The Board of Pilot Commissioners Pilotage Rate Review Committee

January 22, 2020

PHIPPS REPORTING
Raising the Bar!
THE FLORIDA BOARD OF PILOT COMMISSIONERS

PILOTAGE RATE REVIEW PUBLIC HEARING

COMBINED PORT AREA OF JACKSONVILLE AND FERNANDINA

LOCATION: Courtyard Jacksonville Beach Oceanfront
1617 North First Street
Jacksonville Beach, Florida 32250

DATE: Wednesday, January 22, 2020,
commencing at 9:01 a.m.

COMMISSIONERS PRESENT:

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

ALSO PRESENT:

Donna McNult, Esq.
Richard Law
Galen Dunton
Anne Ahrendt
Mandie Ackerman

Alan Twaits, Crowley Maritime
George Meros, Esq.
Tara Price, Esq.
Captain William Kavanaugh, Jr.
Captain Nathan Cook
Captain Chris Mons
Captain Joseph Brown
Terry Thornton, Carnival Cruise Lines

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CHAIR BENSON: Good morning. It is 9:01 on January 22nd. We are here for the meeting of the Pilot Rate Review Committee hearing for the combined port area of Jacksonville and Fernandina.

And I want to start with in terms of opening comments instruction-wise, we'll do roll call, and then we'll defer to Attorney Donna McNulty who is going to talk a little bit about procedurally how we're going to respond and what-have-you and give everybody an opportunity for comments.

So, Anne, roll call, please.

MS. AHRENDT: Yes, sir. Commissioner Assal.

CHAIR BENSON: He's not here yet.


COMMISSIONER JACCOMA: Here.

MS. AHRENDT: Commissioner Kurtz.

COMMISSIONER KURTZ: Here.

MS. AHRENDT: Commissioner Russo.

COMMISSIONER RUSSO: Here.

MS. AHRENDT: Commissioner Benson.
CHAIR BENSON: Here. Thank you.

Okay. With that, Donna, if you will.

MS. McNULTY: Thank you. Good morning, everybody.

This is a hearing before the Pilotage Rate Review Committee to address the St. Johns Bar Pilot Association in Fernandina Pilots, LLC's revised application for change in the rates of pilotage at the combined port areas of Jacksonville and Fernandina that was filed October 1, 2019.

Commissioners, you're here to consider all materials presented and to determine if the rate of pilotage should be modified either up or down, and upon making such a determination, state on the record the reasoning for such a decision based upon the evidence presented. Your decision should be based solely upon the record before you and not upon any independent knowledge or personal bias.

As you know, in determining whether the requested rate change will result in fair, just, and reasonable rates, the committee is required to give primary consideration to the public interest in promoting and maintaining efficient,
reliable and safe piloting services.

Section 310.151(5), Florida Statutes, sets forth a number of factors for the committee to consider, which include the following: Average net income of pilots, reasonable operating expenses of pilots, pilotage rates in other ports, amount of time spent piloting, prevailing compensation available to individuals in other maritime services, the impact the rate change may have on an individual pilot compensation, and whether such change will lead to shortage of licensed pilots, projected traffic, cost of retirement, physical risk inherent in piloting, special characteristics of the port, any other factors the committee deems relevant. The CPI or other comparable indicators may be used but may not be the sole factor in fixing rates.

Also, subsection (6) of that section provides the basic outline of vessel characteristics you can consider: The length, the beam, net tonnage, gross tonnage, or dead weight tonnage, freeboard or height above the waterline, draft or molded depth, or any combination of these or any other relevant characteristics.
After your decision in this matter, I'm going to draft an order for the committee to review, so it would go back to another meeting. The committee then will reconvene for the purpose of reviewing that draft.

And the draft will be a notice of intent to modify the rates to determine whether it appropriately reflects your decision. The substantially affected person will then have an opportunity to challenge the notice.

This is also a simple reminder that you need to find competent, substantial evidence to support whatever decision you make.

Any questions thus far?

Okay. So also there are a couple of preliminary items. The first one is Crowley, on late Friday, after 5:00, filed a motion to dismiss or alternatively to stay the record of proceedings in this matter. You should have been given a hard copy. I think board staff has already distributed that to you.

Also, yesterday the pilots filed a response, which was under the time allowed normally for such a filing.

Also, before you even began to entertain
that motion, you need to state good cause shown of why you're even entertaining this because it's under seven days before this hearing.

So you need to state on the record why you would like -- why you're going to entertain the motion, and then I would suggest then you hear the motion and you rule accordingly.

And, Mr. Meros, Mr. Cohen is here. He will have a chance to present it, and then Mr. Meros could, you know, have his response. And, the Chair, you decide how much time to allocate.

But item number one would be to state on the record the good cause shown of why you would want to entertain it in under seven days because it's not timely filed.

CHAIR BENSON: Okay. Again, that motion, we're not to come to determination as to whether or not we're going to stay it or not, but just whether or not we're going to entertain that motion despite the fact that these two are under the seven-day time frame.

So do we have a motion that we're interested in listening to from Crowley as well as the pilots and evaluate whether or not we're going to move forward?
COMMISSIONER KURTZ: I would like to make a motion to dismiss the motion.

MS. McNULTY: That's premature at this point. The question is, can you even entertain it for discussion?

CHAIR BENSON: We want to get an opportunity to discuss it.

MS. McNULTY: I would suggest that you do so.

COMMISSIONER KURTZ: Okay. Then I'll make a motion to entertain the motion.

COMMISSIONER RUSSO: Second.

MS. McNULTY: And the grounds -- just state for the record the grounds.

COMMISSIONER KURTZ: To give them an opportunity to say what you've all come here to do instead of doing it later.

MS. McNULTY: That's fine. So with that --

CHAIR BENSON: Okay. Seconded by Commissioner Russo. All those in favor?

(Responses of "aye.")

CHAIR BENSON: Any opposed?

(No responses.)

CHAIR BENSON: No. Okay.

Is there anyone here from Crowley to
MR. TWAITBS: Yes. I'm Alan Twaits.

Mr. Cohen, who is outside counsel in this matter, could not make the meeting today.

MS. McNULTY: Could you state your name again, sir?

MR. TWAITBS: Alan Twaits.

MS. McNULTY: How do you spell that?


CHAIR BENSON: Before we get started, we're going to give both sides five minutes. I don't want to announce that four minutes into it and have you not have an opportunity to state your position.

MR. TWAITBS: Yes.

Crowley first heard of the -- this proceeding last week, and so we were scrambling to put together both a motion and then a statement, which I hope you received yesterday. We filed a statement for the committee to consider.

The motion really was an attempt to link the Port Everglades proceeding to this proceeding because there are certain issues that we feel are
very similar and that the committee could be
guided by the court. We have an appeal of the
Port Everglades proceeding pending with the state
court in Florida.

Some of the common issues relate to the
notice procedure, lack of effective notice,
composition of the commission, with kind of a
heavy emphasis on pilots, and the issues of the
costs of the services and particularly the way
pension funds are treated. We treated and
addressed those in the Port Everglades
proceeding, and those issues are all on appeal
before the state court.

And given the common three or four of those
issues being common to what you're doing today,
we thought it would be appropriate for you to sit
back and not make a decision today and see what
the court has to say about those issues.

I apologize for the lateness in the
proceedings -- or the filing. We just found out
about this proceeding last week.

CHAIR BENSON: You had mentioned a filing
that you had yesterday. I don't think all of us
have seen that, but we will give you an
opportunity to do that in the section when it
talks about other affected parties.

MR. TWaits: Yeah. And if I don't have a copy with me today, I thought I did, I'm not sure, but I can get it to the committee later on today. But I will be happy to make a statement.

CHAIR BENSON: Mr. Meros, five minutes.

(Commissioner Assal enters the room and takes his place with the other commissioners.)

MR. Meros: Yes, sir. Thank you, Mr. Chair, and committee members. George Meros, Holland and Knight. With me is Tara Price of Holland and Knight.

This motion should be rejected without more. The notion that -- what Crowley is not telling you is that they did not have actual notice of this proceeding, this proceeding meaning the application, the investigative rate committee and everything going on there.

They are not saying that they did not have access to the notice that all of the public received in three different notices to the public. What they're saying, and I don't know how this can be said, the first we heard of this was last week.

I will ask the committee after this to make
sure that Captain Cook and Captain Kavanaugh can
testify specifically relating to the
conversations that the St. Johns pilots have had
with Crowley over months about these proceedings
and the substance of these proceedings.

They write in here that -- they don't say
anything about the fact that they didn't receive
notice. What they argue is that the notice,
under the rule, has to be on one notice and not
two notices without any support in the rule.

The notion that if this -- if this entity
and the staff provides full and complete written
notice but does it in two pieces of paper, it's
somehow insufficient. This is no suggestion of
any case law or any law to suggest for a second
that has occurred.

They then say that, well, there are matters
going on in an appeal regarding Everglades and
this should be stayed because of an appeal in the
Everglades case.

Again, no law, no case law to even suggest
that this proceeding should be stayed because of
proceedings that are entirely separate in the
First District Court of Appeal.

Crowley lost before this committee. They
had the right to appeal. They have. But that doesn't mean that they can hijack this proceeding on the Friday before the three-day holiday just this past week.

There is -- and I would -- I would be happy to give you copies of the letter from Mr. Cohen, which was the follow-up to our written motion. We have a written motion in opposition to this. And that letter is dated January 21, 2020, says that, and I quote in part, "The committee's notice practices appear designed to defeat the provision of effective notice to impacted rate payers."

They're suggesting, they're asserting, that either members of this committee or its staff are intentionally trying to deprive Crowley of notice. There is nothing anywhere in the record to suggest that.

To the contrary, there are notices dated November 22, 2019, specifically providing for the fact that the application has been filed, and I believe you have this -- these in the appendix. There is a notice of December 4, 2019, that specifically provides the time, date and place of the notice. The first one talks specifically
about all of the rate changes in there. And then there's a notice dated November 25, 2019, of the investigative committee hearing that provides the date and time.

And Crowley, which in its letter says, we are a substantial port user with its base in Jacksonville, is somehow trying to assert that it wasn't until the Friday before the three-day weekend that they did not hear about this, without any affidavits anything else.

I would urge the committee to deny the motion.

CHAIR BENSON: Okay. Thank you, sir.

MR. TWaits: May I have a brief response?

CHAIR BENSON: One minute.

MR. TWaits: We did not have actual notice. I'm not denying that notices were published in Florida Register and the newspapers in general circulation. Those were not brought to our attention. We did not see them. We did not catch them. So we don't have anybody generally looking at those.

The only outreach that I'm aware of is around Christmastime a pilot contacted our Captain Cole Cosgrove, who's in charge of
operations for Crowley shipping, and explained
that there was a proposal to increase the rates.
The first that the individuals in charge of
the liner services, terminals and ports found out
about it was when we found out about it through
counsel the beginning of last week.
CHAIR BENSON: Thank you for your comments.
For the record, I want to acknowledge that
Commissioner Assal is here. He stepped in at
9:10. So make sure that he had the benefit of
Mr. Meros's comments.
So with that, we need to determine whether
or not from what we've heard and what we've read
from the filling we're going to accept or dismiss
the motion from Crowley and whether or not we're
going to proceed.
COMMISSIONER KURTZ: I will make a motion to
dismiss the filing of Crowley.
COMMISSIONER RUSSO: Second.
CHAIR BENSON: That's seconded.
MS. McNULTY: And on the basis. If you
would just briefly, for the reasons.
COMMISSIONER KURTZ: They don't seem to have
a valid reason for wanting to delay this
proceeding and it appears that they were noticed
correctly.

1  MS. McNULTY: Okay.
2  CHAIR BENSON: We have a motion by
3  Commissioner Kurtz, seconded by Commissioner
4  Russo. All those in favor?
5  (Responses of "aye.")
6  CHAIR BENSON: Okay. The motion is
7  dismissed, and we'll move forward with the
8  balance of the agenda.
9  All right. I want to invite Mr. Richard
10  Law, who is going to present the findings of the
11  investigative committee. He has a lot of
12  information that will be very helpful in
13  determining what we have in front of us, and then
14  we'll get into the presentation by the other
15  affected persons.
16  Mr. Law.
17  MR. LAW: Thank you very much.
18  Our investigative report will follow the
19  format in Chapter 310 with the 12 factors that
20  are required to be addressed in their
21  application, our report, and for your
22  consideration in setting rates.
23  The application is a joint application for
24  Jacksonville and Fernandina. The last rate
The last rate increase in Jacksonville was 2004. The last rate increase in Fernandina was 2011.

The distance from -- the handle distance in Jacksonville is a 28-mile average. It's variable, as you may have seen in different terminals. We use the average of 28 miles for Jacksonville. Fernandina is 12 miles.

The rates are -- existing rates are actually higher in Fernandina. They were again set in 2011, even for a shorter distance, but that is a function of the fact that trying to maintain two pilots in a small port with diminishing traffic, the rate review committee or board, whatever it was at that time, has to consider all the factors in order to retain a pilot. And so that's why you'll see a difference in the pilotage rates, even though it's a shorter distance.

So if you turn to page 3 of our report, I'll go then through some of the example rate analysis for a small and large vessel.

You'll see for Jacksonville the current rates for an example small vessel is currently $457. In Fernandina, it's $551.

The requested rate would generate pilotage fees of $995. This would -- this includes not
only the new rate structure using draft, tonnage, length and beam, but also adding fixed charges of $115 for port control and training.

In Jacksonville, this small vessel would have a rate increase of 117.7 percent. In Fernandina, 80.6 percentage increase.

For a sample large vessel, the existing rates in Jacksonville are 3,526; in Fernandina, $4,307. The requested rate would increase on both ports to 4,125. So this is -- excuse me. 4,240, including the fixed charge. So this is a 20 percent increase in Jacksonville for a large vessel and actually a small decrease in Fernandina.

There are a couple of other ancillary changes in the rate request. We did not put them -- represent them in the body of our report. I attached it as -- we attached it as Exhibit 1 so that you can see everything that the pilots are requesting of the ancillary charges.

In 2018 these ancillary charges amounted to only $205,000 out of close to $10 million in revenue. So it's about -- it's only about 2 percent of what we're talking about here. And even as requested, the rates would be about
$230,000. It wouldn't really go up that much compared to the existing rates, and still just 2 percent of the total.

The other significant part of this rate request is this 2 1/2 percent CPI adjustment over the next ten years. If you just take that simply as 2.5 percent a year, for ten years, and compound it, after the fifth year, instead of 12.5 percent, 5 times 2.5, it would be compounded at 13.14 percent.

After ten years, instead of 25 percent, 10 times 2.5, it would compound to 28 percent. Just so you know how far this would take the revenue up going out ten years.

The requested rate structure is taking -- is following the pattern that Miami and Port Everglades have gone to, the four-tier rate structure going from strictly draft and tonnage to length, draft, tonnage and beam.

These four -- there are four tiers in this rate structure for up to 10,000 tons. Between 10- and 40,000 tons, over 40,000 tons, and then the last tier is over 40,000 tons with a draft -- and a draft -- excuse me -- a draft of over 40 feet and tonnage at 80,000 tons.
We have presented in Exhibits 2 and 3 some very important information relative to how these four tiers work with various size vessels.

The first, Exhibit 2, is where we take all of the -- all the handle data that was provided for the year 2017 and '18. It was a full year, but that's what the pilots used their projections with.

So we took that data and recalculated all their existing revenue -- excuse me -- their existing rates to come up and reconcile to their actual revenue and their audit. And then we take the new rates, the requested rates, and calculate that to calculate the new revenue, and then the revenue -- the historical revenue based on existing rates, and then we layer that into tonnage layers.

If you look at Exhibit 2, you will see the different layers. I think we ought to look at this now while I'm presenting this because I think it's very important for you to see the effect of the tier structure and how the smaller vessels as a group in the 10,000-or-less ton are getting a 75 percentage increase, and then it diminishes the larger the ship. 10,000 to
20,000, a 56 percent increase. 20- to 30-, 27 percent. So it's a declining increase based on the size of the ship.

Exhibit 3. What we tried to do here is just give you some examples of some selected ships so that you can just see exactly how it applies, because when you look at aggregating a layer of tonnage, you kind of lose the detail.

For instance, in Exhibit 1, page 1 of 2, you will see the first ship, the Cheetah, well, that's that small ship that shows the 117 percent increase requested versus the old rates.

I think currently the example that stands out the most, and I think this is something you really need to heavily consider here, is the Pine versus the ALS Apollo.

Now, what's happening here is the Pine is at 39,145 tons. The Apollo is 40,030. Well, that's -- the Apollo is barely into that next bracket, but look what happens. It's only getting -- the Pine is getting only a 7.85 percent increase, and a ship just marginally larger is getting almost a 55 percent increase.

So I think that shows you that the tiers and how they break and how one ship could be one ton
over and have a disparity in what you might consider fair, reasonable and just rates.

So I think everything that we have here to look at, this is one of the most significant things for you to focus on: What is a fair rate structure to consider?

Now, I didn't -- Excel Analysis has 3,600 lines of Excel code in it, so I didn't want to give all that to you.

CHAIR BENSON: Not every line item, please.

MR. LAW: But it's right here if anybody wants to look at it later. You can see every ship with the before and after if anybody would like to see any of that.

But hopefully I'm giving enough information for you to recognize that kind of disparity in that.

COMMISSIONER KURTZ: Richard, I have a question about that, actually.

Do we have the draft -- do we have the other information besides tonnage for those two ships to compare?

MR. LAW: Yes.

COMMISSIONER KURTZ: Because I'm seeing that you have two of the biggest jumps -- well, one of
the biggest jumps is the draft charge.

MR. LAW: I have it. I don't know that I
gave you every exhibit, but if you want -- well,
on Exhibit -- well, I just didn't want to
overload you-all.

COMMISSIONER KURTZ: No, I understand --

MR. LAW: And I do --

COMMISSIONER KURTZ: -- just for
comparison --

MR. LAW: -- have it. I printed it out so
you can see it.

COMMISSIONER KURTZ: Okay. One at 20-foot
draft and one was a 40-foot draft for a safe
draft.

MR. LAW: Minor difference. It's the break
point that makes a difference. Okay?

COMMISSIONER KURTZ: Okay.

MR. LAW: But I'll give it to you when we
take a break if you'd like to see some of the
differences.

COMMISSIONER KURTZ: Okay. Thank you.

MR. LAW: And even up till yesterday
when I'm going through this, writing down the
actual -- what's the different between the Pine
and that ship, and just to be sure, you know, we
had it -- they were fairly close.

There was a difference in draft, but not so much that it would create that big of a disparity. It's the break point, because all the rates change. It's not just the physical characteristics. All the rates change when you jump from under 40 and then go to 40. Okay?

CHAIR BENSON: If you retrieve that at the break, I'd like to put it on the record any additional information given to commissioners, please.

MR. LAW: Okay.

CHAIR BENSON: Thank you.

MR. LAW: Just to let you know, I'm just going to follow along in the way the report is written and just make some observations in general, not to repeat everything, whatever it is.

If you move to page 4 on the Projected Traffic and Revenue, there's -- the port authority feels like traffic is going to be steady. The pilots have given us information where they've lost a ship here -- or a customer here or there.

And probably the main thing to think about
is there's no way to predict traffic and it will vary from year to year. And if you look at the table of historical traffic in this port, it is -- it's declined by about 8, 9, 10 percent since 2010, but revenue is up.

So as far as projecting and looking forward, they may get notice that somebody is taking 50 ships out of the port, but what's coming in, you know, the port is working on new business. And the point is, it's volatile and it's unpredictable.

But that is one of the 12 factors in the statute that you need to consider, but when you look at trying to project out even to 2020, '21, and even ten years out where you have that CPI increase, you're really getting far out there.

And as accountants in the business, we are very hesitant to project out ten years on anything.

I'm going to go through Comparable Rates in section 4 of the main body. I'm in the Executive Summary right now. Also, on pilot net income, I'm going to section 2, to give you a little bit -- let you follow along with what we have presented in the report.
So I'm going to move along to page 7, which is the Public Interest of Piloting. The main thing here is no one has said anything other than the pilots provide good service here. No complaints, no complaints as far as response and timeliness of their service and quality.

Of course, we had a public hearing and nobody came, so we have no complaints, but we don't really have anybody coming to us and saying much. But I would think that if we were to put out a public notice and there was bad service, seems like someone would let us know.

All right. Going to page 8 and the Determination of Net Income. Well, let's just get grounded here in what you're doing.

You're not setting income. You're not setting income. You're setting rates. So you're setting rates given all the 12 factors. So even though we discussed this as a required element, what do they make, is it competitive, is it comparable, will it attract and retain pilots, that's kind of an isolated analysis but it doesn't really drive your rate analysis. It's a big factor, though. I don't -- I don't want to understate that.
Okay. On top of page 5, we have an Analysis of Average Net Income for Pilots, 2018 historical rates and projected with the rate increase.

A word on what we start with on the consolidated net income. There's a qualification in the auditor's report on 2017 and it still flows into the compiled financial statements for '18, but they qualified their opinion on the valuation and liability for the pension.

And so, actually, in Miami and Port Everglades, the auditors for both of those entities did a lot of work to come up with that liability, and it was a very large number.

But in this case, the auditors qualified them. They just didn't want to get into it. But it's important to note, because later when we get down the line here and we start talking about unfunded pension, you can see why it's a soft area.

So looking at consolidated net income for two years, that's what their financial statements project. And if you divide that top number by 14, that's $398,000 in salary before other fringe benefits and pension.

In 2020 it would be 489,000. Dividing the
6,848,000 divided by 14 would be $489,000.

That's what they say in their application. Not us, what they say.

So as a result of our investigation, we dig into some details and find that there's some add-backs to their income: Standby labor is where pilots get a little bit extra money for doing extra services off the board; their health insurance and other political and charitable contributions, things like that.

We always looked at these things as, are they essential to the function of piloting, and especially like contributions. We just want to be careful and say not necessarily, so let's throw it -- let's add it back to income.

On the projected for 2020, the pilot boat correction, just briefly. Their application said they're going to replace a pilot boat for between 2.5 and 2.6 million dollars, but their projections only had a pilot boat of 1.2 million.

So we caught that and said, you know, give us the effect on these financial statements for correcting your compiled projection, and it came up to that number. So that's what that means.

So we come up with adjusted net income,
divide by 14, and so the average net income before the pension, you can see, $432,000, and then 518,000 projected.

And then -- then we add in our estimate for the unfunded pension. I'll get into this a little later. It's section 9 of the report. But we've been -- this is probably one of the most contentious areas of what we do, is trying to assign a number or even whether a number should be assigned. And so that's why we separate it, so you know. And you can look at it your own way to assess what do you think that their income is.

Moving on to page 10, we will see the effect of revenue with a 2 1/2 percent rate increase. The total increase over from 2020 to 2030 would be a 28 percent increase. But, again, there are too many variables to be projecting out this far.

Moving on to part 3, Reasonable Operating Expenses of Pilots. We start with retirement, which is 27 percent of their operating expenses is retirement. So this is the largest expense. 1.1 billion paid out to about eight retirees.

Moving on to page 11, you'll see that the average retiree was paid 185,000 in 2018. If you project out the rate increase, the pilot with a
50 percent share, which would go to 241,000, a little bit less for the pilots who haven't earned a full 50 percent share, which I'll discuss later.

Salaries. These are all of their employees and what they make. All of these appear reasonable based on what we've seen in other large ports.

Fuel cost. You know, I think a lot is made about fuel cost, but it's really only less than 2 1/2 percent of their revenue is fuel. But it's a lot of money, but it's still not significant in relation to the total revenue.

Other expenses in the last few years. You'll see on page 12, Deputy Compensation. That's going to go from 140,000 to zero because the pilot became -- a deputy became a full pilot, and then one pilot retired. And then in 2018, they have a lot of professional and legal fees, a lot of it probably having to do with the application, audits. CPAs don't come cheap.

(Laughter)

CHAIR BENSON: CPAs do not entertain. Thank you. Okay.

(Laughter)
MR. LAW: Moving on to page 13, Pilotage Rates in Other Ports.

The pilots in their application present their competitors as Mobile, Charleston, Savannah, and Brunswick. If you turn to page 14, you will see that the Jacksonville existing rates are lower in every one of those sample vessels than all of the competing ports, and even the proposed Jacksonville rates are lower in all cases.

And that was important when we talked to Mr. Menefee with the port authority. When we talked to him, he said, yes, the pilots came to the port authority and said they're going to ask for a rate increase, hadn't had a rate increase since 2004. And he said, just keep it competitive with the nearby ports.

And so -- but that's from the port authority, not a customer, and it could be a big difference.

The next table shows the distance per mile, and except for as far as the fee for a sample ship, and actually that's using the proposed -- the requested rate, Jacksonville would still be under all of them except Mobile as far as fee per
Turn to page 15, table 4. You can see that in 2004, the last rate increase, to 2019, the average revenue per handle without a rate increase has gone from 1,593 to 2,669. So they're getting rates with size, and even with less handles, they're getting, you know, more revenue and more per handle without a rate increase.

But this has been coming in all the ports. As vessels get larger, economies have scaled for the users of the port.

These other tables compare rates in Florida. I don't know that they're all that relevant when you compare it to -- I mean, Jacksonville is a unique port in its own distance, kind of like Tampa. Tampa is a seven and a half-hour handle; Jacksonville is four. These other ports are two and a half. They're shorter-haul ports. I think it's most relevant to compare to the local competing ports along the seaboard.

Section 5 of our report analyzes the amount of time spent piloting. If you take the 38,061 handles in 2018, divide it by 14, that's 275 handles in a year per pilot.
If you want to just compare that to our normal workweek, if there are 52 weeks a year and five days a week, that's 260 workdays. So they're doing a little bit more than one four-hour-plus handle a day.

And so just to give you a perspective to the average workingman, although pilots work under their -- you know, on watch, off watch, the latter, all the things you've probably heard already in how they -- how they schedule their work and when they're on and when they're off, but the bottom line on the bottom of that page 19 is total average work time of about 2,272 hours.

There's a lot of -- you know, there's a lot of just not just bridge time but essential port time and being on watch.

That last line, first board pilot, is when they're on board as the next available pilot, and it's really critical that they're there to take the next ship. So it's a lot of hours, but it's also critical that they're right there ready to respond.

Galen, any comment there?

Okay. Galen wrote that part of it.

All right. Let's move on to page 20,
Prevailing Compensation.

Since Port Everglades and Miami, we really haven't had a lot of new information from Captain Quick, who shows up to most of our rate hearings and gives us an update on where things are on what pilots make.

I attached Exhibit 5, the Dibner report, that gave a lot of data. It's a little dated, but it gives a lot of information on comparative compensation, and also attached is a letter from Texas where they're talking about data that they have on comparable compensation.

I think that given that the rate increases that have been made in Miami and Port Everglades where projected income is now, going back in comparison to where it was when we did this in 2004, you know, this request would put them in the, let's say, upper quartile, not the middle, but in the upper quartile of comparative compensation.

So does that mean it's attractive and will retain? That's the question.

Moving on to part 7, The Impact a Rate Change May Have, I think that the big thing is, does this port get sufficient qualified
applicants and are the applicants of a high quality that they can make it from deputy to pilot?

So at the bottom of page 21 we are showing you the number of applicants. We have no information on how qualified they are. But it's not like Pensacola and Panama City, where they're lucky to get a couple of applicants because the income is so low.

They're going to be attracted to the bigger ports with our income and with good benefits, good quality of life, good place to work and live, and I would think Jacksonville is one of those.

I'm going to move on to section 8, Projected Changes in Traffic. I think you can see for the two ports there's a table there going back to 2010. There is a decline in both ports in the number of handles.

However, in Jacksonville, revenues maintain pretty well. It's actually up from 2010. But when you look at 2016, where the -- or 2015 and '16, when they hit 9.9 million, and then in 2018 they dropped down to about 2.8, but on less handles in both cases of those 250 handles or
almost -- excuse me -- almost 300 handles decline. So that just shows you that the revenue per handle is increasing.

All right. Let's move on to retirement plans.

They have a 401(k) plan for their employees. There's two different plans. The plans before 2000 -- hired before 2012 get a 15 percent contribution. After that, employees hired after that get a 7 percent profit sharing, plus a 3 1/5 percent match. So if they're deferring, they're going to get about 10.5 percent.

For the pilots, you can see the number of years of service, age, in order to earn an active pilot's share in the unfunded benefit.

So if you work -- you have to work 20 years and hit age 55 to get the minimum of 35 percent. If you work 18 years, you're not vested, and that's a pity. That's the biggest thing in trying to put a number on this unfunded pension.

Most 401(k) plans, the most a plan can make you drag out of vesting is six years. And so this is unfunded. This is a nonqualified plan. This is their plan. And so you put in -- you got to put in 20 to earn anything.
So on page -- it presents some information here on prior costs on page 24 of what the pension plan costs this organization in prior years. This didn't include Fernandina, by the way.

But in 2000, it was 1.5 million with 12 retirees. Coming down to 2018 is you've only got -- you have half as many retirees, and the total retirement expense is 1.1 million.

So with the rate increase, if the rate request is granted, the total retirement costs will go up almost $450,000. And the average retiree -- they'll be six in 2020 -- will be getting $225,000. That's estimated off their projection and not what we would say is what is that full share of net income.

That number is taken off what they put in their projection as 1.5 million in estimated pension costs. They've got their own calculation of how they determine retirement -- a retiree's share, but I'm just going to go with what they projected since it's such a convoluted calculation.

So in trying to come up with a valuation of the pension plan, you know, we've been through
this 20 times now, and I'm not an actuary and I don't think you're going to hire an actuary to do this because of the vesting, and it's not funded.

Nobody puts money away and has the investment risk of putting that money away to have a future benefit. It's just -- it's just a hybrid plan, and putting a number on it is hard for even me to do.

So what we try to do is just go through the same analysis that we've done every year and present to you the negative factors of why you should really discount that number, and then the positive factors for you to consider.

And it's really just a matter of judgment. It's not our judgment. It's your judgment in how you want to look at that number. And that's why it's segregated.

So in this analysis, as we've seen retirement benefits go up, then we came up with a number of about $55,000 dollars. And so I'm just -- we just backed off to the 45,000, which we've used in previous rate hearings to kind of put it in a ballpark, but also to let you know, we tried to estimate something here. So you can look at it however you want.
I think you know by either -- if you were at the port, the Physical Risk Inherent, on page 26, when it's rough out there, I don't need to say much more. And so it is -- it can be very dangerous, very rough. I think you know.

And the last part is the CPI Analysis. Since 2004 the consumer price index has increased 39.6 percent. On the bottom of page 29, I tried to just kind of normalize the data we have for income over the past rate applications that we've seen. And because from year to -- you can't just pick one year and say, that's what they make, or try to use the CPI against that one benchmark.

So I just tried to take '95, 2000 -- 2007, which is data that we've had in prior investigations, audits and things that we can rely on, but these did not necessarily include the pension. This was really just the distributions.

So that's why when we calculate this -- this average of 346 and apply the CPI and say that it would reach about $483,000, and then compare it to the pilot's projected income of 489-, it's really that first number on page 9 where we say, take the total consolidated net income before our
committee adjustments, those -- that's what they're thinking their income is. Okay?

And so, yes, you can compare that 483- to perhaps our number of 518,000, and there would be a different variance. But when you look at that in 1995, we weren't including a valuation of the unfunded pension. So I don't think it's fair to compare that to the bottom line of 563- on page 9.

Can you follow me?

Okay. The last CPI analysis, and this is where I will complete our report, is just looking at the revenue per handle and seeing how it has -- compares to the change in the CPI.

If the revenue per handle in 2014 were to be projected, it would come up to -- go from -- it would go up to $2,166, but the revenue per handle is 2,669. Therefore, the increase over the CPI is $503.

So they're keeping up to some degree by just revenue per handle and size of ships. So they're getting -- and this is common in most of the ports. There's an organic growth of revenue without rate change.

Galen, do you have anything to add?
MR. DUNTON: No, sir.

MR. LAW: So that concludes our presentation, and we'll be happy to answer any questions.

CHAIR BENSON: Any questions from the commissioners?

COMMISSIONER JACCOMA: I would like to ask you a question, Mr. Law.

You included in your report the average income was $500,000 per pilot that was reported in a previous hearing?

CHAIR BENSON: I think that was Mr. Quick, Quick's comments?

MR. LAW: I'm sorry?

COMMISSIONER JACCOMA: Yeah. George Quick, when you referenced his.

MR. LAW: Oh, yeah.

COMMISSIONER JACCOMA: Did that amount include any add-backs that you know of?

MR. LAW: I don't recall.

COMMISSIONER JACCOMA: And how about the Dibner report that's included? Do you know if that includes any add-backs or if that's just net income?

MR. LAW: I don't know.
CHAIR BENSON: Do we have data on the average CPI increase over the last ten years?

MR. LAW: Yes. There's an exhibit on the CPI that you should be able to look at. It's Exhibit 7.

CHAIR BENSON: Okay. Thank you. I'll get to that on the break.

Any other questions from any other commissioners? Okay. It is 10:03. I'd like to suggest we take a break till 10:15, come back and have a presentation by the pilots. Thank you.

(A break was taken from 10:03 a.m. to 10:18 a.m.)

CHAIR BENSON: Welcome back. We're at the point of listening to the presentation by the St. Johns Bar Pilots Association. I'll apologize in advance for turning my back on everybody when I start looking at the various graphics across the room and whatever. I'll make it short or whatever.

Mr. Meros, are you going to start off?

MR. MEROS: Yes.

CHAIR BENSON: You have the floor.

MR. MEROS: Chair Benson, if I may have two minutes and then go right into testimony.
CHAIR BENSON: Okay.

(Pause)

MR. MEROS: Thank you all, committee members and staff.

I just first want to say that -- just fundamentally that for the past 16 years, the St. Johns pilots have not had any rate increase. During that same period of time, the CPI has increased by 37 percent.

When the legislature has directed that fair, just and reasonable means that there must be a sufficient way to compensate pilots so that the public interest in taken care of in the provision of effective, efficient and safe piloting services, it is hard to imagine an advertisement that says, come to Jacksonville to be one of the best and brightest pilots, where you don't get a raise in 16 years and have a 37 percent rate increase.

If the committee agrees to the pilots' proposed rates today, the rates in Jacksonville and Fernandina will remain significantly lower than the rates at competing ports. Captain Kavanaugh will talk to you about that in just a little bit.
In the past 16 years, the federal ship channel has remained virtually unchanged, but the footprint of the largest ships have increased dramatically by 75 percent. That makes the pilot's work more challenging and, frankly, the risk more dangerous to all concerned in the port.

And, really, with that -- I could say a lot more, but I want to make this as quick as we possibly can. So that would be my opening, and I would like to have Captain Kavanaugh as our first witness.

And if I may, Mr. Chair, so that we're not, you know, going back and forth, I'm just going to stand over there and speak with Mr. Kavanaugh so he can -- Captain Kavanaugh can speak with me, if that's okay.

CHAIR BENSON: Yeah.

CAPTAIN WILLIAM HARDEE KAVANAUGH, JR., having been produced as a witness, testified as follows:

EXAMINATION

BY MR. MEROS:

Q Captain Kavanaugh, please tell us your full name.

A William Hardee Kavanaugh, Jr.
THE STENOGRAPHER: Do I need to swear in the witness?

MR. MEROS: No.

THE STENOGRAPHER: Okay.

Q Tell us about your maritime experience, please.

A I attended the US Merchant Marine Academy, Kings Point. I graduated there in 1998 with a dual major in Marine Engineering and Nautical Science. 1999, I started my CP career, and by the time I was 30, I had earned my unlimited master's license.

Q And how many handles have you performed approximately in your career?

A Somewhere close to 3,000 handles.

Q Now, there are some charts here that I believe you have either prepared or have provided information supporting those charts?

A Yes.

Q Okay. Can you just go ahead and tell us what those charts reflect for purposes of this hearing?

A I'll start with the one on the left. The one on the left is an overview of our harbor management system. It shows who the users of our AIS
and DTS services that we provide in Jacksonville.

The second one shows the tariff changes from 2004 to 2020 for Jaxport, which is the primary terminal for commercial traffic in Jacksonville.

The next one is a fleet notice. I redacted the name of the company, one our customers, but they had two incidents where they hit the north jetty coming in during a day like today, which is strong northern winds. They are not required to take pilots. They tend to do so more regularly now.

The next slide is just a slide to show the size of the larger ships that we're bringing in now in reference to the tallest building in Jacksonville. We have two or three ships on a weekly basis that are, you know, approaching 1,100 feet, and every once in a while we have ones that are 1,145 feet long.

And then the final one is comparison with --

MR. MEROS: Let me interrupt one second.

Chair, can you see that?

CHAIR BENSON: I can move. Yeah.

Q (By Mr. Meros) Go ahead.

A So the next one is a -- it's a comparison of gross tonnage and draft rates in competing ports. You know, we chose the ports of Charleston, Savannah, Brunswick and Mobile because these are our competitors
as far as ports go for commerce in the Southeast.

We're -- if you average the draft rates, the current draft rates of those four ports, you know, Jacksonville is on average 38.1 percent lower than these ports.

And when you compare the rates for the draft per foot, we're on average of 39.9 percent lower than the competing ports. And it's no coincidence that, you know, in the 16 years since our last, you know, rate change, CPI has increased 39 percent.

So even though there is some organic growth as the ships get larger, we have fewer handles because more cargo is being carried on fewer ships. So the shippers have an economy of scale where they benefit from having fewer calls, but they're carrying more cargo in each transit in and out.

In the application, I presented the information from Jaxport that showed, you know, the increasing amount of, you know, automobiles, passengers, oil cargo, and containers is continually increasing despite the gradual decline in vessel numbers, because the vessels that are calling now, especially the container ships, are, you know, two times to three times larger than the ones that we're following in, you know, 2007, 2008.
With the opening of the new Panama Canal, the ship size for a container ship has gone from a 965-by-106 container ship that would carry around 4,500 TEUs, which is a measure of number of containers that they're able to carry, to now we're seeing vessels that are, you know, 1,145 feet long, 158 feet wide, and they can carry almost 1,200 [sic] TEUs. It's a huge increase, and our channel is still basically the same width. We are undergoing a dredging project which will eventually widen it in some areas, but only up to the Dames Point Bridge at this time.

But we're still going to have two-way traffic, so we're sharing the -- you know, the waterway with other vessels. So even though the largest vessels, they're taking up more room, which leaves less room for everybody else, so the risk increases for all vessels on the river, you know, with the two-way traffic.

Q  Let me stop you a minute there.

There was discussion by Mr. Law about a tier change and what impact that had. Can you explain a little bit what you know about that?

A  So the -- for vessel sizes, there was -- there's kind of a break around 10,000. Once you get
to 10,000 gross tonnage, there's not very many vessels that are 11,000, and then it starts to pick back up again.

The same -- I don't know how many -- maybe look, Mr. Law, but there are only a handful of vessels that are in the -- you know, between 39,000 gross tons to 41-, 42,000 gross tons. So it was a very small location to make a break.

And you're correct that there is a disparity between those two levels, but it was -- I think it's the most gentle one that we could come up with.

Otherwise, you'd have to do a formula that was just based on gross tonnage or some other formula that was spread out across all tiers, and there wouldn't be a separate tier system. Everyone would be affected all the way through.

Q Now, let me ask you very briefly about the retirement plan. Is the retirement plan a matter of contractual obligation with the pilots that have a interest in the retirement plan?

A Yes. It's a -- we're contractually bound to support, and we pay monthly to the retirees, and it's a contract that we cannot get out of. It's not something that we could not do. We would be subject to litigation.
Q And have you ever considered a funding plan?
A We have considered a funding plan. It's extremely expensive to make the transition because someone has to fund it.
So you would have to go back to either industry would have to fund it where they would be paying additional, say, 400 to $500 per vessel to put money into a fund that would then be used to pay retirees.
Q If you would -- really, I'm going to stop right there. No, no, I'm not going to stop. I haven't asked you this.
Q Did you prepare the application?
A Yes, I did.
Q Did you develop the data in support of the application?
A Yeah. I collected all the data from our scheduling program that we have, exported it all to Excel and then sorted through it.
Q Was the data that you put into the application accurate and complete?
A Yes, it was.
MR. MEROS: That's all I have.
Q No questions? Okay. So I would like to have Captain Cook step up.
CAPTAIN NATHAN COOK,

having been produced as a witness, testified as follows:

EXAMINATION

BY MR. MEROS:

Q  Captain, tell us your full name and your position with St. Johns Pilots Association.

A  Nathan Daniel Cook, and I'm president of the St. Johns Bar Pilot Association.

MR. MEROS:  And, Mr. Chair, this testimony will be limited to testimony related to communication with Crowley for purposes of this record at a later time.

CHAIR BENSON:  Okay.

Q  (By Mr. Meros) Have you had in the past, distant past or recent past, communications with Crowley relating to the original application filed and the revised application?

A  We have.

Q  Can you go ahead and please explain that to the commission?

A  Captain Kavanaugh, Captain Joe Brown and myself met at Crowley headquarters in Jacksonville, met with Cole Cosgrove, vice president, Crowley Shipping, Global Ship Management Division, and Captain
Gary Eckerd, the director of commercial operations for Crowley Shipping. That was January 4th of last year.

Q And last year being '18 or '19?
A '19.

Q Okay.
A We had a meeting at 2:00 at Crowley headquarters. During that meeting we brought to their attention that St. Johns Bar Pilot Association was going to apply for an application for a rate of change at the port.

They acknowledged this. Cole Cosgrove asked us specifically to give consideration to their new Conrail vessels, which Cole Cosgrove was the lead on. They've just been built. They are in the line of service, weekly service, servicing Jacksonville and Puerto Rico.

And he asked us to give them consideration during this rate application, and Captain Kavanaugh did an excellent job of providing that consideration.

Q And how was that consideration provided?
A We used the rate formula developed during the Port of Miami, the box formula, to minimize the impact on these Jones Act, US flag, US crew, US built vessels, to provide consideration during this.

Q After those communications, did you have
more recent communications with Crowley?

Correct. After the application was properly noticed, Captain Kavanaugh went around and met partners in the port. I had our office manager, Lee Adolph, contact Cole Cosgrove on December 17th and set up a meeting so we could meet face-to-face and discuss the application.

Let me stop you there. That's December 17th of this year? '19?


I'm sorry.

2019. So that meeting was set up at Crowley headquarters at 12:30, December 19th, 2019. Captain Kavanaugh and I arrived at the headquarters around 12:20, signed in with their office, very documented, regimented process of coming into the office. I'm sure it's been documented.

We waited for that meeting for 45 minutes. Repeated efforts to contact Cole Cosgrove the receptionist sent were unanswered, and after 45 minutes, Captain Kavanaugh and myself left.

Have you had any further communications with Crowley?

Again, I reached out to Cole Cosgrove. I got him on a phone call on December 23rd. I just
again made him aware that we had a rate application coming up in January, we wanted to meet with them, be up front, professional about the process.

We told him we were meeting with Tote Services on January 3rd, and I referenced our meeting on January 4th of 2019, where he asked us specifically to give consideration to his Conrail vessels.

I referenced that in that phone conversation. He agreed it would be a good idea to meet, and he would contact me with a date for that meeting.

Q What happened after that?

A Never heard anything from him. January 9th, sent him another email. He responded, setting it tentatively for January 14th, that afternoon, to meet with Captain Kavanaugh and myself to discuss the rate application.

And the morning of January 14th, I sent him an email confirming that. Still waiting for a reply.

Q Let me ask you a question that I was going to ask Captain Kavanaugh but I forgot, which is an increasing problem of mine.

But tell us a little bit just briefly about Fernandina and the size and the usage of Fernandina versus Jacksonville.
A Their traffic compared to ours is less than 5 percent.

Q And what types of vessels?

A Small bulk ships, small reaper ships.

Q Does Crowley call in Fernandina?

A They do not.

MR. MEROS: That's all I have.

CHAIR BENSON: Okay.

MR. MEROS: Excuse me. Maybe not.

And perhaps you've done this -- if I may switch to Captain Kavanaugh a minute.

Did you testify or can you show whether after the increase, the rates in Charleston, Savannah and Brunswick would be approximately $600 less?

CAPTAIN KAVANAUGH: I do. For the Crowley vessels?

MR. MEROS: Yes.

CAPTAIN KAVANAUGH: I have information, but it's not on --

MR. MEROS: Just briefly tell us about that.

CAPTAIN KAVANAUGH: So the proposed rate change would increase the existing rates after 16 years, total of $312.66, on average, for the Conrail vessels.
If these same vessels were to call in Charleston, Savannah or Brunswick, which would be the logical other ports they would call on the East Coast, they would be between $663 to $621 more for in and out.

So that's a significant amount. The Fiorella, the Varamo. There are other vessels that call Jacksonville. They are 548 feet long. They have a gross tonnage of 50,375. The rates for those would be -- they actually would be slightly more than what is currently charged in the competing ports, on average, $157 more, but it's still significantly less than the $657 for the Conrail vessels, which call twice per week.

So that's where we showed just a -- created a reduced rate specifically for those vessels after discussing our rate increase with one of our customers. We did our best to minimize the impact to those particular vessels.

MR. MEROS: That's all I have with this gentleman. And I would like to speak with Captain Mons.

CAPTAIN CHRIS MONS,

having been produced as a witness, testified as follows:
EXAMINATION

BY MR. MEROS:

Q Captain, tell us your full name and also go ahead and tell us your maritime experience.

A My name is Captain Chris Mons. I went to the US Merchant Marine Academy, graduated in 2000 with a Bachelor of Science in Maritime Operations and Technologies. I've been in the Port of Jacksonville coming up on 13 years.

Q And with the St. Johns Pilots, do you play a role with regard to communications equipment and other technical equipment?

A Yes. I'm one of the lead pilots on all things technology- and communication-oriented, orientation with PPU's and what we're using with our AIS technology to manage our traffic flow.

Q In the application there's reference to a, quote, "BTS," close quote, or an HMS. Can you explain what that is?

A Sure, yes. A BTS is a vessel traffic scheme or system, and it's typically put in place in the United States by the Coast Guard following a study that a water would require it to increase the safety and efficiency of vessel movement.

Every -- every few years they do a study in
Jacksonville -- it's actually probably closer to several years -- to see whether it would be required. We have developed a system over time.

Do you mind if I stand up by the board just to --

Oh, no. Please do.

CHAIR BENSON: Yes.

We just created an overview of the river in our port area. At the very top is the Port of Fernandina, and down here is our furthest -- our furthest port down here, Green Cove Springs. And there's the entrance to the St. Johns River.

The little red circle is our pilot station, and these red boxes are critical areas where you don't want two vessels to meet, whether it's really strong cross currents, narrow sections of the channel with the rock side, and where a vessel would be crabbing through, and you can't really meet two vessels there.

So out of the necessity for the safety of the waterway, we developed a multi-faceted system which includes AIS visibility of the entire river from not only the pilot's station, but each pilot carrying PPUs. So it's kind of like a mesh of information where all the vessels are moving.

And we have vessels checking in or doing a
security call on Channel 13 when passing those. And, of course, there's waterway users that aren't -- you know, aren't using pilots or necessarily tie into it. But as keepers of the waterway out there, we're letting them know as we pass, hey, there's an outbound ship; you might want to get on Channel 13. All commercial traffic will be on 13.

And then this station is manned 24/7 via VHF, AFKIS, email, taking phone calls, and anybody can call the pilot station at any time, get what the movement of vessel traffic is on the river, where it's at, when they should start in.

We have small tugs and barges come from all over that may not take a pilot, but they will call the pilot station ahead of time. They let us know what our inbound/outbound traffic looks like. We provide that information. It just makes their transit smoother.

Q Captain, let me ask you this question. Who paid for that?

A We did. We developed it solely in-house. It did take a lot of expertise and finances to develop, and it's continually being developed and updated.

Q Was that a significant experience to develop
that?
A Yeah. Yes, it was.
Q Were you compelled to pay for that or was that on your own?
A We were not -- it was just for the benefit of the river and waterway.
MR. MEROS: That's all I have.
Chair, if I could have five minutes, I think we have one more witness that will be relatively short, but I want to speak to him for a moment.
CHAIR BENSON: Sure. Take five minutes.
(Off the record)
MR. MEROS: Okay. We're going to have our next witness present, and then I think we have a couple questions before we start.
CHAIR BENSON: Sure. You can proceed.
CAPTAIN JOSEPH JAMES BROWN, having been produced as a witness, testified as follows:
EXAMINATION
BY MR. MEROS:
Q Captain Brown, tell us your full name and your maritime experience.
A My name is Joseph James Brown. I'm a 1981 graduate of New York Maritime. Graduated with a
1 Bachelor of Engineering in Electrical Engineer.
2 I went to sea from that point until 1994.
3 1990 to '94, I sailed as master on a tanker. '94, I
4 became a pilot. I've been a pilot for 25 years here
5 in Jacksonville, and I have over 7,500 trips on this
6 river.
7 Q Have you been involved in the training of
8 new pilots as they come in as a deputy pilot?
9 A Yes, absolutely. I've trained most of the
10 guys and I helped prepare (indiscernible).
11 Q In recent times, have you noticed any
12 changes in the level of experience of individuals that
13 come in as deputy pilots and hopefully as full pilot?
14 A Well, years ago, when I came in 25 years
15 ago, we were required to have an unlimited master's
16 license to commit to this port. That's since changed.
17 The standards have been lowered throughout the state
18 to basically a second mate with a year sea time.
19 So we're seeing candidates of various
20 experience now. And with lesser experience or no
21 command experience, you're seeing a longer training
22 program.
23 Q So tell us just a little bit about the
24 training program and the costs of the training
25 program.
So it's a -- it's gone up to a two-and-a-half year program now. It's almost three years, yeah. And a lot of that is to address the larger vessels we have. To gain that experience, it's riding hands-on with experienced pilots, learning that.

We're doing simulation. We're doing manned model schools in the United States and overseas, like Port Revel, which is like the gold standard in the world for ship handling, you know.

And all this and constant -- constant challenging of our pilots, you know, through their training program as they advance to that level, and they have to provide proficiency to advance to the next level.

What type of financial investment does it take to train these pilots?

Well, you know, the first number of months they're earning a salary and not generating any income. So that's -- we've had -- you know, plus, in our training program over the years, we've had two pilots wash out.

And you're talking about a year of salary, a year of time and effort, and then all of a sudden we're set back now two to three years of getting a new
pilot.

So that's a cost to the association. It's an expense, you know, in our simulation training and, you know, maintaining a person for a year. So everything we do costs money, obviously.

MR. MEROS: Okay.

Chair, I believe that's it with Captain Mons. And if members want to ask any questions, we can just bring them up to the table.

CHAIR BENSON: Ms. Kurtz, do you have a question?

COMMISSIONER KURTZ: Yes, I have a question for Captain Mons.

CAPTAIN MONS: Yes.

COMMISSIONER KURTZ: So you talk about carrying a PPU. So it's a portable navigation system that interfaces with the ship, correct?

CAPTAIN MONS: Yes.

COMMISSIONER KURTZ: Yes. And how much does that unit cost?

CAPTAIN MONS: It's about $6,000 per pilot.

COMMISSIONER KURTZ: Okay. So you have how many -- so you have 14 pilot?

CAPTAIN MONS: 14 pilots, correct.

COMMISSIONER KURTZ: You probably have a
couple of extra?

CAPTAIN MONS: Yes.

COMMISSIONER KURTZ: So I can't do that math, but -- so, yeah. So that's like -- yeah, around $100,000 that you guys had to fork over just for your own personal -- to be safer in all that.

CAPTAIN MONS: Yes.

COMMISSIONER KURTZ: So did you have funding for that or you guys just -- you paid for that yourself?

CAPTAIN MONS: No, we paid for that ourselves.

COMMISSIONER KURTZ: And do you pay an annual maintenance fee for those?

CAPTAIN MONS: Yes. Actually, yes, we do. We pay an annual maintenance fee for upgrades to the software, maintenance of the software, inputting the latest Army Corps of Engineers survey data into the software on a quarterly basis.

COMMISSIONER KURTZ: Yeah. And then I know -- you know, we use those too, a similar system probably in Tampa. We're on about a three-year renewal cycle. How often do you have
CAPTAIN MONS: Well, we actually -- we have not replaced them yet. We're doing a maintenance cycle on them, but they're still the original units that we purchased.

COMMISSIONER KURTZ: Right. Which is how many years ago?

CAPTAIN MONS: It's six years now.

COMMISSIONER KURTZ: Okay. So that's probably coming that you'll have that expense again?

CAPTAIN MONS: That's correct.

COMMISSIONER KURTZ: Okay. I was just curious. Thank you.

CAPTAIN MONS: Thank you.

COMMISSIONER JACCOMA: I'd like to ask a question. Is this the only chart or example of the waterway that we're going to see here? Is there another one?

CAPTAIN KAVANAUGH: That should be it.

COMMISSIONER JACCOMA: If you could, could you please show me like the locations of the various docks that customers use?

CAPTAIN MONS: Sure. Mr. Chairman --

CHAIR BENSON: Yes, by all means.
COMMISSIONER JACCOMA: I know we were on the boat the other day, but just seeing it here might be a little easier.

CAPTAIN MONS: Yes, absolutely.

So the red dot, that's where we started out. We ran out the jetties out here to about Buoy 3 and 4, turned back around, and this is coming back down through Mayport, the Coast Guard station where the Sunbeam shrimp trawler is down the way from.

Mile point is this state turn with the Intracoastal Waterway, and that's the first little shipyard, the AD Systems. Then you come up through training wall, short-cut turn, and this -- this area right here, this is Blount Island. You have Blount Island Command, our busiest container terminal, Blount Island, as well as car berths and (indiscernible).

Where 295 crosses out at the Dames Point Bridge that we went under, that's a restriction for air draft with regard to larger vessels trying to get up river from that.

Right on the other side of that is TraPac. That's where a lot of the post-Panamax container vessels are going currently.
This is a car berth. Plus we have the cruise ships, the Austin Terminal. And then up the river, this section, all the way to about Talleyrand, is mostly bulk products and oil terminals that are past one of the tanker docks. And then right -- this furthest container terminal up here is Talleyrand Jaxport Terminal. That's where the Crowley vessels would go. There's a paper warehouse up there as well as the Southeast Toyota Distributorship. And then at congruent points sitting in between these two points down here is North Florida Shipyard. And then once you get past that, there's small stuff that goes to the Jacksonville Landing. You have small passenger vessels there. And then you have like barges and like little Caribbean island runners that will come out here that will come out in Green Cove Springs where shipyard carriers (indiscernible).

COMMISSIONER JACCOMA: So then the furthest in container operations that you have is Talleyrand?

CAPTAIN MONS: That's correct. Yes, that's the furthest one.
COMMISSIONER JACCOMA: And that's where --
who is the customer there?
CAPTAIN MONS: That's Crowley.
CHAIR BENSON: Captain Kavanaugh, I have a question with regards to the proposed rates.
You have the $115 of fixed charges, and that is across the board. Is any consideration to some of the large -- smaller vessels?
Jacksonville was at $457 and $115 rate for that versus the larger vessel, which is like 3,500.
Any consideration in terms of, you know, modifying the flat rate to have less of a pop to the smaller vessels?
CAPTAIN KAVANAUGH: The smaller vessels in Jacksonville have been getting charged. When you compare what the minimum charge is for Charleston, which is $1,300, that's their minimum charge, plus they have another $75 fuel charge added on.
Our minimum charge right now of $457 really wouldn't cover the cost to take someone out and put them behind a vessel off a sea buoy.
If you called Sea Tow Jacksonville right now, they probably wouldn't take you out because it's really rough. But assuming it was a nice
day, they're going to charge you $300 per hour with a one-hour minimum.

So a minimum of $300 during the day, during daylight, and at night they're going to charge you $400 per hour, and then smaller boats that are 26-feet long that aren't all weather and they're not designed for transferring passengers.

But just -- there is a cost with us just to get out to the ships, and $457 maybe barely covers us getting out there, but it doesn't cover our next two or three hours of our, you know, transit inbound.

CHAIR BENSON: I'm sure the hundreds of pages of documents we have, it's in there, but what percentage of your volume in terms of handles with the smaller ships?

CAPTAIN KAVANAUGH: There's not that many, honestly.

Maybe, Mr. Law, do you have that number?

MR. LAW: It's in Exhibit 2 and 3.

CAPTAIN KAVANAUGH: I don't have that with me.

CHAIR BENSON: Okay. I'll take a look at it at the break.

You're looking at that relative to what it
costs you to provide the service?

   CAPTAIN KAVANAUGH: Yes.

   COMMISSIONER ASSAL: Pertaining to the equipment, that is already a cost that's already in your operations today. Correct me if I'm wrong.

   CAPTAIN MONS: Yes. As far as the PPUs?

   COMMISSIONER ASSAL: Yeah. I mean, that's a cost that you've been incurring for the past six years.

   CAPTAIN MONS: That's correct.

   COMMISSIONER ASSAL: Or longer in some pilot stations. So that's not something new or a cost. That's already standard in your operations, right?

   CAPTAIN MONS: Yes.

   COMMISSIONER ASSAL: We all have that in our different businesses. And if we have to get things that makes it safer and better for our pilots and the vessels and the waterways, we're going to do that anyway. So there's already a cost that's built into it. So whether they get new upgrades, we all have that expense that's already built in.

   But the system is great and having it open
to the public to be able to become safer for you
and pilots, for the vessels, I think is great.

But one of the biggest things that I have,
Chair, and to everyone here, is that whether it's
Crowley, whether it's the cruise lines, whatever,
the shipyard, you guys are a vendor of theirs
that's mandated by the state and required to have
certain pilotage and so on.

For a year he said -- the president said
he's contacted Crowley. Has Crowley or any of
your customers known about or discussed what is
fair for you guys as the pilots looking for an
increase?

Do you know, Captain Kavanaugh?

CAPTAIN KAVANAUGH: What do you mean, did
they --

COMMISSIONER ASSAL: What I'm asking is -- I
guess let me get specific.

Did you discuss with any of your customers,
your Crowley, cruise lines, whatever customers
you have, what you would be looking for in a rate
increase that would be fair to bring to the board
to make that decision that we might feel might
not be fair for both sides?

Did that -- did you have ever discussions
with your customers, the third-party customers
that are going to pay for these rate increases,
about the cost or what you were looking for for
increases?

CAPTAIN KAVANAUGH: Yes. We spoke with
Carnival. We spoke with Tote Maritime. We spoke
with TraPac, which is another large container
terminal, and those are the people we spoke with.

So are you asking how much of a rate
increase is reasonable, or are you asking us --
what exactly is your --

COMMISSIONER ASSAL: Well, I actually --
yeah, I'm asking you, did you discuss specifics
of what you felt might be needed to help you as
pilots, what would be an adequate increase that
you might be able -- that they know what they
might be incurring?

CAPTAIN KAVANAUGH: Well, I guess rates,
pilotage rates, which are set, you know, they're
set in different states by different boards. But
the average rates are what were -- I guess
comparing our rates against, and our rates are
39, 40 percent lower than the rates charged in
other comparable ports.

And so we did not go and seek a 40 percent
increase, you know, for our -- as a rate increase when, according to Mr. Law, I think it's about a 25 or 26 percent increase just based on the rates, as far as what the rate increase would be. And then we requested a 2 1/2 percent increase per year for ten years following that, which would give the customers -- they have cost stability.

They know how much it was going to be for each year thereafter, because, you know, we realize that our customers, the shipping lines, they will eventually pass on the pilotage costs whether it's on a per-container, a per-ton, a per-passenger, per-vehicle, they will pass that on to their users, to their customers.

COMMISSIONER ASSAL: I guess that means the answer to the question is no.

CAPTAIN KAVANAUGH: Well, I still don't -- COMMISSIONER ASSAL: I still haven't gotten the answer to the question.

What I'm asking is, does the customer -- and all the stats that you just brought to me, we already know.

CAPTAIN KAVANAUGH: Okay.

COMMISSIONER ASSAL: We've already seen
them. And I have no problem. I'm not talking about other cities because we're talking about Jacksonville pilots' rate and viewpoint, right?

So my concern, did we talk to the customers?
Yes, Mr. Customer, you're going to get an increase. How big of an increase? What are we talking? I mean, did we have specific conversations with our end users?

One of the biggest challenges that I have, Chair, is that we -- I think everyone needs a raise. I'm in the service world. I'm in the business world. And I think it's how we approach our customers to ask for an increase determines, but we're being asked as a body to basically just validate whatever everybody wants, which is unfair for businesses as well.

And just like if you have to do something and there's only certain people that did it, and say, oh, no, your rate increase just tripled to those radio communications, and you don't have a choice or you drop it.

We're talking about, did we talk to the customers specifically and ask, by the way, Mr. Customer, based upon what we're requesting from the board or from the body, your rate's
going to go up probably around 10 percent, 20 percent, 30 percent?

Then we could make a decision instead of having to be forced to make what we felt is correct.

CHAIR BENSON: Okay. Let me say this. What I'd like to do right now is ask questions of anybody who's presented anything. Okay?

COMMISSIONER ASSAL: Okay.

CHAIR BENSON: We're going to get into deliberations at the end --

COMMISSIONER ASSAL: Okay.

CHAIR BENSON: -- and then everybody can put on the table exactly how they feel about the position, the approach, and the factual content.

What I want to make sure is, while we have the pilots here and the pilot representatives, ask any questions you have in a statement of fact or something else that may or may not have been covered, and then we'll have other affected parties go and then call for deliberations.

COMMISSIONER ASSAL: I apologize. I'll wait till deliberation.

CHAIR BENSON: Okay. Anything else from the
pilots?

MR. MEROS: No, sir.

CHAIR BENSON: Okay. Thank you very much. Okay. I don't know that we need to take a break right now. If we do it after the first presentation -- we will, but now we'll invite any other affected persons that want to make a presentation in connection with this rate hearing. If you want to come up and identify yourself.

Please identify yourself and then you can have the floor.

MR. THORNTON: I will. My name is Terry Thornton, T-H-O-R-N-T-O-N. I'm senior vice president of Nautical and Port Operations for Carnival Cruise Line. I'm a 43-year veteran for the cruise industry, 33-year veteran with Carnival Cruise Line.

Part of my responsibilities now is I have responsibility for the Operations Center in Miami that supports our 27 ships year-round, 365, 24 hours. Provides all support for our ships. So that's one of my responsibilities.

So I just want to maybe make some differentiations between ourselves and a cargo
operation.

For those of you who don't know, we have a home port here in Jacksonville. It does about 80 cruises a year. It brings 200,000 people to the Jacksonville area. The research has shown that we provide a hundred million annual outgoing benefit to the community and over 500 jobs.

So from our standpoint, it's a real different operation than the cargo. We've been here since 2004, and we've continued to support the port and grown the size of our ships to the point where our only restriction right now is the Dames Point Bridge of bringing a bigger ship.

So we've been here for the long haul, and we're the only cruise operator in the Port of Jacksonville. And I just want you to understand from our perspective a little bit about the Carnival brand and the Carnival customers so you understand.

We are a very mass-market cruise line. Our guests are not wealthy. They expect a very affordable cruise price for their cruise. And in order for us to be profitable, that puts a heavy pressure on us controlling our costs.

So while I fully understand everything that
was in the report and everything that's been presented today, we don't take lightly the kind of cost increase that we're facing with these increases.

We did have a very productive conversation with Captain Kavanaugh, and we did lay out some alternatives for his consideration. We couldn't come to an agreement, but I would like for the committee to consider at least what we had proposed and see if that could be at least under consideration.

Our construction, because we are part of Carnival Corporation, that's our large corporate holding company, we have nine different cruise brands, over 105 ships around the world. We are a New York Stock Exchange traded company.

And I think all of us that are in business today know what the New York City Stock Exchange expects: What is next quarter's earnings? And so we really have to deliver, and that's why we're laserly focused on our costs.

I don't mean this in any kind of threatening way, but we evaluate the profitability of each of our ships in the home ports we operate continuously. And our ships, unlike hotels, are
movable assets, and we do have the ability to move our capacity and our assets around based on where we think will drive the most profitability. And so, like I said, I don't mean that in a threatening way, but I just want it to be considered, as the committee considers this, that that is a risk.

So in rounds numbers, I was surprised actually reading the report, that we were the sixth -- or the fourth largest revenue-producer for the pilots, at $600,000 a year.

Also, if I understood the report correctly, the revenues from the port, I think in 2019, are going to be about $9.8 million revenue, not income. If I understood the increase correctly, that's going to go to 11.5 million in 2020 depending on usage by January 1. That's about a $1.7 million increase.

If the Carnival operation should leave, 600,000 would go away and it would reduce the increase by a third of what you're proposing.

So, again, I don't mean this is a threatening way, but I just want you to understand the magnitude of what we're talking about from our operation.
So what I would like to propose the committee consider is that we would accept the approximately 20 percent increase. What we would like is time to find efficiency to get the operations funded, and we'd like that not to be implemented until January 31st of 2021. So we need time to find efficiency in operation that help offset this cost to us. So we'd like the time to figure this out.

As an example, our cruises are very heavily booked already for 2020. So we have a very limited opportunity to mitigate the increase in any changes in our revenue structure.

The other thing is, then, the 2 1/2 percent CPI increase over a ten-year period. You have to understand from our business perspective, I understand your business is very different, this is a monopoly that we're dealing with the pilots. There's no other business that I know that can mandate a 2 1/2 percent in their revenues no matter what happens in the business.

And so that's a little difficult for us to understand, and a little bit harder for us to plan in advance to mitigate that.

So we do understand the need for an
increase, and so what we propose is for the committee to consider a 1.5 percent increase a year for over the ten-year period.

Again, that will provide us a better opportunity to find mitigating offsets to the increase and allow us to continue to operate effectively in the Port of Jacksonville.

I did not say one thing I should have said. We get tremendous support from the pilots here in Jacksonville. We're going to have a challenging day tomorrow. Our ship is coming back to the port tomorrow. We're experiencing about 50-knot winds coming back to Jacksonville. I know it's going to be a very challenging situation when the ship arrives tomorrow.

But the pilots are there for us when things are good. They're also very supportive of when things are not so good. If we have a medical emergency, if we have a technical problem, if we have an issue that we have to deal with, they've been very supportive of our operations. We're very appreciative of that.

So with that, I'd like to -- can you at least consider our comments? And I'll be happy to answer any questions you might have.
COMMISSIONER JACCOMA: I'd like to know what is the cost per passenger due to the increase? Have you done any math to determine what the costs are going to be?

MR. THORNTON: Round numbers, it's 40 cents a passenger.

COMMISSIONER JACCOMA: 40 cents per passenger is the cost if they get the increase?

MR. THORNTON: That is correct. That's the cost of the increase.

COMMISSIONER JACCOMA: The cost of increase. Is that passed directly on to the passenger?

MR. THORNTON: Let me explain that, because I ran revenue management for Carnival Cruise Lines for a long time, so it's all the pricing across everything.

So the way we look at our business is how many passenger days we have. So across our whole company, we have 25 million passenger days. So you could say, Terry, what if you just added one dollar to the price of the cruise? You would put $25 million to our bottom line.

Well, it just doesn't work like that. Our guests, when they buy their cruise, they pay us a price for the cruise. They pay us a passenger
cost for the things you're talking about. They
give us a credit card for one number. That
affects how much they pay for the cruise.

So even if the price for the cruise went up
by 40 percent, or 40 cents, I can guarantee you
it will have an impact on what we charge for the
cruise.

I know how silly that sounds, but I did this
for a number of years, and like I said, if we can
increase the price of our cruise by 40 cents, we
should be doing it now. It just does not work
that way.

COMMISSIONER JACCOMA: Another question.
What is the name of the ship?

MR. THORNTON: Carnival Ecstasy. It had
been Carnival Elation, but we changed last year
to Carnival Ecstasy.

COMMISSIONER JACCOMA: Is that ship
approximately 30 years old?

MR. THORNTON: Just under 30 years. About
26.

COMMISSIONER JACCOMA: So how many years do
you expect useful life out of that, and if you do
replace it, will it be another vessel that can
fit inside that berth?
MR. THORNTON: We have eight of those ships under Carnival Ecstasy class. The oldest one is Carnival Fantasy. It came out in 1990. Its home port is Mobile, Alabama.

I can tell you as long as you continue to invest in the features that this ship has, obviously keep it well maintained and you pay close attention to the crew that you put on a ship, there's really a very long life of these ships.

So our ship, the Carnival Fantasy in Mobile, our oldest ship, has some of the highest guest satisfaction at our company, including our new ships.

And what's that about? We continue to invest in the slip, and our crew does a fabulous job of giving people what they want on vacation. So the answer to your question is it can go on for a long period of time, as long as we do those things well.

And we continue to invest heavily in the ships in all aspects, not only all the technical things that we need to do, but also the guest features and things people want on their vacation.
So the next step for Jacksonville, we had talked a long time ago about developing a new port in Mayport. And for good reasons, the public and the local committee didn't feel that was something that they wanted at the time.

In order to bring a bigger ship, we can't fit under the bridge with a bigger ship than we have, Carnival Ecstasy, so we have to think about additional kind of investments somehow on infrastructure to allow for a bigger ship to come.

We'd be interested in that as a company, I can tell you that. But at this point it's not feasible because of the Dames Point Bridge constraint.

CHAIR BENSON: Any questions?

COMMISSIONER RUSSO: Like where Michael was going on this, but while you were talking I was doing the same kind of math and came up with a little bit different answer than you're saying.

Is the Carnival Ecstasy the only ship you bring in this port?

MR. THORNTON: It's the only ship we have in this port, yes.

COMMISSIONER RUSSO: And how many passengers
are you going to bring in?

MR. THORNTON: Well, just under 200,000 a year.

COMMISSIONER RUSSO: Per ship?

MR. THORNTON: For that ship, yeah.

COMMISSIONER RUSSO: Per ship, per entrance, per trip.

MR. THORNTON: No. Each ship is around 24-, 2,500 per trip.

COMMISSIONER RUSSO: Right. And the increase per trip if this rate increase goes through is what?

MR. THORNTON: 40 cents a passenger.

COMMISSIONER RUSSO: No. What's the total dollars?

MR. THORNTON: In and out, if you combine them both, so if you have to do that, it's a $1,200 increase.

COMMISSIONER RUSSO: $1,200?

MR. THORNTON: That's correct.

COMMISSIONER RUSSO: I'm sorry. How many passengers per ship? On that ship?

COMMISSIONER RUSSO: Yes.

MR. THORNTON: Per trip, about 24- or 2,500 per trip.
COMMISSIONER RUSSO: Mr. Law, could you just double check that and let me know if that's correct before you censor something significantly less or significantly larger?

MR. THORNTON: It's approximately $90,000 in an increase for the whole year, across the 80 voyages.

MR. LAW: So the $1,200 divided by 2,400 passengers is 50 cents.

COMMISSIONER RUSSO: Good. Okay. Thank you.

MR. THORNTON: As I said, I did have very a productive conversation with Pilot Kavanaugh, and so we just could not agree on my proposal that I just laid out for you.


MR. TWaits: Nice to be back.

Mr. Chairman, Commissioners, thank you for the opportunity to be heard today. We've been over some of these notice issues. I was glad to hear that the pilots reached out back in January of 2019 to Cole Cosgrove and
tried to reach out to him again in December. It was an interim period of ten months, none months, where we didn't hear from the pilots.

And during that time, October 1st, there was an application filed, a statutory publication. We were not aware of it. Maybe that's on us, but it would have been, I think, helpful to us and helpful to the commission if there had been continued outreach on the actual application and the fact-finding meetings that were held in November and December, which we were unaware of, and which, I think, would have benefited all of us.

I think, as been stated in the past, it's of benefit to the commission board in making its judgments that the cruise is hurt and certainly the cargo is hurt. And Crowley is one of the major operators here.

It seems telling to me that my understanding is during the fact-finding meetings in November, December, the only participants were pilots. We would have participated had we had better knowledge.

So I think that's an effective notice issue here that hopefully will be improved with better
regulation, better communication. Maybe better regulation.

So we've done our calculations. I've heard a lot of numbers. Mr. Law, we've been -- tried to review your report as best as we could in the short period of time we had as well as the application.

It's been, from what we could tell, a meaningful increase of $478,000 earnings for the most recent year projected to be $564,000 for 2020, under the proposal. And with the 2.5 percent increases each year, the number goes up to over 600,000 in 2030. When you add benefits, it goes up to 700,000.

So we too are concerned about the 2.5 percent increase, and we request that the commission, the committee members, take a hard look at that.

The proposal, again, according to our calculations, is 23.2 percent above the CPI increase of 36 percent from 2004. In other words, it's above and beyond the CPI increase of 36 -- our calculation was 36. I heard 39 percent earlier today. It's -- the proposal itself will be 23.2 percent above the CPI from 2004.
A 36 percent CPI increase, again, from our calculations, would mean about a $7,000 increase in earnings as opposed to what we see as an $86,000 increase with that additional 22.3 percent.

We love the pilots. We love the job they do. But we would request the board to take a hard look at those numbers and that increase as well as the 2.5 percent increase over time.

Simply applying the CPI average revenue, apply the CPI increase of 36 percent, we get an average revenue of $2,166 per handle.

Applying the proposal, the average handle goes up to 2,669. So you can see there's a significant difference between CPI and the proposal. We are wondering why such a large increase.

We understand, although there hasn't been an increase since 2004 in the rates and the formula, we've heard today that there's been organic increases based on the size of the vessels, and the pilots' rates continue -- the pilots' earnings have continued to increase.

Is there an attempt to shift the burden to smaller vessels? It seems there is. Crowley has
two Conrail vessels. And we appreciate the discussion surrounding that in the beginning of 2019 apparently, and by our calculation, the increase for the Conrail vessels, our two newest, largest vessels go to Puerto Rico, is 12 percent. However, we have smaller vessels at the port that go to other points in the Caribbean and Central America, and the average increase there is between -- will be between 51 and 57 percent for those vessels, meaning $184,000 per year increase in total.

So the impact on Crowley in one year under the proposal is 184,000, and build after that.

We've heard and we saw in the report and the application that the Neopanamax super-sized vessels, cargo vessels, are a significant part of the justification for the increase. And we're wondering why that's being done now.

We think it's premature. The dredging operation will not be complete, our understanding is, until sometime in 2021, maybe going into 2022. And so the Neopanamax vessels will probably not be able to come into the port until 2021, 2022.

So, again, we think that the pilots could
come in when it's closer to time when we see the reality of the Neopanamax vessels and ask for an increase for the pilot boat, which they want in order to serve the bigger vessels.

The costs, and I think it's been alluded to earlier, for the new pilot boat for the Neopanamax vessel is 2.6 to $4 million.

It's all captured in year one rather than serve the financially or commercially more normal way to expense something over life of the boat, say, 10 years, 10 to 20 years even.

We're wondering, I guess, why we're seeing that cost built into the rates now and whether the amount is correct and speculative.

I guess finally going back to our old fun topic of pension costs, we're concerned about the unfunded pension scheme that's here. A significant portion of the increase goes to the retired pilots. We're wondering how that serves the current users of the port.

Our understanding is that out of the increase under the proposal, it would essentially be about $40,000 on the average, a $40,000 raise, if you will, to the retired pilots, retired pilots, getting them up to about $225,000 per
year in pension costs.

So I guess what we're hoping to see the committee and the board do is take a longer and deeper look at the pension costs. I think the committee and the board has benefited from Mr. Law's view, but could benefit further from an actuarial look at what's going on and what makes sense here and compare it to other pension plans. And so we think that, again, look at rates that are more in line with the CPI, less than -- look at less than the 2.5 percent increase on a yearly basis, and do not approve the proposal until these costs are better understood.

And we ask that you give users besides Crowley, other users, a little more time to give you their input and impact on their operators.

Thank you.

CHAIR BENSON: Any questions?

COMMISSIONER RUSSO: Just don't want to drill down to the same analytics here with regard to unit costs.

The firm you represent, Crowley, I might understand, their primary customers are containers and cars?

MR. TWaits: Yes. Well, containers mostly,
and cars.

COMMISSIONER RUSSO: And cars.

MR. TWAITES: As far as either roll-on roll-off or in containers. Correct.

COMMISSIONER RUSSO: Have you done the analytics in terms of what the increase will be per container or car?

MR. TWAITES: We can do that. I don't have that with me. By the way, I have the statement mentioned. I can supplement the statement with that information, but we do know what the total impact is, which is $184,000.

COMMISSIONER RUSSO: Right.

MR. TWAITES: But per unit, I don't know that --

COMMISSIONER RUSSO: Well, we know what it's going to be per --

MR. TWAITES: -- we can get that.

COMMISSIONER RUSSO: Well, we know what it is or you should know what it is per trip in and out, and you know how many containers on a vessel. You know how many cars are on a vessel. Mr. Law, put you on the hot seat. Or maybe you should confirm his math, but that's -- maybe as we proceed, you can provide that information
to us.

MR. TWaits: We have a 184- backup in what
we submitted yesterday.

MS. McNULTY: May I interject?

That was not given to people because nobody
has a -- I don't have a copy of that. I don't
believe that's been distributed to --

MR. TWaits: Can I give you a copy of the
statement for the record?

CHAIR BENSON: That, or if you want to
disseminate the information that's in that
statement, then we will take the statement
itself. But, yes, why don't you share that with
the group as opposed to submitting it without us
knowing what's in it.

MS. McNULTY: I don't know how long it is.
Are you going to read it into the record?

MR. TWaits: Yeah. Could I prevail upon you
to take it and make copies and distribute it?

CHAIR BENSON: At the break we can make
copies. We'll take it and at the break we'll get
copies and we'll look at that prior to our
deliberations.

MR. TWaits: Thank you.

MS. McNULTY: Make sure that the committee
has it as well as pilots.

CHAIR BENSON: Okay. Anything else?

COMMISSIONER JACCMA: I would like to ask, the vessels you have, some of those are US flag vessels?

MR. TWAIT: The Conrails are US flag. The two larger, L and G, very modern vessels, are US flag, Jones Act vessels.

COMMISSIONER JACCMA: So they're Jones Act vessels?

MR. TWAIT: Yeah. And then the smaller vessels are foreign flag vessels, the vessels that go to the Caribbean, not Puerto Rico, the Caribbean and Central America.

COMMISSIONER RUSSO: And with the Jones Act cargo you carry on that, are you able to pass that cost on to your customer?

MR. TWAIT: You know, you try. You're in competition. We have -- we're in competition with the services out of the Gulf as well. Eventually we try to catch up, but it's not an immediate -- you know, we don't have a surcharge for this. We'll look at it and we will attempt to catch up.

COMMISSIONER RUSSO: You don't know offhand
what that cost per container would be?

MR. TWaits: And I guess, if I can answer further, most of our contracts are one-to-two years in length. So the catch-up period is generally one to two years, at best.

COMMISSIONER KURTZ: I heard you ask a question about cost per container, though.

COMMISSIONER JACCOMA: Yes.

COMMISSIONER KURTZ: Can you address that?

MR. TWaits: I can address that, not today. I mean, I can address that later. I don't have that with me.

COMMISSIONER ASSAL: The new L and G vessels, how many containers do they carry?

MR. TWaits: 2,000 --

COMMISSIONER ASSAL: 2,000?

MR. TWaits: 3,000 --

(Simultaneous cross-talk)

COMMISSIONER ASSAL: How many times a week do they come in?

MR. TWaits: Once a week.

COMMISSIONER ASSAL: Once a week. So we're talking about 4,000 containers at 52 weeks, even if we did 50, that's 200,000 -- that's 200,008 to be exact.
Am I pretty close on that math? 200,008, and the increase is what, 180,000?

MR. TWaits: Yeah, 184-.

COMMISSIONER RUSSO: You're talking about less than a dollar.

COMMISSIONER ASSAL: No, no, no, no. Yeah, that's correct. You're right.

MR. LAW: 90 cents.

COMMISSIONER RUSSO: 90 cents. Thank you.

COMMISSIONER ASSAL: 90 cents? All right.

MR. LAW: I'm considering not every ship has full capacity.

COMMISSIONER ASSAL: Not every container's got product in full.

COMMISSIONER RUSSO: But it's just a guide for now. We'll see how this goes.

COMMISSIONER ASSAL: It's a dollar fifty.

COMMISSIONER KURTZ: A dollar a container.

COMMISSIONER ASSAL: Okay.

CHAIR BENSON: Anything else?

COMMISSIONER ASSAL: That's all.

CHAIR BENSON: Okay. Thank you for your comments.

MR. TWaits: Thank you.

CHAIR BENSON: Any other affected party
persons out there that want to make a statement?

   How about public comments?

   Yes.

MR. LAW: Can I make an observation?

CHAIR BENSON: Yes.

MR. LAW: The new pilots' boat will be depreciated over ten years. It's not going to be recovered in year one. I just want to make sure.

COMMISSIONER JACCOMA: I thought I said that.

(Simultaneous cross-talk)

COMMISSIONER RUSSO: Good. Thank you, Richard.

CHAIR BENSON: Any other public comments?

Okay. We're going to take -- what time is it now? 11:30. We're going to take a break for lunch and get back at 1:00 for deliberations, and we'll start promptly at 1:00.

(A break was taken from 11:30 a.m. to 1:00 p.m.)

CHAIR BENSON: Okay. Folks, I have 1:00. We said we're going to start promptly.

I would like to acknowledge the fact that the committee members all received a copy of the January 21st letter from Crowley. And we also
received copies of the various exhibits from the pilots that we have in front of us for our reference as we go forward.

I believe the pilots would like to put something on the record. Yes, sir.

MR. MEROS: Yes, sir. George Meros on behalf of the pilots. Thank for your time.

The pilots prepared this application with the greatest care to comply with all the statutory criteria. The pilots stand by the application as it.

That said, if the committee elected to delay implementation of the rate increases until July 2020 as to all port users without discrimination among different port users, the pilots would not object to that, but that is simply entirely up to committee.

CHAIR BENSON: Okay. Thank you. That was July, you said?

MR. MEROS: July 2020.

CHAIR BENSON: Okay. Thank you.

Before we get into some of the detail here, and by no means am I concluding this before some active discussion and a determination from this committee, I want to thank my fellow
commissioners, our staff team, our attorneys, and everybody that participated in this process.

I know it's very costly both in time and expense to go through this process, and I was very impressed with what we saw and what-have-you, and hopefully this will come out with a fair and reasonable determination. But they want us to make a determination, but didn't acknowledge the fact that there's been a lot of people who have put in a lot of work on this, so I thank you very much.

And with that, we have -- we're going to shift to the deliberations side of our meeting. And there's two things we need to do.

There is going to be just some active discussion among the commissioners in terms of our thoughts and whether or not we're going to accept this particular rate request as presented or modified; and the other is going to be Donna McNulty, our counsel, is going to walk us through the various factors that we are to remind ourselves is going to drive this decision, and we're going to go through each factor to document for the record when she comes up with her write-up of what we decided.
So from the commissioners' perspective, do you want to have a general conversation first? We'll walk through these factors and then open it up for discussion and deliberations.

COMMISSIONER RUSSO: Yes, I'm interested in counsel's perspective. Thank you.

MS. McNULTY: Okay.

As you-all are aware, this -- you know, the legislature has laid out all the different factors that were mentioned a little bit earlier in my opening presentation, that you consider the following factors when you actually determine the rates.

So, you know, from Mr. Law's report, it's laid out according to those statutory factors for your consideration.

So my suggestion would be to -- we'll go factor by factor. And I think it would be best, if you're open to it, to vote on each factor as you get to it and see if you -- you know, look at the report, see if that -- you're okay with that evidence.

If there's something that you think needs to be modified or discussed, that would be an appropriate time to do that prior to your voting
on the factors.

Are you open with that?

COMMISSIONER RUSSO: Sure.

MS. McNULTY: So if you could turn to Mr. Law's report. On the first fact you would have the summary. As you know, he went through that this morning.

But the first factor regards -- is the public interest -- regards the public interest, so, "The public interest in having qualified pilots available to respond promptly to those needing their service." And that is on page 7 of the report.

CHAIR BENSON: We're going to entertain a motion to approve the fact that we've been provided with supportive documentation.

MS. McNULTY: Well, or if you agree with the assertions on page 7 supporting factor No. 1, and if there's something you want modified, this is the time that you raise it, because this is the basis and support for your ultimate decision; because, again, these are the factors, including there's one that's like a general that says, "Other" that you're looking at, and these are what will support whatever rate you ultimately
come up with.

COMMISSIONER JACCOMA: So we need a motion then to accept it?

MS. McNULTY: If you don't have any questions, sure.

COMMISSIONER JACCOMA: I'll make a motion to accept item 1 of the investigative report as written.

COMMISSIONER RUSSO: I'll second that.

CHAIR BENSON: All those in favor?

(Responses of "aye.")

CHAIR BENSON: Number 2.

MS. McNULTY: Factor 2 is a "Determination of the average net income of the pilots at the port," as delineated on page 8. It starts on page 8 of the investigative report.

(Pause)

CHAIR BENSON: A motion?

COMMISSIONER KURTZ: Can we talk about it first or make the motion and then discuss?

MS. McNULTY: Either way you want.

COMMISSIONER KURTZ: Okay. So I still -- I would like to address the estimated value of the unfunded pension.

I know Richard Law as pulled it out, as has
been the practice. But I still have a strong opinion that this is an expense to active pilots. It's not a benefit to active pilots.

This is money that a pilot who's active one day less than 20 years won't receive a penny of this because you're not vested until you put 20 years in.

So there's phantom benefit to a pilot for 19 years and 360 days, you know. So there's that. So I don't really see that as a benefit to an active pilot, certainly not until they're vested in this plan.

And if you -- let's say you don't become a pilot when you're 30. You know, let's say you become a pilot when you're in your 40s. You will never reach fully vesting in this plan.

So I just really object to considering this as a benefit to active pilots. I really feel very strongly that this is an expense for active pilots.

CHAIR BENSON: I hear where you're coming from, and it is an expense to active pilots because there is, you know, in excess of a million dollars being spent for the active pilots' expenses for the obligations they have...
toward the retired partners.

I do think we should incorporate some value for that, because at the end of the day, while there is a forfeiture, you're at six or seven active pilots that have a six-figure stream of income through their death, you know.

So I don't think we can totally disregard it. I'm not defending the $45,000 number. I'm not -- you know, I'm on board with you with regard to every one of the active pilots out there are not collecting this. They're, in fact, paying it from the association.

But in my mind I do consider that in terms of, you know, some kind of benefit. And there's forfeiture and what-have-you, and you mentioned an actuarial that would factor all that in.

I don't know that that's necessary, but I still see it as something out there for the pilots, particularly the ones that have been out there for a number of years ago now that, you know, they're banking on this, you know.

So I don't look at it completely the same way you do, and I, as you well know, highly regard your perspective. But I see it as an element of compensation, albeit deferred at some
point in time, and albeit the fact that they may not see it. Hopefully, they will.

And, in fact, if the success of the operations in this port isn't successful as it is right now, it won't be that number. It will be lower. And, in fact, if it ramps up to know, a tremendous amount of success, it's going to be higher.

But I think it's something that we have to consider as an element of compensation, albeit the fact that every one of the active pilots out there are not collecting this now. They're banking for it being there in 20 years or 25 years, whatever.

COMMISSIONER KURTZ: I hear you. I'm just expressing opinion.

CHAIR BENSON: Great.

COMMISSIONER KURTZ: And that's how I feel about it.

CHAIR BENSON: There you go, and as we both just stated.

Any other comments on this particular item?

Okay. We have a motion to --

MS. McNULTY: There's no motion yet.

CHAIR BENSON: Okay.
MS. McNULTY: You need to vote on No 2.

CHAIR BENSON: Okay. To vote on No. 2.

MS. McNULTY: So you can approve it as it is, you can modify it, you can -- but you need to codify and vote with some rationale as to the average net income of pilots.

COMMISSIONER KURTZ: How do you phrase that?

MS. McNULTY: Well, do you like what's written? I mean, you could move to approve what is set forth in the investigative committee report, would be the motion, unless you want to modify it. Then you just modify what's in there as you see fit.

COMMISSIONER JACCOMA: I have something on that. You know, it says -- on page 8, item 2, "A determination of average income of pilots in the port, including the value of all benefits derived from service as a pilot."

And then it goes on further and it tells what net income of the pilot is. And net income of a pilot doesn't say that it includes your retirement benefit. It just says, to me, that the value of the retirement or any other benefits has to be valued.

So can we say that we accept his number
where it comes out to 4325 or 5187, do we accept those numbers as net income? But we're -- you know we understand that the retirement benefit is unfunded, and even I think Richard will acknowledge that in his report, it's hard to put a number on the value of that.

And so we recognize that he has attributed a value of $45,000 to that. I'm not accepting it or not. We're just saying there's (indiscernible).

CHAIR BENSON: Well, we recognize the fact that's a huge estimate.

COMMISSIONER JACCOMA: Right. Exactly.

CHAIR BENSON: There's no question about that. Yes.

COMMISSIONER JACCOMA: I don't know how to put that in a motion, but --

MS. McNULTY: But it's also not clear to me really where you're going with that.

COMMISSIONER JACCOMA: Well, I'm saying that, according to item 2, it says that you're supposed to come out with net income. It even tells you how to come out to net income, but it says you're also supposed to create -- include a value for all benefits.
So he's including a value for all benefits, but that's not to be included in net income because it doesn't say that. It says, "Divided by the number of reasonable operating expenses by the number of licensed pilots in the port."

We're still accepting that it is -- there's a value to these things, but we're not including it as net income.

MS. McNULTY: Well, you're including it as a benefit.

COMMISSIONER JACCOMA: We're including it as a benefit, separate.

MS. McNULTY: Okay. Well, if you're looking at the way it's written, and in particular there's a chart on page 9 where it says, "Average Net Income Per Pilot," the projected rate is 518- plus change, and then it says an estimated value of unfunded pension of 45-.

So what in the verbiage would you change that way it's written?

COMMISSIONER JACCOMA: That's what I'm trying to figure out.

If you follow what I'm trying to say is, I would like to separate net income from valued benefits.
COMMISSIONER ASSAL: You're trying to only pull the benefits out?

COMMISSIONER JACCAMA: I'm not trying to pull -- I'm just trying to separate it so that it's not -- net income is net income. Benefits have a value, and these are what we accept as the value for those benefits.

Do you have any thoughts on that, Richard?

MR. LAW: I think page 9 is presented to where you -- there's an estimated value, and you look at the net income before or after that. Do you accept that as a finding of fact?

And as far as the 45,000 in another part of section 9, we go through valuation estimation, the pluses and minuses of trying to estimate that number.

So as a whole, do you think that represents -- is a fair representation of the total income of a pilot that would attract a new pilot or retain somebody, that they may get that benefit one day?

That's -- I think that's a summary of what all that is showing, whether it's received or not. And if anybody's up for a pension one day, they have to vest.
COMMISSIONER ASSAL: When you're asking to approve section 2, you're asking not just for the first page. You're asking for the second and third pages, right? Because that's part of section 2.

MS. McNULTY: Correct.

COMMISSIONER ASSAL: So I think putting in there the value -- or didn't Mr. Law put in the value of each line item already?

COMMISSIONER JACCOMA: He did. He listed it, but then he comes out with the total net income per pilot, which I don't know --

COMMISSIONER ASSAL: But it's a projected. It's not an actual. It's a projected based upon if they get the numbers that they're looking for. Correct me if I'm wrong.

MR. LAW: For 2020.

COMMISSIONER ASSAL: For 2020. So if you look at it, it's based upon projections, and I think he states it in there, if operating -- assuming operating expenses continue to approximately 42 percent of the total revenue, net income would be approximately 58 percent of the revenue. It says it in there. I mean, I don't know where . . .
CHAIR BENSON: By leaving it in, it's being focused on. We're focusing on this item. And we're not being blind to the fact that there's an unfunded pension fund (indiscernible).

MS. McNULTY: Could you -- I can't hear you.

CHAIR BENSON: I'm sorry.

My suggestion is that we leave it in, because by leaving it in, we are recognizing the fact that we are considering the unfunded pension opportunities at some future date for retired partners or pilots. And by taking it out would suggest that we're blind to that and be subject to challenge that we didn't visit that particular item.

So I personally would leave it in.

COMMISSIONER JACCOMA: I guess I wasn't trying to actually remove it, just accept it as value and not part of the actual net income of the pilot.

CHAIR BENSON: Of the active pilot, right?

COMMISSIONER JACCOMA: Right.

MS. McNULTY: But is it something that is a benefit to them over time if they actually receive it?

Is that how -- Mr. Law, can you explain
how -- why did you include it in the total net income per pilot? Can you elaborate on that a little bit?

MR. LAW: It's an imputed value that you add to net income, and it's something that on an annual basis they will accrue a benefit for.

MS. McNULTY: Over time?

MR. LAW: Right, over time. And so I don't know how you can ignore that benefit, given that how much they pay out otherwise for the people who are now drawing that. I don't know how you can ignore that.

But the way it's presented is a matter of fact -- finding of fact was, are the numbers as presented something that you look at as the way it's delineated as something that you consider in setting the rates?

Is that a fair way to look at the finding of fact, Ms. McNulty?

MS. McNULTY: Yes. I mean, a fact could be, what is the number? A fact could be, should it be in this bucket altogether? So I think you have the combination.

Is the number accurate that's projected to the -- and then something like the estimated
value of unfunded pension, you've heard the --
you read the report of saying that there are too
many variables over time, so this is the best
estimate that was able to come up with an amount.

So you look at these -- all these different
numbers, the stand-by labor, the health insurance
projected for 2020, and then you look at the
average net income per pilot, then the discussion
of the estimated value of the unfunded pension,
which brings you to the total net income per
pilot.

So if you're -- and with the caveat as
delineated in this section by Mr. Law, the pilot
boat correction on this page.

COMMISSIONER JACCOMA: And I think Richard
pointed out that item 9 shows up later on and
it's cost of retirement fringe benefits plans.
So we can address that there.

CHAIR BENSON: Okay.

MS. McNULTY: Are you making a motion?

COMMISSIONER JACCOMA: I'll make a motion to
accept item 2 as presented in the investigative
committee's report.

COMMISSIONER RUSSO: Second.

CHAIR BENSON: All those in favor?
(Responses of "aye.")

CHAIR BENSON: All right. Number 3.

MS. McNULTY: Is "Reasonable Operating Expenses," and that begins on page 10 of the investigative committee report.

CHAIR BENSON: Any discussion?

COMMISSIONER KURTZ: There's something on page 11 in the main paragraph in the third section down. I just think it's a miswording of a statement.

It says, "Pilots over 60 years old are less agile, more flexible and stronger than younger pilots." So that needs to be reworded. I do not think that that's true.

MR. LAW: I should have put less. I saw that last night.

COMMISSIONER KURTZ: Right. So we just need to correct that.

MS. McNULTY: So how would you like it to read?

COMMISSIONER KURTZ: So pilots over 60 are less agile, less flexible and not as strong as the other pilots.

COMMISSIONER RUSSO: I think that borders on age discrimination.
(Laughter)

COMMISSIONER KURTZ: I'll race you up a ladder and you can tell me.

COMMISSIONER RUSSO: Sure.

CHAIR BENSON: I know who my money is with.

(Laughter)

CHAIR BENSON: Okay. With that revision, do we have a motion to accept?

COMMISSIONER RUSSO: So moved.

CHAIR BENSON: Second?

COMMISSIONER ASSAL: Second.

CHAIR BENSON: All those in favor?

(Responses of "aye.")

MS. McNULTY: "Pilotage Rates in Other Ports," begins on page 13. And, also, all the exhibits attached to the investigative report are documented and incorporated by reference. Make sure that goes into the basis for your decision as well.

CHAIR BENSON: Any discussion?

Is there a motion out there to accept?

COMMISSIONER RUSSO: I'm on a roll. I'll do it again. Yes, I so move.

CHAIR BENSON: Second?

COMMISSIONER KURTZ: I'll second.
1 CHAIR BENSON: All in favor?
2 (Responses of "aye.")
3 CHAIR BENSON: Thank you.
4 MS. McNULTY: And then starting on page 17, the next factor is, "The amount of time each pilot spends on actual piloting duties and the amount of time spent on other essential support services."
5 CHAIR BENSON: Any discussion or questions?
6 Motion?
7 COMMISSIONER KURTZ: I make a motion to accept No. 5 as presented.
8 CHAIR BENSON: Second?
9 COMMISSIONER RUSSO: Second.
10 CHAIR BENSON: All those in flavor?
11 (Responses of "aye.")
12 CHAIR BENSON: Okay. Thank you.
13 MS. McNULTY: The next factor is, "The prevailing compensation to individuals in other maritime services are comparable and professionally skilled" -- (indiscernible).
14 CHAIR BENSON: Any questions or discussion?
15 Motion?
16 COMMISSIONER JACCOMA: A motion to accept this one.
COMMISSIONER RUSSO: Second.

CHAIR BENSON: Second by Mr. Russo.

All those in favor?

(Responses of "aye.")

MS. McNULTY: The next factor to consider is, "The impact the rate change may have on individual pilot compensation and whether such changes would lead to a shortage of licensed state pilots, certified deputy pilots, or qualified applicants." And that beings on page 21.

CHAIR BENSON: Questions or comments? Motion?

COMMISSIONER RUSSO: So move as submitted.

COMMISSIONER JACCOMA: I second it.

CHAIR BENSON: Second. All those in favor?

(Some responses of "aye.")

CHAIR BENSON: Yes.

COMMISSIONER KURTZ: My only objection is that in projecting a pilot income, now that the unfunded portion is rolled in, that's considered a base number? So the number you're starting with now --

THE STENOGRAPHER: Could you speak up?

COMMISSIONER KURTZ: Sorry. Right.
So because, you know, we had the earlier section where the unfunded portion is valued and added in, now that higher number, including the unfunded portion, becomes your base number in all calculations moving forward.

Am I stating that correctly?

MR. LAW: Yes.

COMMISSIONER KURTZ: So that's just my only objection, is that now it's automatically included, even if you don't agree with it. You know, so automatically everything is going to be higher because of this.

And I just wanted to say that as an opinion that, moving forward, none of the numbers show that it's without it and then with it; now the base number is including it as an assumption of something that's accepted.

MS. McNULTY: But do you have this report to back it up? So over time you can go back and look at how it was calculated, right?

COMMISSIONER KURTZ: I'm just checking before I vote on something that I'm not sure I agree with.

MS. McNULTY: No, no. It's fantastic that you ask questions. So I mean, I think it's good
to fully discuss. It's just like one of the numbers that Mr. Law pointed to earlier, when they look back in time, it was without something. Right?

MR. LAW: Right. So separating it is good for the record.

MS. McNULTY: So that going forward, if for some reason it was important to take out that piece, that information is still available to do so.

COMMISSIONER KURTZ: Okay.

COMMISSIONER RUSSO: And acknowledging that correctly, but I don't think that requires a modification of my motion.

CHAIR BENSON: Okay. Next item.

MS. McNULTY: Did we vote?

CHAIR BENSON: All those in favor?

(Responses of "aye.")

MS. McNULTY: Sorry. The next one is, "Projected Changes in Vessel Traffic." And that begins on page 22.

COMMISSIONER JACCOMA: I'll make a motion to accept as written into the record.

(indiscernible).

THE STENOGRAPHER: I can't hear you.
COMMISSIONER RUSSO: He made a motion --

COMMISSIONER JACCOMA: Can you hear me?

THE STENOGRAPHER: I didn't hear you.

COMMISSIONER JACCOMA: Okay.

I'll make a motion to accept item 8 as written into the record of the investigative committee report.

COMMISSIONER RUSSO: Second.

CHAIR BENSON: All those in favor?

(Responses of "aye.")

MS. McNULTY: Next one is factor 9, "Costs of retirement and medical plans," beginning on page 23 of your investigative report.

CHAIR BENSON: Same comments as earlier.

COMMISSIONER JACCOMA: Well, on here it says it's a cost. It doesn't say it's a benefit, but it's a cost.

COMMISSIONER KURTZ: Why?

COMMISSIONER JACCOMA: The cost of retirement and fringe benefits, which I think is what Commissioner Kurtz was alluding to earlier, is it's a cost to the association.

CHAIR BENSON: Yeah. It's a cost to the existing pilots and a benefit to those that reached that 20-year minimum level of service and
retired.

MS. McNULTY: So it's both, is what you're saying?

CHAIR BENSON: Uh-huh.

COMMISSIONER JACCOMA: I think Richard

adequately points out that, you know, a guy could

resign before he completes his 20 years of

service and get nothing.

MR. LAW: Yes.

COMMISSIONER JACCOMA: I think I would

accept it as is.

CHAIR BENSON: The motion is to accept as

written?

COMMISSIONER RUSSO: Is that a motion?

COMMISSIONER JACCOMA: I'll make that a

motion.

COMMISSIONER RUSSO: Second.

CHAIR BENSON: All those in favor?

(Responses of "aye.")

CHAIR BENSON: Thank you. Next.

MS. McNULTY: In next one is, "The Physical

Risks Inherent in Piloting." And that begins on

page 26.

COMMISSIONER KURTZ: I'll make a motion to

accept No. 10.
COMMISSIONER RUSSO: Second.

CHAIR BENSON: All those in favor?

(Responses of "aye.")

MS. McNULTY: No. 11 would be, "Special characteristics being used in risks inherent" in this particular port. And that begins on page 27.

COMMISSIONER KURTZ: I'll make a motion to accept No. 11.

COMMISSIONER RUSSO: Second.

CHAIR BENSON: All in favor?

(Responses of "aye.")

MS. McNULTY: And then there is, "Any other relevant information." And that begins on page 28.

COMMISSIONER KURTZ: I'll make a motion to accept No. 11.

COMMISSIONER RUSSO: Second.

CHAIR BENSON: All those in favor?

(Responses of "aye.")

MS. McNULTY: And the next one is, "The committee may take into consideration the CPI or any other comparable economic indicator when fixing the rates of pilotage, but they can't be the sole basis."
COMMISSIONER JACCOMA: I'll make a motion to accept as written for the record item 13 of the investigative report.

COMMISSIONER RUSSO: Second.

CHAIR BENSON: All those in favor?

(Responses of "aye.")

CHAIR BENSON: Okay. Thank you.

Now we have whatever discussion we need to have to determine where we go from here in terms of the rate increase and costs.

MS. McNULTY: May I make a suggestion?

Also, I thought it was helpful to go into the actual application itself to look at the column that says "Requested Charge" so you can look at each of the charges, if that's helpful to you.

MR. LAW: Yes. And that's Exhibit 1 of my report.

CHAIR BENSON: Okay. Let's look at Exhibit 1 then. Page 137.

(Pause)

CHAIR BENSON: Comments?

I spoke to the standard rates on particularly the smaller ships, and I see from Captain Kavanaugh the actual costs of servicing
those ships. So I'm okay with the standard rates.

The only other thing that I'm struggling with is as to whether or not we're going to have ten years at 2 1/2 percent. That's not too far out. Going through this process is costly and everything else, but that's really setting in stone for quite some time.

Maybe we should discuss that a little bit.

COMMISSIONER KURTZ: I have a comment about the tiered rate. I really like it. I -- it acknowledges the fact that the larger the ships are and the deeper the ships are, the more risk is involved in moving them safely, especially with two-way traffic.

And it's also in the investigative committee report that these channels were not really designed to accommodate vessels of the size that are moving around in the port now.

So I do like, as they get bigger and deeper, the charge to reflect that. I think it's a little more accurate depiction of the risk that's involved.

COMMISSIONER JACCOMA: As far as that 2 1/2 percent each year for ten years, you know, it's
been 16 years since the pilots -- for them to get an increase. And I'm sorry for them to have to wait so long, you know.

And this kind of is a way to keep from having to do this and making somebody wait so long. So I kind of look at that as maybe offsetting the CPI in the future. Granted, we don't have a crystal ball, but I think 2 1/2 percent seems fair to me.

COMMISSIONER KURTZ: I agree. I think instead of waiting ten years between hearings and having these big jump percentages that are -- you know, the customers don't like, even though they haven't had to pay increases.

COMMISSIONER JACCOMA: Right.

COMMISSIONER KURTZ: You know, instead of paying it with a customer all at once like that, you know, this is an adjustment because there hasn't been anything for 16 years; and then a modest 2 1/2 percent every year, you know, that may be all anyone really needs unless there's some huge change in the port or, you know, some other infrastructure issue that we can't even imagine, you know, at the moment.

CHAIR BENSON: Right.
COMMISSIONER KURTZ: One of the flaws I think in our rate process is there's no expense recovery mechanism. And so I really -- I also like the fixed fee, the $15 per ship for training and $100 for the vessel management system, because those are real costs to the group.

So, you know, I think, you know, with a fixed fee and moving forward after some adjustment, I think a 2 1/2 percent is a really good thing.

CHAIR BENSON: And I don't know that I was challenging the 2 1/2 percent as much as I was challenging going beyond the five years or Whatever, ten years and lock it in that way.

They do have the opportunity to find that 2 1/2 percent is not enough to come back to this committee and the costs associated with that effort.

COMMISSIONER KURTZ: Yeah. You know, it takes a year to prepare for a rate review, if you do it properly. And then to have -- it's only five years, then in year four you're preparing for a rate review to ask for 1 percent or 2 percent.

I don't know. I think the ten years just
takes so much extra work out of it. And, you know, I suppose a customer could always file something 18 months after a change is made. Anybody can file anything like that for a change rate -- to change the rates.

But I think the intent is really good here to streamline our rate process, which is very, very cumbersome for the pilots.

COMMISSIONER ASSAL: I think the expense goes to everybody. I mean, pilots, the customers, the end users, the board. We see our financials and negatives just to accommodate everybody.

I think that we have to be fair across the board. I don't think that we should standardize increases when you don't know what the future holds, and if you're going to standardize it, you have to play fair for other sides because companies go through hardship.

By the way, as we noticed, the pilots have made -- actually, if you want to look at it, they made more money now than they did with less handles. You have half of the amount of handles and making the same amount of money.

So, Pilots, what do you call that?
CAPTAIN MONS: Bigger ships.

COMMISSIONER ASSAL: Okay. But it's still less handles, less work. So I don't disagree with there is an increase that's needed.

Ten-year out, we don't have a crystal ball. We don't know what's going to happen. I think that equipment itself, I think, is a cost that -- and I don't mean a boat. I think a boat is a highly expensive equipment that the pilots have to incur that somebody is going to have to pass on that's reasonable, because if you're looking at ten years and the boat's lasting 25 and 30, then advertise the boat over 30 or 25. Then that cost gets reduced.

But now it becomes a profit stream, because once the boat is paid off, it's just maintenance. Right? Now that's added value.

I think equipment to make the pilots safer is standard now. That's standard in the industry. No one is going to take risks.

GPS -- I don't know, maybe the smaller pilot organizations don't have the newest technologies and that kind of thing, but I think when you talk about the GPS and tracking and all that stuff, that's pretty much standard in normal workplaces.
now in a lot of different businesses.

I think that we need to look at, given a fair increase, I don't agree with the 2 1/2; I agree with a CPI because I've known companies and we've done it with my organizations, haven't gotten raises in multiple years. It shouldn't be set standard.

I think if you're going to do a standardization, I think it has to fair for everyone, because that 1 percent doesn't -- it's not just -- it's an hourly rate that you have built-in costs. You have built-in boat. You have built-in maintenance that you're going to add across the board.

And once all those things are done, those expenses or those purchases are still going to stay there. You're not going to give somebody bad credit.

And no customer -- I mean, they will, some of them will spend the monies to come back to the board in 18 months, but they're going to go through the same process as the pilots are going through. So it's going to be just as costly for them as it is for the pilots.

CHAIR BENSON: Yes.
COMMISSIONER KURTZ: I have a comment about the boats. I believe that both of Jacksonville pilot boats -- actually, they have three because they have a boat that furnishes Fernandina. There are two Jacksonville boats. The ones that we rode on yesterday are 19 years olds, I believe, and those boats really don't last 30 years. You might get 25.

And when you say maintenance, it's not just an oil change. To rebuild an engine is tens of thousands of dollars when you get 20,000 hours on your engines and the blocks might be shot because we're going through the center port. You know, we're looking at a 500- to $750,000 bill to repower and refurbish an old boat.

A new boat the size that they're looking at to be able to run safely offshore is going to be at least one and a half times what a boat would cost of their size now. They're like 52 feet and 53 feet. To go to a 64-feet, which is what they're projecting, the cost goes up. It's not a linear thing.

So I know we just got a new 53-foot boat that cost $2 million. So they're looking at, you know, at least $3 million to build a boat. And
then you have to wait one to three years to get your boat. You know, you have to get in line once you order the boat.

    So, you know, your boat might be paid for, but the maintenance isn't cheap. They have, you know, a full-time mechanic. There's -- it's in the tens of thousands. It's not -- it's not like paying off your car, then it's a couple of hundred bucks a year. It's quite a bit of money even when the boat is paid for and you're doing maintenance.

    So I just wanted to make that comment because it is something I'm familiar with and I know their boats are old.

COMMISSIONER ASSAL: And I'm not disagreeing. I swear I'm not disagreeing with the costs of the boat. I know people tell me the best day is the day you get it and the day you get rid of it, right?

    (Laughter)

COMMISSIONER ASSAL: But you just said something that it takes three years to get, but the customers are paying for it now.

COMMISSIONER KURTZ: Because you have to pay along the way. You pay when they cut the metal
and they pay --

COMMISSIONER ASSAL: I understand that.

You've got to give a down payment.

COMMISSIONER KURTZ: You know, they don't just send you a bill when it's done. You're paying all along. So, you know, there is a cost.

COMMISSIONER ASSAL: Okay.

COMMISSIONER KURTZ: And in the meantime, you're hoping your engines on your 22-year-old boat don't blow up, because then you have to replace two engines.

COMMISSIONER ASSAL: And they have a 2007. The one I was in was a 2007, so it's only 12 years now.

COMMISSIONER KURTZ: Okay. Sorry. The one I was on was 19 years old.

COMMISSIONER ASSAL: Okay.

CHAIR BENSON: All right. While we're on rates, any discussion?

Both Carnival and Crowley had talked about a few things, but one of them was, you know, giving them time to react and what-have-you.

And the response to that, well, the pilots are not changing their rate request; they have put on the table they would not object to an
effective date in July.

So when we talk about in regard to whether or not we're going to accept these rates, why don't we talk a little bit about that, if they make a compromise, so to speak, between the parties and giving everybody an opportunity to adjust to the new rates, whatever they may be.

Comments?

COMMISSIONER KURTZ: I think it's a generous offer to delay it for six months.

COMMISSIONER JACCOMA: So the effective date you're requesting would be what, the first of July?

CHAIR BENSON: Yes, defer it five more months or six months from the application date.

COMMISSIONER RUSSO: That's fine with me, but I don't think it's all that necessary.

When they set a criteria for consideration, for me, it's the first thing, the threshold I have to get over, are the requested rates competitive? And we've heard testimony that they are.

And I look at the political -- I'm sorry -- the practical impacts to the final customer, and I believe that we've determined that it was
1. somewhere around 50 cents for a passenger and a dollar for a container.

Then we have to compare that to the relative increase to the value of what is being shipped over the last 16 years, which is not -- but we didn't hear any testimony with regard to that, but that has to have an effect on the relative cost between the fees that we're considering and the value of the items being shipped.

So if you look at that over 16 years with the numbers we're talking about per unit, I don't know what the word is for less than de minimus. So I don't see any reason for it to roll into the factor of an additional 50 cents for a passenger and a dollar per container.

If the offer is to extend it to an effective date in July, that's fine with me, but I don't think it's necessary at all.

CHAIR BENSON: Yes.

COMMISSIONER KURTZ: I think it's a sign of goodwill to do it.

COMMISSIONER RUSSO: Fine.

COMMISSIONER KURTZ: Since they're offering it, and that can help a customer -- you know, give them a few months to adjust or whatever, I
have no problem with that.

CHAIR BENSON: Yeah.

MS. McNULTY: I would like to look at the flat rate fee for the $100 per vessel handles for inbound and outbound transit, and $15 for -- you know, for the port fee and the training technology fee.

I just want to have you-all state on the record, because when you fix the rates, they need to be based upon the following vessel characteristics which might be tonnage, or any combination of the vessel characteristics listed in the subsection or any other relevant vessel characteristics.

So you need to tie those flat rates to vessel characteristics. I don't know if Mr. Meros wants to do that for you-all for the flat rate.

MR. MEROS: Are you asking me --

MS. McNULTY: If you'd like to chime in.

MR. MEROS: Well, respectfully, I think that's not the proper way to analyze it. A flat fee is not necessarily per foot of draft.

It's to compensate for some other elements that are simply a part and parcel of the
articulated rates. And that's where the training fee goes in, that's where the harbor management system goes in.

So I think it's entirely consistent with the statute to have those charges. You can't have charges during the period of a rate increase. You would have to get approval from the committee. But I do not believe statutorily it needs to be tied to a given metric.

MS. McNULTY: I'm just trying to reconcile that with the concept that says, "The committee shall fixed rates based upon the following vessel characteristics." And then it lists them.

So when you're fixing this flat fee rate, how do you square that with the language of the statute?

MR. MEROS: Let me take a look at the statue.

COMMISSIONER KURTZ: I mean, you could say any vessel required a pilot, so it's required.

MS. McNULTY: So that is it because it applies to all vessels, the flat rate?

COMMISSIONER KURTZ: That's because it applies to all vessels.

MS. McNULTY: To each and every vessel.
COMMISSIONER KURTZ: Yes.

MS. McNULTY: So the characteristics of the vessel. So that is the vessel.

COMMISSIONER KURTZ: Yes. That it exists and requires a pilot.

MR. MEROS: And Captain Kavanaugh said what is the case, and that is each vessel is a unit, in essence.

MS. McNULTY: I just wanted to get that on the record that you had discussion on that.

CHAIR BENSON: All right, my fellow commissioners. Why do we go from here?

COMMISSIONER JACCOMA: I make a motion.

COMMISSIONER RUSSO: Second.

MS. McNULTY: Wait --

COMMISSIONER RUSSO: Well, if the motion was based on --

CHAIR BENSON: Maybe you want to have them articulate a little bit more than he just did.

COMMISSIONER JACCOMA: I make a motion to accept the rate, the new rate, for Jacksonville to take -- as presented --

MS. McNULTY: And Fernandina?

COMMISSIONER JACCOMA: And Fernandina Beach.

MS. McNULTY: Okay.
COMMISSIONER JACCOMA: Thank you. As presented by the pilots upon their request, and to defer the rate to take effect July 1st, 2020.

COMMISSIONER KURTZ: I'll second.

CHAIR BENSON: Second by Captain Kurtz.

Any discussion? All in favor?

(Responses of "aye.")

CHAIR BENSON: Okay. Passes unanimously.

MS. McNULTY: Just for everybody's edification, I will draft an order for your consideration based on everything that happened and then present it to you. I believe that could be a telephonic board meeting if that's amenable to you-all.

CHAIR BENSON: Sure. Motion to adjourn?

COMMISSIONER KURTZ: I'll make a motion to adjourn.

COMMISSIONER JACCOMA: Second.

CHAIR BENSON: Thank you very much. We're adjourned.

(The public meeting concluded at 1:52 p.m.)
STATE OF FLORIDA
COUNTY OF DUVAL

I, Denice C. Taylor, Florida Professional Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings of the Board of Pilot Commissioners held on January 22, 2020, at Jacksonville Beach, Florida, and that pages 3 through 140, inclusive, are a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

Dated this 19th day of February, 2020.

Denice C. Taylor, FPR
Florida Professional Reporter
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