to
address vessels that are already coming in?

CAPTAIN MARLO: I didn't run -- there are,
you know, varied scenarios that I did consider.
That specific one, no, I didn't. There are a
lot of different things that you can throw at
me that I did not consider. The -- the issue
with capping it at 130,000 gross tons is that
there's definitely a downside to us right now
because we have several ships that are frequent
callers at that tonnage, and even with those
ships being added we've had this drastic
reduction in net income, but a reduction in
revenue as well. So Captain Hansen testified
that all of their new ships pretty much are
going to come out in excess of 140,000 tons,
and they were going to replace smaller tonnage,
so if we were to cap it at that level I think
we could be hurt significantly.

CHAIR: Mr. Sola. You want to take five
minutes before we vote? Okay. All right,
let's take a five-minute break.

(Thereupon, a brief break was taken off the record
and the proceeding continued as follows:)}
CHAIR: Okay, we are reconvened. We have a proposed solution on the table here, and we've gone through a couple different iterations. I guess there's still some potential proposals about iterating it further. Would you all like to iterate it further, or are you ready, would someone like to make a motion to vote on what we have proposed? Ms. Kurtz.

MS. KURTZ: I don't want to vote. I would like to see the harbor fee, and increasing the minimum fee from 14' to 18' as requested, and the allowance for a detention if cancellation, and a potential for two pilots on neopanamax vessels, rather than seeing a decrease in particular categories.

CHAIR: Okay, can you -- can you articulate that again? You have four, four items there.

MS. KURTZ: Implementing the harbor control fee.

CHAIR: Raise -- raising the harbor control fee?

MS. KURTZ: No, implementing one. There isn't one currently. Right, is that correct,
there is not one in place, so --

MR. OATIS: I'm sorry, are we talking about -- you're saying see, see as in modeling out, or you want to see as in put into effect going forward?

MS. KURTZ: Well, you can -- you can just, if you want to do the numbers so everyone can see, you know, what the total would look like, or, you know, rather than seeing an increase on this size and a decrease on that size, you know, I think it's more fair just to leave it the same but add the harbor fee, and the potential for the two pilots on the neopanamax vessels if they see fit, and the on the books ability to charge for detention if cancellation at a higher rate to defer, you know, wasting people's time, and an increase from the 14' to 18' minimum fee to cover the smallest vessels.

MR. OATIS: Except from a calculation perspective neither of those items are, are included. The harbor fee is in here. The minimum 18' is in here. To some extent I think we had talked about eliminating the two pilot in this calculation.

MS. KURTZ: Okay, but I wanted their
ability to do it. If they get to a point where they need two pilots they can just do it --

MR. OATIS: I get that -- but I was asking the difference between me putting that in here versus just having --

MS. KURTZ: Right. No, just as, as something that they're approved to be allowed to do, so the number is really just leaving everything the same and adding the harbor fee, increasing the minimum charge --

MR. OATIS: The same amounts --

MS. KURTZ: -- as current, not an increase in one category and a decrease in another category.

MR. OATIS: The same as current, as in where we are before --

MS. KURTZ: Yes.

MR. OATIS: -- any application is considered.

MR. SOLA: Status quo.

CHAIR: Yes, so if --

MS. KURTZ: Status quo plus the harbor fee, include, and increasing the minimum feet for the smallest vessels, and then the ability to do those other, those other categories of
1 charges as --
2
3 CHAIR: So you're -- you want to make that
4 a motion, or adding that into the other changes
5 --
6
7 MS. KURTZ: Well, it might be good to plug
8 it in so people can see what the total is so
9 that, you know, since we're comparing numbers,
10 and debating whether the rate should remain
11 flat or not, and so maybe to see what that
12 looks like.
13
14 CHAIR: Well, the --
15
16 MS. KURTZ: But I would rather see a
17 status quo with the addition of those other
18 charges than to see an increase in a certain
19 category and a decrease in another --
20
22 All right. So you're -- you're proposing
23 something a little different, because what I
24 thought you were going to say, what you were
25 saying is you'd be willing to vote on this
26 model as presented that has the step up, the
27 harbor control, the overall rate increase, and
28 the draft rate component, but then, and then
29 add these four things. Well, add the other
30 three. But you're saying, no, just, you would
like a motion just for the three.

MR. OATIS: Is that what you --

MS. KURTZ: Right. I don't agree with the increase/decrease model as presented.

CHAIR: All right. I got you. All right. D you want to make that as motion for us to vote on?

MR. WINEGEART: I think she wants to see it.

MS. KURTZ: I think everyone might want to see it before they say yes or no.

CHAIR: Well, no, but her model was not addressed --

MR. OATIS: I know, I wouldn't say the model. So what we're saying is take off the decreases completely, leave the 6% increase, leave the harbor fee --

MS. KURTZ: No, that's not what I'm saying.

MR. OATIS: Okay, I'm trying to understand.

MS. KURTZ: There was a minimum draft fee from 14' to 18' that they asked for. So I want to see what that looked like, just to implement that from the 14' to 18'. But that --
CHAIR: Which I think --

MS. KURTZ: Eliminate the --

MR. OATIS: I think when we, we walked

through that a little bit last night. It was

-- it's negligible.

MR. LAW: 40,000 some.

MR. OATIS: It's 40,000 total --

MS. KURTZ: Okay, but still it's, you

know, it's still something they're asking for,

so, you know, I don't even know what that looks

like by itself, so, you know, eliminate the 6% 

or the 12%, or whatever the increase was on the

first column. Eliminate the 35% increases in

the other two columns. So I'm talking about

just the way the rate is now plus the harbor

control fee, and increasing the minimum draft

fee, and then having an allowance for

cancellation detention, and potential for two

pilots on the largest vessels if they ever need

to do that, and what --

MR. OATIS: That would be an increase of

about 540,000 of revenue.

MR. WINEGEART: Less than we have now.

MR. OATIS: No, going from base case --

going back to -- so look at this base case,
because all that would include -- everything else here stays the same. None of these rates would change. The draft wouldn't change, nothing changes other than the minimum, and then the harbor control fee which is roughly 500,000 some.

CHAIR: You want to make that motion, or you want to just discuss it?

MS. KURTZ: I make the motion.

CHAIR: Okay, there's a motion on the table to not pursue the option that has the tiered pricing and the overall rate increase in the model that's there, and let's simply --

MR. OATIS: Well, let's model it out. That's what -- she asked to see it, so I'm trying to put it up so we can see what that looks like.

CHAIR: But it's simply addressing adding the harbor fee, pilot allowance on the large cargo ships, doing the detention cancellation fee, and doing the 18' draft, right? So --

MR. OATIS: Essentially it's a no modification in rate, and only addressing the ancillary requests made by the pilots.

MS. KURTZ: Yes.
1       MR. WINEGEART: I'll second it.
2       CHAIR: Okay, there's a second by
3               Commissioner Winegeart. So we're in
4               discussion?
5       MR. ASSAL: I'd like to see the model.
6       CHAIR: So let's wait for the model.
7       MR. ASSAL: I think the numbers come up to
8       less than we have with the model, with what we
9       have now.
10      CHAIR: Right, because roughly it's going
11       to be 500,000 something increase, so yeah, so
12       that will be a less than the model that we've
13       -- yeah.
14      MR. JENNINGS: The last model had a net
15       revenue increase to the Biscayne Bay Pilots of
16       approximately 731,000, and the motion that you
17       just made would be a net revenue increase of
18       approximately 540,000.
19      MS. KURTZ: Right, but we're not tiering
20       tonnages. We're not --
21      MR. JENNINGS: Right, there's no discount
22       to essentially -- that's correct. And while
23       he's modeling that out, Mr. Chairman, if I may
24       ask, Commissioner Kurtz, could you give us some
25       rationale, some basis on the record as to why
you've decided to go this route?

MS. KURTZ: I think the harbor master fee gives those some of the cash flow, they can put that into their, you know, replacing a pilot boat, which is, you know, usually around a million dollars or so, so they'll have some money right away, that they know it's an equitable fee, apply it to all vessels so there can't be an argument that it's preferential to one class vessel or another. Not changing the rate structure allows for increased size in vessels to generate more revenue, so there's still growth potential there by not changing the rate structure. And then the value of their time to be stuck on a ship for as long as it takes you to another job, I think it's good to have those cancellation and detention penalties in place as a deterrent to misusing their time. And those neopanamax vessels, I know in Oakland, California once they got a certain size they needed to put a second pilot on, the turning basins are not designed for vessels of that size and they really need second pilots, so they may determine that they need that at some point, so just to be allowed
to do that.

So I think the, the ancillary charges, you know, those are sort of quality of service issues, and not touching the rate structure allows for the increase in revenue, an organic increase of revenue, as it was put, as the size of the ships increase, and then the harbor fee is the cash flow immediately, as opposed to waiting for bigger ships to come in.

MR. OATIS: This reflects the harbor fee, zero increase, removal of tiers for both the GRT and draft, while also implementing the 18' minimum for the draft computation.

MR. SOLA: Is that the increase in GRT?

MR. OATIS: There is no increase in GRT in this one. It's zero. It's flat.

MR. SOLA: Does that account for the double pilots on the neopanamax?

MR. OATIS: It doesn't. There's no real way to --

MR. JENNINGS: No way to account for that.

CHAIR: You're saying that's optional.

MR. OATIS: Right, I don't --

CHAIR: An optional revenue. Her request relates to the option for some of these items,
request the double pilots as an option, the
ability for detention is an option, just to
have it there, but not really with any
(unintelligible) --

MS. KURTZ: Sometimes -- just to address
the two pilots on a ship. Sometimes that's
weather dependent. If, you know, very windy,
or there are often daylight restrictions on
these vessels and they want to put two pilots
on to see if they can do it at night. If they
have a ship that large some of these, there's
kind of a growing pain.

MR. JENNINGS: Okay, so we're in
discussion on this item before we vote.

MR. SOLA: My opinion is this is
inconsistent with what we had discussed
earlier, and that we were wanting to provide
relief for those other larger ships. Although
I agree with the harbor fee concept -- I
personally agree with the allowance for -- I
agree with all four of these. I would be
supportive of adding these four components in
the other model that we had, and therefore
voting this down. But obviously if you all
want to vote this up that's your decision.
Then the other one would be off the table.

CHAIR: Yeah, obviously in removing the tiers it fails to recognize the volume discount.

MR. OATIS: It's just another increase in the fees, there isn't (unintelligible). I saw both sides of it, and it doesn't show any recognition for one side, it just -- now it's really one sided. That's my personal opinion.

MR. SOLA: I think the tiered system hasn't had enough evaluation. I'm concerned about the unintended consequences of the tiered system.

CHAIR: Any other discussion? Then we'll vote on it. Okay, so I'll call the vote, and the vote will be to accept a rate increase with those four components, with the rationale that Commissioner Kurtz provided, and that that would be our, our recommendation for this meeting, for that motion. Okay, Ms. Ann, can you -- a yes would be agreeing to this rate increase.

MS. ANN: Commissioner Sola.

MR. SOLA: No.

MS. ANN: Commissioner Kurtz.
MS. KURTZ: Yes.

MS. ANN: Commissioner Oatis.

MR. OATIS: No.

MS. ANN: Commissioner Assal.

MR. ASSAL: No.

MS. ANN: Commissioner Winegeart.

MR. WINEGEART: Yes.

MS. ANN: Commissioner Wilkins.

CHAIR: No. So it fails. Okay, so now we need another, a motion on another option for the rates. Would anybody like to make one? Do we want to make the motion on the model that was last presented before -- my motion -- I mean my -- I can't make a motion. My suggestion if someone did make a motion would be to incorporate the four components of Commissioner Kurtz's previous recommendation into the model that has the other four components of the, the step up, the draft component, the harbor control fee, and the, and the 6% increase. Are you crunching numbers on it?

MR. OATIS: I'm trying to get it back to where it was.

MR. SOLA: Isn't that the starting of the
step rate there.

MR. LAW: This was something that wasn't brought up when I was given the opportunity to speak, because you weren't talking about the detention fee, but as part of the detention fee, the new detention fee, even though it's optional, is twenty five percent, or fifty percent of the pilotage cost. Under detention fee you could have somebody with a medical emergency cause a detention, where you have to go and get, you know, the paramedics on board, or whatever, to get the person off, or you could have a weather condition that came up suddenly that did that, or some other type of, of condition, other than the ship just not wanting to leave. Is all of that taken into consideration somehow so that if you had a legitimate reason like a medical condition, or someone having a heart attack, or something other, that would be taken into consideration, and it wouldn't be you were going to leave at 9:03, so you're out. That's all I wanted, was a clarification. And I'm sorry I brought it up now, but it wasn't brought up when I had my opportunity. Thank you.
CHAIR: That's fair. (Unintelligible), did you have a comment on that?

UNIDENTIFIED SPEAKER: Yeah, I can clarify that. So when a -- when a pilot is on board a ship, and the ship is delayed due to an approaching storm, a squall, or something like that, that's not a detention, that's the pilot actually making that call, it's not safe to leave right now, we're going to wait for thirty minutes until this weather pattern goes by, or, or whatever the period is. That's -- that's not a detention or cancellation when the pilot makes the call that the ships time will change.

I would also, to (unintelligible) explain for medical emergencies, yeah, I would stipulate that we wouldn't charge it for medical emergencies, so you could add that language in there.

The part about weather is, is already there because that's not the, the ship, that's, that's the pilot saying it's not safe to sail, and that's already covered in our, our duties as per statute. But the 25% detention, you know, except for medical emergencies that's completely reasonable.
CHAIR: Okay, great. Thank you. All right, so weigh in on -- wouldn't this have gone up a little bit from our past model if we added those other four components?

MR. OATIS: But they were already included.

MR. JENNINGS: They were already included, except for the 40,000. Didn't you all -- did you say there was 40,000 for the draft --

MR. OATIS: No, the -- the minimum draft was already included.

CHAIR: Okay, does anyone make, want to make a motion?

MR. WINEGEART: I would like to make a motion that we approve the proposal that we have in front of us that includes the harbor pilot control fee and increase of 6% until 70,000 GRT, a rate reduction on GRT from 80,000 to 120,000, and a further rate reduction from 130,000 and above, and also to increase the draft, and the auxiliary services such as cancellation fee, and I can't remember the last one, detention fee.

MS. KURTZ: And did you include the ability to put two pilots --
MR. WINEGEART: The ability to put two pilots would be at the discretion of the, of the pilots, due to weather, or other circumstances.

CHAIR: Is there a second.

MR. SOLA: Second.

CHAIR: Second from Commissioner Sola.

Okay, discussion. Part of the discussion needs to be the rationale for why we would do this. Commissioner Sola, would you like to try to articulate that?

MR. SOLA: Yes, I would. I believe that it was very clear, and I believe that the Board clearly agrees that there should be a control handle fee, the pilots are doing that work and they're not being paid for it, and it is something that is a minimal expense on every handle that they have that adds up to quite a bit of money at the end of the year that would definitely assist them in their capital improvements, or other things that they need for their cash flow.

The last time the rate review was done, in 1999, and then implemented in 2000, it did not take into consideration some of the bigger
vessels that we have today. The vessels that we have today are much larger, and much more sophisticated, and also we have a major two billion dollar development going on here at the port. In our statutory requirement under Florida Statute 310.151(5) we are supposed to be fair, just, and reasonable rates, and I would like to make, very important, specification to consideration of public interest.

It is in all of our public interests to, that the port continue to operate in a safe manner. I believe that we have shown that. I believe that we have gone through the twelve or thirteen different characteristics that we need to establish the rate. There hasn't been a rate increase in, in seventeen years, and I made point to that, that they're, that that point should be addressed. And the same that as I've mentioned earlier, that we had not addressed the larger ships at the last time the rate was addressed. The draft issue is something that is very clearly with the widening of the port, and the deepening of the port, and with the neopanamax ships it's
something, it definitely affects.

I would also like to say that in eighteen months, or the next time that we may visit this issue again, that the ships should be charged, or the rate should be done, and include all of the aspects that we have in front of us, all six. We need to include length. We need to include beam. I believe that we're, we're trying to run down the road with one, one leg tied, you know, or one leg tied kind of together, and I believe that this is the best formula that we have. It is not perfect. It addresses a lot of things that we have in front of us, and I believe it will promote growth.

In the same time I do not believe that it favors, or un-favored one category, or client, or the other. I believe that the way the rate system was before definitely applied to one after a certain category, and that's why we made that. And I believe that we also are going to be promoting some of those larger ships to come here, and there will be an increased revenue from them coming here. And that's -- that is in the best, and in the interest of the state.
CHAIR: Thank you. Other discussion?

MR. ASSAL: For clarification I believe the Commissioner stated that the tiering started at 70,000 tons, but I believe it starts at 80,000; is that correct?

MR. OATIS: That's correct, after 70,000.

MR. ASSAL: After 70,000.

MR. OATIS: As it's presented on the board.

CHAIR: All right, Commissioner Sola, I thought your justification was very appropriate, and documents the rationale of why you're asking that, so I think we're ready to take a vote. Ms. Ann, can you all a vote? A yes would mean to approve the motion that Commissioner Sola has made.

MS. ANN: Commissioner Sola?

MR. SOLA: Yes.

MS. ANN: Commissioner Kurtz.

MS. KURTZ: No.

MS. ANN: I'm sorry?

MS. KURTZ: No.

MS. ANN: Commissioner Oatis.

MR. OATIS: Yes.

MS. ANN: Commissioner Assal.
MR. ASSAL: Yes.

MS. ANN: Commissioner Winegeart.

MR. WINEGEART: No.

MS. ANN: Commissioner Wilkins.

CHAIR: Yes. So this rate change has now been made by this Board. I want to thank all the Board members for their, the commitment of their personal time, for a very long week. As Commissioner Assal had mentioned earlier this is tough decisions that we had to make, to be put in situations to do this, but I'm glad to see we've all coalesced around similar solutions. So thank you for your time. Everybody have a safe trip back.

MS. KURTZ: May -- may I ask one question? Would it be possible for us to get copies of this before we leave?

CHAIR: Yes.

MS. KURTZ: And can we get it in, in the actual Excel file as opposed to a PDF?

MR. OATIS: It's going to be produced that way. There's no reason not to, yes.

MS. KURTZ: Yes.

MR. OATIS: Absolutely, because I'm getting it in my cell, so -- we'll get it to
you. If you want to wait a little bit, I think they're going to print some up.

CHAIR: And anyone can also order transcripts of this meeting as well. The meeting is adjourned, thank you.

(Thereupon, the above proceeding concluded.)
CERTIFICATE

(STATE OF FLORIDA)

(COUNTY OF MIAMI-DADE)

I, NATHANIEL TORO, Reporter, certify that I was authorized to and did report the foregoing proceedings and that the transcript is a true and correct transcription of my notes of the proceedings.

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