

1 MINUTES OF THE MEETING OF THE  
2 BOARD OF LOUISIANA RIVER PILOTS  
3 REVIEW AND OVERSIGHT  
4 OCTOBER 29TH, 2013  
5  
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7  
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10  
11  
12

13 LOCATION:

14 MIDDLEBERG, RIDDLE & GIANNA  
15 Suite 3100  
16 201 St. Charles Avenue  
17 New Orleans, Louisiana 70130-3100

18 BOARD MEMBERS PRESENT:

19 THE HONORABLE TERRY Q. ALARCON  
20 THE HONORABLE RICHARD J. GARVEY  
21 CAPTAIN CRAIG C. ANDREWS  
22 Board of River Port Pilots Commissioners  
23 for the Port of New Orleans  
24 BRUCE BRADLEY  
25 Louisiana Association of  
Business & Industry

1 ATTENDEES CONTINUED:

2 BRIAN J. EISELEN  
3 Suite 100  
4 2805 Harvard Avenue  
5 Metairie, Louisiana 70001

6 ON BEHALF OF NOBRA BOARD OF EXAMINERS

7 CHRISTOPHER R. BARBIER  
8 Middleberg Riddle & Gianna  
9 Suite 3100  
10 201 St. Charles Avenue  
11 New Orleans, Louisiana 70130-3100

12 REPORTED BY:

13 CAROL VALLETTE SLATER  
14 Certified Court Reporter  
15 Registered Professional Reporter  
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1 BOARD MEMBERS CONTINUED:

2 HARRY C. HANK  
3 Louisiana Ports Association  
4  
5 STEVE H. HATHORN  
6 New Orleans-Baton Rouge  
7 Steamship Pilots Association  
8  
9 DALE J. HYMEL, JR.  
10 Louisiana Ports Association  
11 Port of South Louisiana  
12  
13 LEE JACKSON  
14 Board of Examiners for New Orleans and  
15 Baton Rouge Steamship Pilots for the  
16 Mississippi River  
17 RICHARD MICHAEL LYONS  
18 Louisiana Mid-Continent  
19 Oil & Gas Association  
20 BRETT A. PALMER  
21 Board of River Port Pilot Commissioners  
22 and Examiners for the Calcasieu Waterway  
23  
24  
25

16 ADDITIONAL ATTENDEES:

17 MIDDLEBERG, RIDDLE & GIANNA  
18 (BY: RICHARD A. SHERBURNE, JR.)  
19 Suite 1400  
20 450 Laurel Street  
21 Baton Rouge, Louisiana 70801  
22 ON BEHALF OF THE BOARD OF LOUISIANA  
23 RIVER PILOT REVIEW AND OVERSIGHT  
24  
25

1 JUDGE ALARCON:

2 We'll call the meeting to  
3 order. The first thing on the  
4 agenda is the approval of the  
5 minutes of August 22nd. Everyone  
6 have a chance to read them? Does  
7 anybody have any objections or  
8 questions or concerns?

9 JUDGE GARVEY:

10 I move to accept them.

11 MR. HYMEL:

12 Second.

13 JUDGE ALARCON:

14 Moved and seconded. So  
15 ordered.

16 Future funding. Richard,  
17 you have any thoughts?

18 MR. SHERBURNE:

19 Yes, sir. Let me start with  
20 in the materials you've got in  
21 front of you is a copy of a  
22 letter Judge Ganuchau wrote on  
23 behalf of the board five years  
24 ago now laying out some of the  
25 funding issues, and attaching at

1 the last -- at the last page a  
 2 budget, if you will. It's a  
 3 budget that's never been realized  
 4 because of lack of funding, and  
 5 as you're all aware, the statutes  
 6 of the board are a little bit  
 7 uncharitable when it comes to  
 8 money and the board.  
 9 The board can accept  
 10 donations from anybody that's  
 11 willing to give it, and it stops  
 12 there. For those of you that may  
 13 not be aware, there was a period  
 14 of time very early on when the  
 15 board primarily working through  
 16 Judge Ganucheau, went to the  
 17 Pilot Fee Commission and  
 18 suggested that they add a  
 19 surcharge, and I don't know if  
 20 that's the technically precise  
 21 term, but that's how I've always  
 22 thought of it, on top of the fee  
 23 process, the pilot fee process,  
 24 to fund this board, and the Fee  
 25 Commission was unwilling to

1 entertain those discussions.  
 2 I think that -- I don't know  
 3 today whether they would be  
 4 similarly unwilling to entertain  
 5 those discussions. We certainly  
 6 could go ask, but they were  
 7 fairly adamant -- I attended the  
 8 meetings of Judge Ganucheau --  
 9 which leaves you going to the  
 10 legislature and either amending  
 11 the statutes to do something with  
 12 funding or doing what the board  
 13 was successful in doing five  
 14 years ago and getting another  
 15 one-time appropriation. And with  
 16 that, you know, it gets into the  
 17 realm, I think, of politics,  
 18 which is well outside my realm of  
 19 any expertise.  
 20 I mean, I think the numbers  
 21 in the budget are still  
 22 realistic. If you're ever going  
 23 to have to do an investigation,  
 24 if you're ever going to run a  
 25 website, to put -- make

1 information available, then,  
 2 you've got to have a secure,  
 3 regular funding source that just  
 4 doesn't exist in the current  
 5 statutes.  
 6 MR. LYONS:  
 7 Do we have authority, if we  
 8 had a hearing, to charge the  
 9 expenses to the parties?  
 10 JUDGE ALARCON:  
 11 I don't think specifically  
 12 under the statute.  
 13 MR. SHERBURNE:  
 14 It is not specific under the  
 15 statute, that is correct.  
 16 Certainly, you could adopt a rule  
 17 to try to do that. There is,  
 18 generally, a constitutional bar  
 19 to any state entity imposing  
 20 fines or fees of any sort without  
 21 the legislature approving it.  
 22 MR. LYONS:  
 23 I would like to make another  
 24 run at the legislature.  
 25 JUDGE ALARCON:

1 Okay.  
 2 MR. LYONS:  
 3 And maybe we could do a bill  
 4 that gives us authority to charge  
 5 expenses if we had a hearing.  
 6 How old are we?  
 7 MR. SHERBURNE:  
 8 Seven, eight.  
 9 MR. LYONS:  
 10 Never had a hearing.  
 11 MR. SHERBURNE:  
 12 True.  
 13 MR. LYONS:  
 14 And, you know, I'm looking  
 15 at what we had in the budget in  
 16 2010, and a lot of that was the  
 17 rules that we did.  
 18 MR. SHERBURNE:  
 19 Yes.  
 20 MR. LYONS:  
 21 So, I don't think we need  
 22 \$200,000 a year, but --  
 23 JUDGE GARVEY:  
 24 If you have any number of  
 25 investigations, you would need

1 that much.  
 2 MR. LYONS:  
 3 Yeah.  
 4 JUDGE GARVEY:  
 5 Under the rules that we  
 6 have, you get to the point, you  
 7 could hire an attorney, an  
 8 investigator, it could build up  
 9 pretty fast under the rules that  
 10 we have adopted. Now, how many  
 11 investigations? We've had no  
 12 trouble at all. You get about  
 13 three or four investigations in  
 14 one year, and you're going to  
 15 need that money. Either that or  
 16 you're not going to be able to  
 17 fulfill the duties.  
 18 MR. LYONS:  
 19 I'd like to make a run at an  
 20 appropriation.  
 21 JUDGE ALARCON:  
 22 And, Judge, this is your  
 23 area of expertise, and maybe  
 24 Richard. You know, I just did  
 25 murders, rapes and drugs.

1 My suggestion, I guess --  
 2 you know, Senator Alario is who  
 3 got me involved with this. I  
 4 guess he would be the best one to  
 5 approach, don't you think?  
 6 MR. SHERBURNE:  
 7 I would tend to think  
 8 Senator Alario would be in a  
 9 great position.  
 10 JUDGE ALARCON:  
 11 To at least give you some  
 12 direction.  
 13 MR. LYONS:  
 14 He can't initiate an  
 15 appropriation, but he could  
 16 advise it, and if he was behind  
 17 it --  
 18 JUDGE ALARCON:  
 19 Right. We can go to  
 20 somebody in the House.  
 21 MR. LYONS:  
 22 We're halfway there if we  
 23 get John to support it.  
 24 JUDGE ALARCON:  
 25 Does anybody else have

1 Somebody shoots somebody in here,  
 2 I'm pretty good with helping  
 3 y'all out. But isn't the law, as  
 4 I understand it, that unless you  
 5 specifically straight that costs  
 6 can be assessed, you can't do it  
 7 without the approval of the  
 8 legislature? Isn't that pretty  
 9 much still boilerplate law?  
 10 MR. SHERBURNE:  
 11 Yes, sir.  
 12 JUDGE ALARCON:  
 13 Like, collections, I know  
 14 you have to specifically say the  
 15 attorney is entitled to 20  
 16 percent. You may need to go at  
 17 it with a two-prong approach,  
 18 knowing that we have the  
 19 authority to assess fees, which  
 20 means you don't have to do it,  
 21 unless you think it was some  
 22 reason, you know, to do it, or we  
 23 have the opportunity to do it. I  
 24 think that would make it a little  
 25 easy on it.

1 any -- yes?  
 2 MR. HYMEL:  
 3 Can I just throw out another  
 4 suggestion? Maybe think of it in  
 5 a different way, and Richard is  
 6 right as far as trying to assess  
 7 fees. I know the administration  
 8 is going to frown upon it whether  
 9 we have the ability or not.  
 10 But, like, when you do have  
 11 a case and you have parties  
 12 coming, instead of saying charge  
 13 them a fee, it's kind of like in  
 14 court, charge the court costs.  
 15 It's not a fee. So, whatever the  
 16 cost of court is, you divide it  
 17 up.  
 18 JUDGE ALARCON:  
 19 But that's got to be  
 20 specifically stated in the  
 21 statute because, you know, I  
 22 spent a couple years in traffic  
 23 court many, many years ago, and I  
 24 used to always tell people, brake  
 25 tag, the ticket was \$30, and the

1 court costs were 140, which, to  
2 me, I just shook my head. That's  
3 the way life is, you know, at  
4 least in Orleans Parish.

5 But we'd have to  
6 specifically, you know, state  
7 that we had the ability to assess  
8 court costs.

9 JUDGE GARVEY:

10 We couldn't collect the fees  
11 until after the hearing was  
12 finished either.

13 JUDGE ALARCON:

14 Right.

15 JUDGE GARVEY:

16 Now, would they be hard to  
17 collect? Would there be someone  
18 that would not pay?

19 MR. HYMEL:

20 Put the money in the  
21 registry of the court.

22 JUDGE GARVEY:

23 You may get a foreign ship  
24 that wouldn't pay. Maybe you  
25 would have trouble assessing the

1 know all of y'all have some  
2 political connections, even if  
3 it's in your local legislatures.  
4 Not a lot has been done, but  
5 we've kind of rejuvenated this  
6 and it serves a useful purpose.  
7 Y'all would have to carry that  
8 message much more so than I would  
9 have the ability to do it. I  
10 think if we went up there as a  
11 group one day and met with your  
12 respective legislators, we ought  
13 to be able to do something.

14 The other point that's  
15 brought up, I notice in the  
16 sports page this week, the  
17 legislative auditor, my favorite  
18 people in the world, went after  
19 the sports foundation because  
20 they received state money and  
21 there was no notice of a public  
22 hearing. Are we required, I'm  
23 assuming, that we have to give  
24 public notice?

25 MR. SHERBURNE:

1 guy who wins, too. Is it fair to  
2 assess him the full amount, or  
3 only the loser?

4 JUDGE ALARCON:

5 We could think it out. Like  
6 I said, I don't mind going up to  
7 the legislature when it opens and  
8 deal with those folks that draft  
9 the legislation. Like I said,  
10 some things jump up in my mind  
11 about, you know, it should read  
12 shall as opposed to may, and see  
13 if they have any thoughts about  
14 what the chances would be to  
15 assess it.

16 JUDGE GARVEY:

17 I think the funding would be  
18 the best that we could get it,  
19 you know, from the State. They  
20 want a pilot's board, they ought  
21 to fund it.

22 JUDGE ALARCON:

23 What we need is just for you  
24 as a collective group just to  
25 help with respective -- because I

1 We do give public notice,  
2 and that notice -- y'all may not  
3 even notice that there's a notice  
4 out there. That lobby is a  
5 public place and there is a  
6 notice that goes up in that lobby  
7 before every meeting, 24 hours  
8 before the meeting, as long as  
9 Mr. Barbier does the job that I  
10 think he does.

11 JUDGE ALARCON:

12 Yeah, he does, trust me.

13 MR. SHERBURNE:

14 Yes, I'm pretty sure he does  
15 because I call him and I ask him.  
16 That is the required public  
17 notice. We don't have to publish  
18 it in the newspaper or anything  
19 like that. We simply have to  
20 have a public notice in a public  
21 place that a meeting is going to  
22 be held.

23 JUDGE ALARCON:

24 But I have concerns with all  
25 these television stations with

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1 investigative reporters and these  
2 inspector generals and all, you  
3 know, that cuts both ways. When  
4 you get money from the State,  
5 they want to see what every penny  
6 is spent on and who spent it and  
7 things like that.

8 MR. BRADLEY:

9 Well, the letter and the  
10 spirit of the law require us to  
11 make this a public meeting,  
12 whether we get money from the  
13 State or not.

14 JUDGE ALARCON:

15 As long as it's out there  
16 and we can, you know --

17 MR. SHERBURNE:

18 I mean, I'll be the first to  
19 say, there was a time when I  
20 thought maybe we ought to put it  
21 down on the first floor, but,  
22 frankly, that runs us into  
23 building issues.

24 JUDGE ALARCON:

25 As long as everybody's okay

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1 with that. I guess I've been  
2 victimized by it from where I  
3 was.

4 MR. SHERBURNE:

5 I understand, Judge.

6 MR. BRADLEY:

7 I would like to suggest on  
8 the issue of public notice that  
9 anybody who wants -- who notifies  
10 our -- this board or commission  
11 or the attorneys that do our work  
12 for us, anyone that asks to be  
13 notified when this board meets,  
14 that we provide them with e-mail  
15 notice. Would that be a  
16 problem --

17 JUDGE ALARCON:

18 Chris?

19 MR. BRADLEY:

20 -- for y'all, Richard,  
21 Chris?

22 MR. SHERBURNE:

23 Not at all. We've had that  
24 in the past.

25 MR. BARBIER:

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1 We have. If I might just  
2 interject for a moment.

3 JUDGE ALARCON:

4 Sure.

5 MR. BARBIER:

6 The Boards and Commissions  
7 website of the State of Louisiana  
8 allows the uploading of  
9 documents, and one of those is a  
10 notice. If you put a notice up  
11 there, they then put it in their  
12 calendar on Boards and  
13 Commissions. So, it's published  
14 on the Boards and Commissions  
15 website as a meeting that's going  
16 to happen on X day, at X time, at  
17 X location. That's an even more  
18 layer than beyond just posting in  
19 the lobby.

20 MR. BRADLEY:

21 Okay. That's good.

22 MR. BARBIER:

23 I have also updated that  
24 website for our information to  
25 reflect the new board members,

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1 contact info, everything that is  
2 required by the statute that has  
3 to be done by October 31st has  
4 been done, I've already done.

5 JUDGE ALARCON:

6 All right. I don't doubt it  
7 because I appreciate everything  
8 that you did when I got the  
9 appointment, but I'm just  
10 concerned about these guys --

11 MR. BARBIER:

12 Oh, sure.

13 JUDGE ALARCON:

14 -- you know, with the local  
15 Lake Charles, Baton Rouge,  
16 Lafayette press showing up and  
17 saying, do you know you've spent  
18 this much money over the years,  
19 who's been at the meetings and  
20 how is notification given, that  
21 sort of stuff.

22 MR. SHERBURNE:

23 Judge, if I might ask a  
24 question, would it perhaps be  
25 useful to have some -- I don't

1 want to use the term  
 2 subcommittee -- I'm sorry, Judge.  
 3 I tend to speak softly when I'm  
 4 thinking to myself out loud as I  
 5 say it. You know, one from the  
 6 pilot's side, one from the  
 7 industry side and one judge to go  
 8 meet with, say, Senator Alario?  
 9 JUDGE ALARCON:  
 10 Sure. I think as we  
 11 approach it --  
 12 MR. BRADLEY:  
 13 Probably a good idea.  
 14 JUDGE ALARCON:  
 15 -- might be good.  
 16 MR. SHERBURNE:  
 17 He volunteered.  
 18 MR. BRADLEY:  
 19 No, I didn't. I would  
 20 probably be the worst one to send  
 21 up there.  
 22 JUDGE ALARCON:  
 23 Well, we'll get former  
 24 Senator Heitmeier, I mean, he was  
 25 involved in the beginning, and he

1 through the legislature and  
 2 Division of Administration really  
 3 cranks up at the end of November.  
 4 I don't know the exact date this  
 5 year, but generally around the  
 6 1st of December. If you want  
 7 money for next year, you have to  
 8 have a budget package into those  
 9 organizations to get into the  
 10 bill.  
 11 JUDGE ALARCON:  
 12 Get those dates. That's  
 13 what I'm really referring to.  
 14 MR. SHERBURNE:  
 15 Now, that's not ironclad. I  
 16 know that things do get added,  
 17 like, the money that the board  
 18 received several years ago, but  
 19 that's the general process, is  
 20 roughly December 1 is a have-  
 21 your-paperwork-together-by-then  
 22 date.  
 23 MR. HYMEL:  
 24 Have we identified how much  
 25 we are going to ask for? I guess

1 may be the one to set up the  
 2 meeting with Senator Alario or  
 3 something. I told you I would be  
 4 more than glad to do it. I don't  
 5 have any problems with that.  
 6 MR. SHERBURNE:  
 7 If the board wishes, I can  
 8 certainly contact Senator  
 9 Heitmeier and see about arranging  
 10 that meeting.  
 11 JUDGE ALARCON:  
 12 Why don't you just see what  
 13 he thinks would be an  
 14 appropriate -- I don't want to go  
 15 too early, but at the same time,  
 16 I don't want it when the  
 17 floodgates open, I don't want to  
 18 get lost in the shuffle.  
 19 MR. SHERBURNE:  
 20 Let me say this, too, then.  
 21 I haven't looked for the next  
 22 fiscal year -- for those who may  
 23 not know this, the state's fiscal  
 24 year runs July 1 to June 30th,  
 25 and the budget process which runs

1 when we have this meeting, we got  
 2 to sit with the senator and say,  
 3 okay, we want this much money --  
 4 JUDGE ALARCON:  
 5 This has what happened, but  
 6 this has not happened. Again, I  
 7 would really need your input from  
 8 both sides to see how active do  
 9 you think it would be going  
 10 forward. We have to do several  
 11 things. I've -- you know, we've  
 12 got to address there's one --  
 13 Judge Cusimano is on this  
 14 commission.  
 15 JUDGE GARVEY:  
 16 Did he ever file a  
 17 resignation?  
 18 JUDGE ALARCON:  
 19 No, he hasn't. I guess I'll  
 20 have to address it with him, you  
 21 know, personally. I don't mind  
 22 calling him.  
 23 JUDGE GARVEY:  
 24 If we talk to him, tell him  
 25 to file a resignation so we get

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1 another appointment.  
 2 JUDGE ALARCON:  
 3 I think we'll have to  
 4 address it if that's the way we  
 5 do it. I don't mind doing it.  
 6 Has he been here?  
 7 JUDGE GARVEY:  
 8 No, not at all. He made  
 9 one, two meetings, never heard  
 10 from him again. He was not  
 11 happy.  
 12 JUDGE ALARCON:  
 13 About being appointed?  
 14 JUDGE GARVEY:  
 15 About being here when I  
 16 talked to him. He's never been  
 17 back. I'd just call him and say,  
 18 why don't you go ahead and resign  
 19 so we can get a new member.  
 20 JUDGE ALARCON:  
 21 Okay. I'll talk with him.  
 22 If he's not interested, I guess  
 23 we'll call somebody and see if  
 24 anybody -- you know, is anyone in  
 25 mind, if y'all have anyone from

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1 your respective areas who are  
 2 retired. Most retired judges  
 3 that I know, not like Judge  
 4 Garvey, most of them would rather  
 5 take big appointments that pay a  
 6 lot of money, or take  
 7 appointments rather than do  
 8 anything. You can quote me on  
 9 that, Richard. I'm still in the  
 10 union.  
 11 MR. SHERBURNE:  
 12 I'm sorry. There's a court  
 13 reporter right there.  
 14 JUDGE ALARCON:  
 15 I'm controversial enough.  
 16 We need to have it just a  
 17 full board, which, I think, I  
 18 don't want to go to a meeting and  
 19 they say, who are the three  
 20 judges and, oh, Judge Cusimano  
 21 and then whatever. Let's just --  
 22 MR. BRADLEY:  
 23 On the funding, if I may, I  
 24 don't want to interrupt you  
 25 before we move on --

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1 JUDGE ALARCON:  
 2 No.  
 3 MR. BRADLEY:  
 4 -- would it be prudent to  
 5 make some sort of a determination  
 6 as to what we would want to bank  
 7 in case we have, let's say, one  
 8 or two investigations in a year  
 9 and then ask for an annual  
 10 appropriation for the cost of our  
 11 operating expenses and our per  
 12 diem, whatever we have to pay  
 13 annually. Once we bank enough to  
 14 cover a couple of years, we won't  
 15 have to ask again. You're  
 16 talking about a minimal amount of  
 17 money, maybe \$150,000 -- I have  
 18 no idea, I'm just throwing it out  
 19 there -- but if you put 150,000  
 20 in the bank and if it costs us 30  
 21 or 60 or whatever it is to go  
 22 annually, then, we only have to  
 23 go back down there annually, just  
 24 get that annual expense until we  
 25 deplete what we have in the bank

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1 or use what we have in the bank.  
 2 JUDGE ALARCON:  
 3 I would like to first see  
 4 who's interested in being at the  
 5 meeting with the folks we  
 6 discussed and us have a  
 7 premeeting to see what we're  
 8 going to go in there and ask for  
 9 and have it reflect on them. One  
 10 of the problems, if you don't ask  
 11 for money, even if it's a minimum  
 12 amount, every year, and you go  
 13 back every two or three years,  
 14 it's very difficult to get it  
 15 every two or three years because,  
 16 you know, you're at the whims of  
 17 whatever the state government --  
 18 MR. BRADLEY:  
 19 We would be asking for an  
 20 annual appropriation.  
 21 JUDGE ALARCON:  
 22 For operating. Okay.  
 23 MR. BRADLEY:  
 24 It would just be less -- you  
 25 know, I'm just saying if we could

1 convince John Alario to do that,  
 2 as long as he's down there, if  
 3 he's agreeable, I think he would  
 4 agree to help us replenish what  
 5 we needed.  
 6 JUDGE ALARCON:  
 7 Right.  
 8 MR. BRADLEY:  
 9 If he's agreeable on the  
 10 front end and if we're  
 11 reasonable, I don't see any  
 12 reason why he wouldn't try to  
 13 help us. I think he would.  
 14 JUDGE ALARCON:  
 15 Anybody else have any  
 16 thoughts? We'll set up the  
 17 meeting and then I'm just going  
 18 to open it up that when we have  
 19 our premeeting, whoever wants to  
 20 come, you know, I'd be thrilled  
 21 to death if everybody came  
 22 initially and then we could  
 23 decide who want to go meet with  
 24 the powers that be. Maybe we can  
 25 do it at the next regularly

1 budget information, we're not  
 2 going to meet that deadline,  
 3 unless we have a meeting.  
 4 JUDGE ALARCON:  
 5 When is the deadline?  
 6 MR. SHERBURNE:  
 7 Well, the general deadline,  
 8 if you're going to get into House  
 9 Bill 1 is sometime around the 1st  
 10 of December. Obviously, that's  
 11 not going to be possible for this  
 12 year, but, as I say, the last  
 13 appropriation this board got  
 14 showed up in the middle of a  
 15 legislative session as an  
 16 amendment without any paperwork  
 17 behind it before that, really,  
 18 except for that letter.  
 19 JUDGE GARVEY:  
 20 Why can't we get it in by  
 21 December 1st?  
 22 JUDGE ALARCON:  
 23 I don't have a problem if  
 24 you feel like y'all can give me a  
 25 number that's defensible. That's

1 scheduled meeting, if that would  
 2 be appropriate.  
 3 Chris, you got any thoughts  
 4 on that, instead of calling a  
 5 special meeting?  
 6 MR. BARBIER:  
 7 I mean, you could decide  
 8 that now, if you wanted to, who  
 9 is going to be involved.  
 10 JUDGE ALARCON:  
 11 I'd like to have everybody.  
 12 I just do better with that in  
 13 terms of what do we need to do.  
 14 Again, I don't have the  
 15 historical perspective some of  
 16 you folks do about how this thing  
 17 was originally envisioned, how it  
 18 has worked or not worked and what  
 19 you think the future is going to  
 20 be, and then hammer out some  
 21 things and we'll take a four- or  
 22 five-person delegation. Does  
 23 that seem agreeable to everybody?  
 24 MR. LYONS:  
 25 If we have to submit this

1 what my only concern was. How  
 2 did y'all arrive at that number?  
 3 MR. LYONS:  
 4 If we had a subcommittee, we  
 5 could do a conference call.  
 6 JUDGE GARVEY:  
 7 I think you need at least  
 8 \$150,000.  
 9 MR. LYONS:  
 10 I would go with what we had  
 11 before. If 200,000 sounds right,  
 12 all they can do is say no.  
 13 MR. BRADLEY:  
 14 If you formalize a  
 15 subcommittee, you have to meet in  
 16 person. If you just do it  
 17 informally, like, if somebody  
 18 wants to call somebody else, call  
 19 somebody else and set up a  
 20 conference call and say, hey,  
 21 let's talk, I don't know if  
 22 that's a formal -- you should  
 23 know that. That's not a rule of  
 24 quorum or anything like that.  
 25 Three independent -- like, you



1 get a judge, a pilot and the  
 2 other side just to --  
 3 MR. SHERBURNE:  
 4 They can meet without having  
 5 any public notice because they  
 6 are not able to act for the  
 7 board.  
 8 MR. BRADLEY:  
 9 That's correct. Okay.  
 10 MR. SHERBURNE:  
 11 And that's -- as long as you  
 12 don't have a quorum of the board  
 13 or a group that is able to act  
 14 for the board, any three of y'all  
 15 can sit down and talk about  
 16 anything you want without it  
 17 being action of the board and,  
 18 thus, a public meeting.  
 19 MR. LYONS:  
 20 I would suggest that we  
 21 appoint a group, three people,  
 22 four people, you know -- if  
 23 200,000 sounds right, we go meet  
 24 with Senator Alario, with Senator  
 25 Heitmeier, who got the

1 head, but it's never been  
 2 anywhere near 65.  
 3 MR. LYONS:  
 4 I mean, seems to me, if  
 5 Bruce -- go with Bruce's idea  
 6 that we go in maybe and ask,  
 7 John, look, we need \$200,000 the  
 8 first year, but we think we can  
 9 get by with 125,000 next year, we  
 10 just need something for hearings,  
 11 that that sounds pretty  
 12 reasonable to me in a \$25 billion  
 13 budget.  
 14 I have one question, though.  
 15 Are we in the governor's office?  
 16 Would we fit in the office of the  
 17 governor's budget?  
 18 MR. SHERBURNE:  
 19 Technically, because this  
 20 board isn't anywhere else, it's  
 21 in the governor's office.  
 22 MR. LYONS:  
 23 We probably ought to talk to  
 24 somebody in the governor's  
 25 office.

1 appropriation last time, I think,  
 2 and let's see what they think. I  
 3 mean, I don't think we need the  
 4 whole board if we're in agreement  
 5 that 200,000 is maybe a good  
 6 number to shoot at.  
 7 MR. SHERBURNE:  
 8 Let me just say, working  
 9 only from the previous budget,  
 10 which that money's lasted this  
 11 long, roughly 50,000 of that was  
 12 drafting and promulgating in the  
 13 Register the rules. So, you  
 14 really knock it down to 150 to  
 15 start. Then, there was a reserve  
 16 built into that of another 18.  
 17 So, that knocks it down to 130,  
 18 132. I can tell that you this  
 19 firm has never come anywhere near  
 20 the \$65,000 in one year number  
 21 for expenses of counsel and  
 22 counsel staff for a year. I'd  
 23 hesitate to tell you what the  
 24 highest number was because I just  
 25 don't know it off the top of my

1 MR. SHERBURNE:  
 2 If you sit down and draw a  
 3 diagram of state government, it's  
 4 in the governor's office, but  
 5 it's not placed in the governor's  
 6 office by the statutes. It is a  
 7 separate board just like the  
 8 Public Service Commission is a  
 9 separate board.  
 10 MR. LYONS:  
 11 But we're all appointed by  
 12 the governor.  
 13 MR. SHERBURNE:  
 14 Correct.  
 15 MR. LYONS:  
 16 So, I suppose we work for  
 17 him.  
 18 I'm agreeable with whoever  
 19 said it, I think it was Judge  
 20 Garvey, if the legislature  
 21 created this body, then, they  
 22 ought to pay for it.  
 23 JUDGE GARVEY:  
 24 Unless they want to abandon  
 25 the board. I think a good

1 meeting, a good investigation is  
 2 going to cost you about \$50,000.  
 3 I don't think that's unreasonable  
 4 for a good hearing, I really  
 5 don't, by the time you pay the  
 6 attorneys' fees and everything.  
 7 JUDGE ALARCON:

8 If we ask for an allocation,  
 9 what is the specificity we're  
 10 required to do to meet the  
 11 December 1st guideline?

12 MR. SHERBURNE:

13 Judge, with the caveat that  
 14 I have not looked at that closely  
 15 in, quite literally, five years,  
 16 there is a form that requires you  
 17 to categorize the amount of money  
 18 and the amount of money you got  
 19 last year in each one of those  
 20 categories and why you want more  
 21 or less this year. It's the kind  
 22 of thing you would expect with a  
 23 budget layout. What do you want  
 24 to spend on salaries? What do  
 25 you want to spend on postage?

1 If you took the 48 out,  
 2 you've got a reasonable,  
 3 ballpark kind of number.  
 4 MR. LYONS:

5 I would put it in and just  
 6 say hearing expenses or  
 7 something.

8 MR. SHERBURNE:

9 Reserve for hearing.

10 MR. LYONS:

11 Reserve for hearing and go  
 12 ahead and collect the 50 each  
 13 year and build it up. If we get  
 14 a surplus, we just go to whoever  
 15 and say, look, we don't need that  
 16 much next year. Appropriate  
 17 150,000 next year instead of  
 18 200,000, or 100,000 instead of  
 19 150.

20 MR. SHERBURNE:

21 I can certainly lay my hands  
 22 on the forms and put the numbers  
 23 in the forms and get them to  
 24 anybody you want me to get them  
 25 to.

1 What do you want to spend on  
 2 equipment?  
 3 JUDGE ALARCON:

4 I did it for the court, and  
 5 that's why I'm asking the  
 6 question. Instead of just saying  
 7 we need \$50,000 more, they're  
 8 going to require --

9 MR. HYMEL:

10 Line item.

11 JUDGE ALARCON:

12 -- some line item.

13 MR. SHERBURNE:

14 Well, to some extent, you've  
 15 got a line item budget from  
 16 '09-'10.

17 JUDGE ALARCON:

18 Well, that's what I'm  
 19 saying. Can we just take that  
 20 and reduce the amount?

21 MR. HYMEL:

22 Just take the 48 out.

23 JUDGE ALARCON:

24 Right.

25 MR. SHERBURNE:

1 MR. LYONS:

2 I mean, if we had a hearing,  
 3 the judges are right, we got to  
 4 have money. We could get it in a  
 5 special appropriation, but that  
 6 just makes it going to the well  
 7 twice.

8 MR. SHERBURNE:

9 I understand.

10 MR. LYONS:

11 They're going to say, why do  
 12 you need another \$50,000?

13 JUDGE ALARCON:

14 I agree. Can we just go  
 15 ahead, unless someone has an  
 16 objection, to you getting the  
 17 proper paperwork and coming up  
 18 with the number that we've  
 19 discussed?

20 MR. SHERBURNE:

21 If y'all tell me to use  
 22 these numbers, I'll ask them for  
 23 it.

24 JUDGE GARVEY:

25 Could you maybe get an

1 appointment with whoever you want  
 2 to talk to? I mean, either the  
 3 representative or the senator.  
 4 And just have them notify the  
 5 board of who can be there?  
 6 JUDGE ALARCON:  
 7 Okay.  
 8 JUDGE GARVEY:  
 9 If you get the appointment,  
 10 there will be three or four of us  
 11 that can come and join you and  
 12 take a shot at it.  
 13 JUDGE ALARCON:  
 14 You want to contact former  
 15 Senator Heitmeier to set it up?  
 16 MR. SHERBURNE:  
 17 Yes.  
 18 JUDGE GARVEY:  
 19 I think it would be a good  
 20 place to start, if you get an  
 21 appointment with him.  
 22 JUDGE ALARCON:  
 23 Again, December 1st, I was  
 24 just trying to meet your concern.  
 25 JUDGE GARVEY:

1 concept and a number and without  
 2 formalizing it, adopting it, but  
 3 just generally take a number and  
 4 somebody goes and talks to  
 5 Senator Alario and says, here's  
 6 what we need, what would you  
 7 suggest we do, I think that would  
 8 probably be the right protocol  
 9 and I think he would probably get  
 10 the best advice you're going to  
 11 get from him --  
 12 JUDGE ALARCON:  
 13 Right.  
 14 MR. BRADLEY:  
 15 -- as far as succeeding in  
 16 the process. That's where I  
 17 would start, is just have -- it  
 18 doesn't need to be a brigade of  
 19 people going to talk to the  
 20 senator. You could do it, Judge,  
 21 and he's -- I mean, he's an  
 22 honest guy.  
 23 JUDGE ALARCON:  
 24 Oh, no, I have no problem --  
 25 MR. BRADLEY:

1 If you can get an  
 2 appointment with him maybe two  
 3 weeks from now or something like  
 4 that.  
 5 JUDGE ALARCON:  
 6 See if we can.  
 7 JUDGE GARVEY:  
 8 Notify the board and let  
 9 them know that we're having a  
 10 meeting and where at, and I think  
 11 we can get three or four people  
 12 there. Some people will not be  
 13 able to make it for commitments.  
 14 JUDGE ALARCON:  
 15 But in order not to violate  
 16 any -- does everyone pretty much  
 17 if we go to the meeting with the  
 18 number that we have discussed  
 19 here, that would be a good place  
 20 to start?  
 21 MR. BRADLEY:  
 22 Yeah. Just from the  
 23 perspective of lobbying and  
 24 dealing with legislators, if we  
 25 just generically come up with a

1 He will deal with you  
 2 straight up and down, and just  
 3 talk conceptually about where we  
 4 should go. Once we understand  
 5 that, then, we can make a  
 6 determination as to what  
 7 number -- and I'm fine with  
 8 whatever number y'all want to  
 9 come up with. I'm just talking,  
 10 you know, how do we best proceed  
 11 to succeed.  
 12 JUDGE ALARCON:  
 13 I agree. I'll be honest  
 14 with you, whether I'm going to a  
 15 doctor or whatever, I just like  
 16 to have another set of ears with  
 17 me. I had to listen for a long  
 18 time to things and sometimes I  
 19 would read transcripts and say,  
 20 you know, ooh, where did this  
 21 come from or something. That's  
 22 why I think it's important to  
 23 have another set of ears.  
 24 MR. LYONS:  
 25 I have no problem inviting

1 everybody. I'll go. If we get  
 2 one of the pilots to go, that  
 3 will at least be a commit. If --  
 4 MR. JACKSON:  
 5 I don't think you guys would  
 6 want -- establish some sort of  
 7 mechanism.  
 8 MR. BRADLEY:  
 9 You're good with that? Yes?  
 10 MR. JACKSON:  
 11 I don't have any --  
 12 JUDGE ALARCON:  
 13 Yes, Judge.  
 14 JUDGE GARVEY:  
 15 I make a motion that we do  
 16 that and we take this sum here  
 17 of, say, \$197,000 -- I would  
 18 reword this, though, because we  
 19 do not have in here the reserve  
 20 for the hearings.  
 21 MR. SHERBURNE:  
 22 I understand, I think, what  
 23 you want me to do.  
 24 JUDGE GARVEY:  
 25 We can take out the drafting

1 JUDGE GARVEY:  
 2 Okay. That's not a problem.  
 3 JUDGE ALARCON:  
 4 At least another set.  
 5 Okay. So, anything else on  
 6 this topic? If not, we'll just  
 7 wait till Richard or Chris  
 8 contacts --  
 9 MR. SHERBURNE:  
 10 I'll get the forms and get  
 11 them back to y'all probably by  
 12 the end of next week, certainly.  
 13 I will talk to Senator Heitmeier.  
 14 JUDGE ALARCON:  
 15 Right, to see if he can set  
 16 it up with Senator Alario. Okay.  
 17 Moving on, the next order of  
 18 business is the next meeting.  
 19 Any thoughts? Is everybody okay  
 20 with 1:00? There was a question  
 21 about 1:00 last month, and I'm  
 22 not really sure it was resolved  
 23 for everybody. 1:00 still a good  
 24 time for everyone?  
 25 MR. BRADLEY:

1 and revising of rules and put in  
 2 there the figure for the hearing,  
 3 an estimated -- if you could  
 4 estimate \$50,000 per hearing.  
 5 You know, that will bring you  
 6 right up there. They're never  
 7 going to give you more than you  
 8 ask for and they are probably  
 9 going to cut you down. So, I  
 10 don't think you could have  
 11 trouble by asking for too much,  
 12 as long as it's not unreasonable.  
 13 JUDGE ALARCON:  
 14 Just for the record, what  
 15 I'd like to do, if you could just  
 16 tell us you're going to take a  
 17 representative group to meet with  
 18 and then we'll invite everyone  
 19 and whoever can make it, fine.  
 20 I'm sure not everyone is going to  
 21 be able to make it. If we can,  
 22 that's fine. I think Senator  
 23 Heitmeier would be the best one  
 24 to do it. I would like to have  
 25 another set of ears with me.

1 Works.  
 2 MR. PALMER:  
 3 Yeah. Works good for me and  
 4 allows me to get over here.  
 5 JUDGE ALARCON:  
 6 Okay.  
 7 MR. SHERBURNE:  
 8 Let me just let everybody  
 9 know, depending on what date the  
 10 next meeting is, we may or may  
 11 not be here. This firm is  
 12 relocating in mid-December around  
 13 the corner onto one of the tall  
 14 buildings on Poydras. We still  
 15 have adequate space, et cetera,  
 16 et cetera, but -- for the  
 17 meetings -- it's not anything  
 18 like that -- but we won't be in  
 19 this space. So, to the extent  
 20 that impacts anybody's thoughts.  
 21 JUDGE GARVEY:  
 22 You're going to notify us of  
 23 the move.  
 24 MR. SHERBURNE:  
 25 Right.

1 MR. BRADLEY:  
 2 We had some meetings at the  
 3 NOBRA place.  
 4 MR. HATHORN:  
 5 And y'all are welcome to  
 6 come back there.  
 7 MR. BRADLEY:  
 8 That's a little bit closer  
 9 for the people that are coming  
 10 from -- for you and, I guess, us  
 11 and, I guess, y'all, too.  
 12 JUDGE GARVEY:  
 13 Where is that, on Harvard?  
 14 MR. BRADLEY:  
 15 Yes. That way, we wouldn't  
 16 have to be concerned with, you  
 17 know -- just throwing that out  
 18 there. Doesn't matter to me.  
 19 JUDGE ALARCON:  
 20 Fine with me. Why don't we  
 21 just discuss it, if y'all could  
 22 decide where to meet.  
 23 MR. HATHORN:  
 24 Just give us a little notice  
 25 and we can put it on the

1 I think it's as late as it  
 2 can be this year.  
 3 MR. BARBIER:  
 4 Okay. I can certainly do  
 5 that.  
 6 JUDGE ALARCON:  
 7 That seems to work better  
 8 for everyone. I have a calendar  
 9 here, but -- all right. We'll  
 10 circulate the dates.  
 11 The only other thing, I said  
 12 Mr. Forbes called, remember, he  
 13 was the gentleman from Chaffe,  
 14 McCall. Go ahead.  
 15 MR. EISELEN:  
 16 Judge, Brian Eiselen.  
 17 Tom Forbes and I have been  
 18 talking consistently since the  
 19 last meeting. Nothing has  
 20 changed with regard to working  
 21 out with regard to the complaint.  
 22 It's just taking a little time.  
 23 Logistics have been a problem.  
 24 Some of the folks we want to  
 25 bring to the table have actually

1 calendar.  
 2 JUDGE ALARCON:  
 3 Any thoughts about the next  
 4 meeting, the date? We'll have to  
 5 report on the meeting that we  
 6 have concerning funding and all.  
 7 Where are we, in January or  
 8 February? This is almost  
 9 November, huh, the end of the  
 10 week.  
 11 MR. JACKSON:  
 12 Maybe February.  
 13 JUDGE ALARCON:  
 14 This year is basically done,  
 15 with the holidays and everything.  
 16 MR. JACKSON:  
 17 Probably be best to get  
 18 Chris to shoot some possible  
 19 dates around.  
 20 JUDGE ALARCON:  
 21 That's worked in the past.  
 22 MR. JACKSON:  
 23 Mardi Gras is in March this  
 24 year, isn't it?  
 25 JUDGE ALARCON:

1 been on a three- or four-month  
 2 turn. So, it's been an issue of  
 3 actually getting all the folks on  
 4 the same continent at the same  
 5 time that we can either video  
 6 conference or try to get them  
 7 over here. Nothing has changed.  
 8 Everything is still progressing  
 9 in a harmonious light at this  
 10 stage. Logistics have been the  
 11 issue.  
 12 JUDGE ALARCON:  
 13 So, it's still continued  
 14 without date, for the record,  
 15 right?  
 16 MR. EISELEN:  
 17 Correct.  
 18 JUDGE ALARCON:  
 19 Okay.  
 20 All right, gentlemen.  
 21 Anyone have anything else to add,  
 22 any new business or old business?  
 23 MR. BRADLEY:  
 24 I have a question.  
 25 JUDGE ALARCON:

1 Yes, sir.  
 2 MR. BRADLEY:  
 3 If you find out -- you're  
 4 going to contact Judge Cusimano.  
 5 If you find out that he wants to  
 6 resign, how are we going to  
 7 proceed to -- y'all were talking  
 8 about finding somebody, but  
 9 doesn't the -- y'all just going  
 10 to offer something to the  
 11 governor and say, hey, look,  
 12 we've got these people are  
 13 interested, but we need to fill  
 14 this seat?  
 15 JUDGE ALARCON:  
 16 You know, I would probably  
 17 mention it at the meeting that we  
 18 had with Senator Heitmeier and  
 19 Senator Alario to say, you know,  
 20 Judge Cusimano has offered to  
 21 resign and do you have any  
 22 thoughts on who could replace  
 23 him, and whatever the process  
 24 was. They got Judge Garvey and I  
 25 because we were the brightest

1 is everybody comes to these  
 2 meetings. Trust me, I've been on  
 3 boards where -- I didn't think  
 4 anybody was coming when I was  
 5 first asked to do this. If we go  
 6 ask for thing things in the  
 7 legislature, I'd like to be able  
 8 to say Judge Garvey and judge so  
 9 and so and myself are here.  
 10 That's just the way I like to do  
 11 business. I think it's  
 12 remarkable that all of y'all show  
 13 up for all of these meetings,  
 14 considering, you know, what has  
 15 happened or not happened in the  
 16 past. So, I think we have to  
 17 meet our obligation with the  
 18 judiciary component of that. If  
 19 y'all have any thoughts, though,  
 20 believe me, I do not have a horse  
 21 in the race for anybody.  
 22 JUDGE GARVEY:  
 23 Let me make one point. If  
 24 anybody has a judge from their  
 25 district who would be interested

1 ones available.  
 2 JUDGE GARVEY:  
 3 If he'd just write a letter  
 4 to the governor and resign, that  
 5 would be finished.  
 6 MR. BRADLEY:  
 7 You know what, that's right.  
 8 JUDGE GARVEY:  
 9 If anybody has a candidate,  
 10 then, just call the governor and  
 11 he will appoint them.  
 12 MR. SHERBURNE:  
 13 The governor's office, just  
 14 so y'all know, if you go to their  
 15 website, there's a governor's  
 16 office of Boards and Commissions.  
 17 There's a very nice young woman  
 18 that organizes and administers  
 19 that. If you want to suggest a  
 20 name to them, call that person.  
 21 Excuse me. I don't remember her  
 22 name right now, but her name is  
 23 on their website.  
 24 JUDGE ALARCON:  
 25 One thing I'm impressed with

1 and willing to do the travel to  
 2 come to the meetings, feel free  
 3 to, you know, recommend them or  
 4 suggest them. I mean, he doesn't  
 5 have to be from here. We can  
 6 probably find somebody here, but  
 7 if there's somebody that you all  
 8 would like or they would like or  
 9 you would like to have them, I  
 10 mean, anybody who will come to  
 11 the meetings.  
 12 JUDGE ALARCON:  
 13 I think there's a tendency  
 14 to do the metropolitan New  
 15 Orleans area because it's closer  
 16 for us.  
 17 JUDGE GARVEY:  
 18 Yeah, we feel that way, but  
 19 you might have a friend who would  
 20 like to be on the board, somebody  
 21 who's interested.  
 22 JUDGE ALARCON:  
 23 That would be good, to have  
 24 someone that was interested.  
 25 Okay. Any other business?

1 If not, I will entertain a motion  
 2 to adjourn.  
 3 MR. HYMEL:  
 4 I move.  
 5 JUDGE ALARCON:  
 6 Thank you, gentlemen. We  
 7 will be in touch.  
 8 (Whereupon, the proceedings  
 9 were concluded at 1:39 p.m.)

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