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THE COMMONWEALTH OF MASSACHUSETTS  
MASSACHUSETTS GAMING COMMISSION

OPEN MEETING

CHAIRMAN:

Stephen P. Crosby

COMMISSIONERS:

Gayle Cameron

James F. McHugh

Bruce W. Stebbins

Enrique Zuniga

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MAY 15, 2012, 1:00 p.m.

BOSTON CONVENTION AND EXHIBITION CENTER, ROOM 101

415 Summer Street

Boston, Massachusetts

1                                   MAY 15, 2012

2                                   PROCEEDINGS:

3                                   CHAIRMAN CROSBY: I am pleased to call to  
4 order the May 15 meeting of the Massachusetts Gaming  
5 Commission. We will start as always by asking for  
6 approval of the minutes of our prior meeting, the May 8  
7 meeting. Does anybody have a motion to that effect?

8                                   COMMISSIONER MCHUGH: I do, Mr. Chairman.  
9 I move that we accept the minutes of the May 8 meeting.  
10 They have been posted on our website and have been  
11 distributed to all of the Commissioners.

12                                   COMMISSIONER STEBBINS: Second.

13                                   CHAIRMAN CROSBY: Any questions, any  
14 corrections, any suggestions about the minutes? All in  
15 favor of adopting as submitted say I. I.

16                                   COMMISSIONER ZUNIGA: I.

17                                   COMMISSIONER CAMERON: I.

18                                   COMMISSIONER MCHUGH: I.

19                                   COMMISSIONER STEBBINS: I.

20                                   CHAIRMAN: All opposed? The motion is  
21 passed.

22                                   Item number three, administration.  
23 Commissioner Zuniga, do you want to give us an update on  
24 the executive director search? And also we wanted to  
25 talk about the draft statement, position statement that

1 was put together by our prospective gaming consultants.

2                   COMMISSIONER ZUNIGA: Thank you, Mr.  
3 Chairman. As you know, we issued an RFR whose deadline  
4 was last Friday. We received two responses.

5                   At this point, we are conducting what is  
6 called a phase one review. Essentially, a compliance of  
7 the forms, all the forms that are required as part of the  
8 submission. That evaluation is done by the staff -- that  
9 review, if you will, is being done by staff as we speak,  
10 not the person or persons who is going to be evaluating  
11 the responses.

12                   The purpose of that among other things is  
13 should there be any minor cures that are needed, a form  
14 that was not submitted or submitted without the proper  
15 signature, etc., this period would allow those  
16 respondents, if there is such, to cure. So, Brandon is  
17 going to help with the evaluation of that phase one.  
18 That is where we stand.

19                   CHAIRMAN CROSBY: After that you will  
20 look into the substance of the --

21                   COMMISSIONER ZUNIGA: Yes, after phase  
22 one review concludes then we will proceed into the  
23 evaluation of the responses.

24                   CHAIRMAN CROSBY: Okay, great. We asked  
25 the gaming consultant even in advance of technically

1 going to work for us to put together a draft position  
2 statement -- a position description for the executive  
3 director in order that when we get a search firm, they  
4 will have sort of a head start.

5 I think you all have a copy of that. First  
6 of all, to be clear this is not a position description  
7 for the executive director. This is a draft which has  
8 come from our gaming consultant with what they think  
9 needs to be included in that. And we will give this to  
10 the search firm and work with the search firm to turn it  
11 into a final draft, just to be clear on that.

12 Any important substantive issues? Yes.

13 COMMISSIONER ZUNIGA: By way of comment  
14 and for discussion, there is item three under the  
15 supervision of the Commission. It says here some of the  
16 general duties and responsibilities would include  
17 appoints and employs with the concurrence of the  
18 Commission, general certain officers and staff as  
19 necessary.

20 I would like to see some of this language  
21 changed to make clear that it is the Commission that  
22 appoints officers and staff not with concurrence but  
23 subject to the approval of the Commission.

24 The legislation speaks to the executive  
25 director having the ability to appoint a chief financial

1 officer, but is silent about anybody else.

2 CHAIRMAN CROSBY: Even the chief  
3 financial officer is with the approval of the Commission.

4 COMMISSIONER ZUNIGA: Right. So, I just  
5 want to clarify that an executive director will not have  
6 their own discretion in appointing only with the  
7 concurrence. I want to enforce, make it more clear that  
8 the discretion is of the Commission, that the approval  
9 of the Commission, the appointment comes from the  
10 Commission.

11 CHAIRMAN CROSBY: But we would want the  
12 executive director to do all of the legwork and to do the  
13 basic recruiting and interviewing and so forth and then  
14 make a recommendation to us with us having the ultimate  
15 authority to say yes or no.

16 COMMISSIONER ZUNIGA: Right. Another  
17 point that I would make, which is silent here but it is  
18 clearly in the legislation, the executive director shall  
19 serve at the pleasure of the Commission and of course  
20 reports to the Commission, which I would just like to see  
21 incorporated into this job description.

22 CHAIRMAN CROSBY: We will work on this  
23 when we get the search firm going. Even as I read this,  
24 I would increase I think the emphasis on gaming  
25 regulatory management experience. I think we all feel

1 really urgently that we need a senior, strong person who  
2 has been a top person or a next to top person in a similar  
3 kind of regulatory agency. That is clearly here, but if  
4 I were doing this I would upgrade that even a little more.

5           So, we will just keep this in the file and  
6 for the agency -- the search firm when we get one.

7           Anything else on 3A, executive director  
8 status?

9           Other hiring needs. There are two  
10 processes going on as you know. One is a posting. A job  
11 posting went out for four jobs basically the  
12 organizational, administrative, admin. level. We got  
13 many, many, over 600 applicants. They have been  
14 whittled down and we are getting close to identifying top  
15 prospects. We will have a pool. As we need more  
16 people, we can pull from this pool.

17           And there's already been one request from  
18 Commissioner Cameron and Commissioner Stebbins that they  
19 would like an admin. executive assistant. That should  
20 be in the pipeline very quickly, as all of our hires  
21 subject to background checks before they are announced.

22           Also, Commissioner Zuniga and I are  
23 talking to people who are people who might give us some  
24 more senior administrative support that would replace  
25 the acting ED. We are probably not going to go back to

1 an acting ED, but we do need some kind of senior support.  
2 And we have interviews with I think three and possibly  
3 four people. He and I will see if we can make some  
4 recommendations.

5           One of the things that is complicated here  
6 is figuring out exactly what each of these people will  
7 be doing. We know there is a need, but everything is a  
8 little incoherent at this point. Without a specific --  
9 We are not really looking for a CEO. We are not looking  
10 for an ED and we are not looking for somebody to hire all  
11 of these other people. So, defining the job is not  
12 simple.

13           Commissioner Zuniga and I thought we would  
14 work on that. If anyone can articulate thoughts either  
15 now or later on to us as to how you would see the lines  
16 of responsibility and accountability for this interim  
17 period go that would be helpful to us as we are trying  
18 to get our arms around people.

19           COMMISSIONER MCHUGH: Mr. Chairman, it  
20 seems to me the discussion we are in the process of having  
21 with respect to the overall work plan for the gaming  
22 consultant, at least in the near term tenets that they  
23 have outlined, will help us by defining tasks that need  
24 to be done in the near term, like quality and capabilities  
25 that we need for the people to drive it.

1           I think that the definition of the person  
2 we need will become more clear as we get into the  
3 nitty-gritty about what tasks we need to accomplish  
4 immediately. We all have certain visions of what those  
5 tasks are. But as we plan them and organize them, as we  
6 are in the process of doing, these qualities will emerge.

7           CHAIRMAN CROSBY: That's a good point.  
8 As we talk through the draft work plan, I think we will  
9 begin to see that and some of the ideas we talked about  
10 building an overall project management chart. That's  
11 great. That's a good point.

12           Anything else on other hiring needs?

13           On 3C, outside counsel status?

14           COMMISSIONER MCHUGH: We have signed with  
15 an outside counsel, Anderson and Kreiger -- the contract  
16 today. They had an initial work plan in place. That  
17 work plan will be integrated with the work plan of the  
18 gaming consultant so that the two can proceed in tandem.

19           They have done a very thorough analysis of  
20 the statute and the various components of the statute to  
21 date, and have also provided the legal support that is  
22 necessary to make the transition from the Racing  
23 Commission's responsibilities to us.

24           So, they have accomplished that work and  
25 are now prepared to turn to the task of integrating their



1 efforts with those of the gaming consultant to take the  
2 next step to stand up the Commission. So, we are moving  
3 in the right direction with that.

4 CHAIRMAN CROSBY: Are they here?

5 COMMISSIONER MCHUGH: Yes, Bill Lahey  
6 here is one of the partners with Anderson and Kreiger.  
7 He has been dealing primarily with the Racing piece of  
8 it, although he is working closely with Stephen Anderson,  
9 the other partner in charge who has been working on the  
10 regulatory pieces. And together they are supervising a  
11 task group at Anderson and Kreiger that is providing the  
12 services that we need.

13 CHAIRMAN CROSBY: So, we have signed the  
14 contract?

15 COMMISSIONER MCHUGH: The contract has  
16 been signed.

17 CHAIRMAN CROSBY: So, it's ready to go.  
18 Great. And we authorized that last week?

19 COMMISSIONER MCHUGH: We did.

20 CHAIRMAN CROSBY: We will just say  
21 Anderson and Kreiger have jumped right in here with the  
22 will and talent and has been really helpful to us on a  
23 lot of issues really quickly. So, thank you very much  
24 for that.

25 Again, when we get to the work plan

1 discussion, I think other Commissioners will understand  
2 better what Commissioner McHugh is talking about  
3 integrating these various work plans.

4 I do have a question, Commissioner or  
5 perhaps for Counsel. We have this gaming policy  
6 advisory committee, which is meant to be set up. And  
7 there are a number of subcommittees on mitigation, on  
8 various things, compulsive gambling. The membership of  
9 that committee includes people who represent the  
10 licensees and in some cases the host communities and  
11 surrounding communities, which suggests that we are not  
12 suppose to set that up until after the licensees are  
13 identified, although there are some functions that are  
14 implied particularly in some of the subcommittees like  
15 mitigation, for example, that could precede that. Do  
16 you have an opinion on when we are supposed to do that?

17 COMMISSIONER MCHUGH: From reading the  
18 statute, Mr. Chairman, it seems to me that that is to be  
19 done after a license is awarded and has an ongoing  
20 supervisory -- not supervisory, an ongoing advisory  
21 role.

22 There is, however, no reason why through  
23 issuance of regulations we cannot consider another  
24 approach to get earlier at least a partial committee on  
25 board to give advice as the process is going forward.

1                   That's certainly something we can look  
2 into and certainly something that can be part of the  
3 regulatory examination as we are in the process of  
4 standing up the Commission.

5                   It seemed to me that in looking at the  
6 statutory language that that was designed to be a body  
7 that would continue to monitor operations and give us  
8 advice and feedback as to how things were going.

9                   CHAIRMAN CROSBY: Okay. Good from the  
10 standpoint of we've got plenty to do. But I do think that  
11 somewhere along the line it probably wouldn't be a bad  
12 idea -- We are doing it informally with our mitigation  
13 forum and our compulsive gambling forum and so on and so  
14 forth, but it would not be a bad idea to probably consider  
15 seriously structuring an antecedent of that, those  
16 groups sooner than later. But we will talk about that  
17 in the next eight weeks.

18                   Great, thank you. That's helpful.  
19 Anything else on any of the admin. topics, Counsel?

20                   COMMISSIONER ZUNIGA: Just one thing on  
21 that. I would agree with that the notion of the advisory  
22 panel or advisory board because its nature is advisory.  
23 The sooner that we can have something, whether that's a  
24 version of the final board or a subset, would be very  
25 beneficial for this Commission in terms of policy

1 consideration.

2 CHAIRMAN CROSBY: I think so too. Good  
3 point. Item number four, big item, Commissioner  
4 Cameron, I am going to pass this over to you.

5 COMMISSIONER CAMERON: Thank you, Mr.  
6 Chair. As you know, we are mandated by law to transition  
7 all responsibilities formerly held by the State Racing  
8 Commission to the Massachusetts Gaming Commission on May  
9 20, 2012, the end of this week.

10 To assist in effective transition, we have  
11 contracted with the Division of Professional Licensure,  
12 an agency of the Office of Consumer Affairs and Business  
13 Regulation, to perform the day-to-day activities that  
14 support the Massachusetts horseracing, pari-mutuel  
15 wagering and simulcasting for the remainder of this  
16 racing season.

17 During this transitional period, the MGC  
18 will develop the capacity to directly perform those  
19 activities. So, as this year goes on, we will be  
20 evaluating and making decisions on next year's racing  
21 season when we will have those responsibilities.

22 The Division of Professional Licensure,  
23 DPL, will be responsible for the hiring, personnel  
24 management and administrative decisions for the end of  
25 this season. MGC will be responsible for the

1 adjudicatory functions previously performed by the State  
2 Racing Commission, policy decisions and approvals  
3 necessary for DPL to perform these activities.

4           In order for this transition of authority  
5 to become effective on May 20, we in conjunction with our  
6 attorneys from the law firm of Anderson and Kreiger have  
7 taken the following steps: Drafted emergency  
8 regulations, which outline the transfer of  
9 responsibilities. We will be entering into an  
10 interdepartmental service agreement with DPL to perform  
11 the operational duties I just mentioned.

12           In addition, at the request of Chairman  
13 Crosby, the Commission will be delegating all of the  
14 adjudicatory functions, policy recommendations and  
15 approvals to me. I will be the Commissioner responsible  
16 for reporting back to the full Commission on those  
17 activities.

18           To summarize those responsibilities,  
19 during this transition period, I will be conducting  
20 monthly adjudicatory hearings after which I will prepare  
21 written decisions to be presented to the full Commission  
22 for approval. I will be making policy and approval  
23 recommendations to the Commission with formerly State  
24 Racing Commission matters.

25           The DPL staff attorney who is Charles Kelb

1 who serves as the legal counsel to the State Racing  
2 Commission, he will continue in his capacity for the  
3 Massachusetts Gaming Commission with regard to racing  
4 matters.

5 DPL Deputy Director Casey Atkins, who has  
6 direct oversight of all of the State Racing Commission  
7 operations today -- In fact, she is here today. She is  
8 going to tell us a little bit about the responsibilities  
9 that will remain with DPL.

10 Before we ask Director Atkins to come up  
11 here and talk to us about that, I wanted to explain that  
12 all of these transition components necessary to comply  
13 with the law will be specified in the form of four  
14 motions, which Commissioner McHugh will present after  
15 Director Atkins explains the responsibilities that DPL  
16 will continue to have during this transition period.  
17 Casey?

18 CHAIRMAN CROSBY: Come on up, Casey. Can  
19 I ask you, the meetings that the Racing Commission used  
20 to have to hear license applications, appeals of  
21 decisions, those will now be conducted by you alone?

22 COMMISSIONER CAMERON: Yes, correct.

23 CHAIRMAN CROSBY: And you decide or do you  
24 advise us?

25 COMMISSIONER CAMERON: I will have

1 decision recommendations for the full Commission. I  
2 will write up my thoughts and what I believe the decision  
3 will be and then the full Commission will have approval  
4 authority.

5 CHAIRMAN CROSBY: Any votes that would  
6 have been required by the State Racing Commission as a  
7 practical matter, are those votes still required now to  
8 be taken by the Mass. Gaming Commission or have we  
9 somewhat circumvented that?

10 COMMISSIONER CAMERON: Well, we have not  
11 circumvented. We have put a system together where I will  
12 be the hearing officer. I will be listening to the  
13 facts. State Police will be presenting facts. I will  
14 be making a recommendation to the full Commission that  
15 a decision should go one way or the other.

16 There will be time for all of you to ask  
17 questions. We won't be rehearing the entire matter. We  
18 will -- I will be just summarizing the hearing and my  
19 recommendations for approval.

20 CHAIRMAN CROSBY: Okay, great.

21 CHAIRMAN CROSBY: Ms. Atkins?

22 MS. ATKINS: Commissioners, thank you for  
23 having me here today. As Commissioner Cameron  
24 mentioned, the Division of Professional Oversight will  
25 continue -- I'm sorry, the Division of Professional

1 Licensure will continue oversight of the daily  
2 operations including management of personnel who will  
3 remain DPL employees until December 31, 2012.

4 In this regard, we will oversee daily  
5 track and the laboratory operations, as well as  
6 administrative and financial operations including human  
7 resources and basic administrative functions as well as  
8 fiscal oversight.

9 Additionally, we will continue our  
10 oversight of enforcement in legal oversight in  
11 coordination with the Commission. As Commissioner  
12 Cameron mentioned, our Counsel, Charles Kelb, will work  
13 with the Gaming Commission on adjudicatory matters,  
14 provide advice and assistance. Further, we will provide  
15 other assistance as the Gaming Commission needs and for  
16 day-to-day oversight of operations.

17 CHAIRMAN CROSBY: So, to ask the same  
18 question, as a practical matter, at the operating level  
19 for the staff, the consultants and people in DPL, nothing  
20 changes?

21 MS. ATKINS: They remain DPL employees.  
22 And DPL will continue that day-to-day oversight. The  
23 statutory decision-making authority that was held by the  
24 SRC Commissioners will now reside with the Gaming  
25 Commission.



1                   CHAIRMAN CROSBY: Right. But the  
2 day-to-day operations will be -- this will pretty much  
3 be transparent to everybody involved. Everything is  
4 just going to continue to operate the same. Except for  
5 Commissioner Cameron and the consultant who is going to  
6 be taking a look at things, everything else will pretty  
7 much operate as it has in the past?

8                   MS. ATKINS: Yes. That is correct.

9                   CHAIRMAN CROSBY: For the balance of this  
10 racing year?

11                  MS. ATKINS: Yes.

12                  COMMISSIONER CAMERON: I would just like  
13 to state that personnel at the Division of Professional  
14 Licensure and Deputy Director Atkins in particular have  
15 been most helpful to us with this transition.

16                  Understanding that we are not fully  
17 staffed to take over all of those responsibilities at  
18 this time and not wanting to hire staff without a hiring  
19 plan that made sense, they have been the most helpful in  
20 accommodating a plan, which we think will serve the  
21 industry best and the needs of the Commission. So, I  
22 just wanted to thank Deputy Director Atkins.

23                  MS. ATKINS: Happy to help.

24                  CHAIRMAN CROSBY: I know that  
25 Commissioner Cameron is going to be going around to all

1 of the facilities and meeting with people and saying  
2 hello on our behalf. I've said this before, both of you,  
3 Casey, I hope that you will say to the folks that have  
4 gone through this, who have been for a year now not  
5 knowing whether they had jobs or not, knowing what they  
6 were going to be doing and apparently have stuck with us  
7 that we appreciate their sticking with us.

8 MS. ATKINS: I will extend that message.

9 CHAIRMAN CROSBY: Any general questions  
10 for Director Atkins?

11 COMMISSIONER MCHUGH: I have not so much  
12 a question, but a thought. The Racing Commission's  
13 website is a very helpful resource for everybody who is  
14 interested in Commission doings and regulations and  
15 rules. It is well designed. It is transparent. The  
16 information is there.

17 So, I would hope that as the transition  
18 occurs, we could keep that website up and work with you  
19 to make an appropriate cross-reference and cross-links  
20 so that people who are interested in racing could go to  
21 our site but then go to your site as a place where we link  
22 them to to continue that very useful information that is  
23 there.

24 CHAIRMAN CROSBY: I think that's a really  
25 good point, since starting the 20th it will be we. So,

1 Brandon it's very easy to put a big old Racing business  
2 logo or something on our website that then would link  
3 directly to theirs. That's a really good idea. Thank  
4 you. Any other thoughts about this, questions?

5 COMMISSIONER ZUNIGA: Just to clarify the  
6 first ISA that we approved in motion a couple of weeks  
7 ago, I believe, has that now been executed? The one  
8 having to do with transfers of the monies to the kennel  
9 owners?

10 COMMISSIONER CAMERON: The ISA has been  
11 approved. Final numbers were due in this week. The  
12 monies all depend on numbers that come in. Those numbers  
13 were due this week. And we anticipate checks going out  
14 next week.

15 COMMISSIONER ZUNIGA: Okay.

16 CHAIRMAN CROSBY: The consultant?

17 COMMISSIONER CAMERON: Yes. as we know  
18 we voted last week to hire Ms. Allman. We have had  
19 strategy discussions with Deputy Director Atkins and she  
20 will be coming in later on this month to start her  
21 responsibilities.

22 CHAIRMAN CROSBY: Great. Commissioner  
23 McHugh mentioned last week the idea of having a group of  
24 us get together and maybe take a day and go around to the  
25 various facilities sometime in the not-too-distant

1 future would be really helpful.

2 COMMISSIONER CAMERON: I know the  
3 consultant will be in on the 23rd and 24th. That will  
4 be the opportunity that I will have to go out to the tracks  
5 and meet everybody and get a look at the operations  
6 firsthand. That would be an opportunity for other  
7 Commissioners to join us or we can set a separate date  
8 up.

9 CHAIRMAN CROSBY: I think you have a job  
10 to do to meet them as their report in effect. For us,  
11 it is more just kind of a general oversight.

12 COMMISSIONER CAMERON: Meet and greet.

13 CHAIRMAN CROSBY: It's two different  
14 things, sort of get presentations from them. However  
15 you want to do it. I think it's a good idea. Are we  
16 ready to switch?

17 Thank you very much. We appreciate it.  
18 We will be seeing more of you.

19 MS. ATKINS: Thank you.

20 CHAIRMAN CROSBY: Commissioner McHugh,  
21 do you want to pick up on the --

22 COMMISSIONER MCHUGH: Sure. We have  
23 four motions here that are necessary to do the technical  
24 and substantive transfer of responsibilities. I am  
25 going to outline them and then we are going to go through

1 them seriatim because -- to explain what they are.

2           The first is a motion to promulgate  
3 emergency regulations. Emergency regulations really is  
4 a mechanism for promulgating regulations that will keep  
5 the existing regulations in place and allow us the time  
6 that we need to think about the content of those  
7 regulations, if we want to keep them in place and go  
8 through the regular process. But in the interim the  
9 existing order will remain unchanged. That is what that  
10 motion is designed to do.

11           Promulgating regulations takes a period  
12 of time. It takes time for public comment and all of that  
13 will follow. But this is simply a bridge to keep the  
14 existing regulations in place now as we examine what they  
15 say.

16           I am going to move in the following fashion  
17 to do that. I move that the Gaming Commission promulgate  
18 emergency regulations effective May 20, 2012 to provide  
19 for the orderly transition of the regulation of  
20 horseracing, harness racing, pari-mutuel wagering,  
21 simulcasting and related subjects from the Massachusetts  
22 Racing Commission to the Massachusetts Gaming  
23 Commission, and substantially the form attached, and to  
24 authorize the Commission's Secretary to take all  
25 necessary actions including without limitation the

1 filing of emergency regulations with and making any edits  
2 and corrections as may be necessary to conform to the  
3 Gaming Act and the requirements of the Massachusetts  
4 Secretary of the Commonwealth for the proper  
5 promulgation of these regulations.

6 CHAIRMAN CROSBY: Do I have a second?

7 COMMISSIONER CAMERON: Second the  
8 motion.

9 CHAIRMAN CROSBY: Discussion on the  
10 motion?

11 I am sure this is just a technicality  
12 but --

13 COMMISSIONER MCHUGH: I did not put that  
14 in the motion, Mr. Chairman, dog racing.

15 CHAIRMAN CROSBY: You left that out on  
16 purpose?

17 COMMISSIONER MCHUGH: Right, I did. We  
18 don't have dog racing, so that is not in the motion.

19 CHAIRMAN CROSBY: Any further discussion  
20 on the motion? All in favor say I. I.

21 COMMISSIONER ZUNIGA: I.

22 COMMISSIONER CAMERON: I.

23 COMMISSIONER MCHUGH: I.

24 COMMISSIONER STEBBINS: I.

25 CHAIRMAN CROSBY: All opposed? It

1 passes unanimously.

2                   COMMISSIONER MCHUGH: The second motion  
3 that I have is a motion that is designed to give a public  
4 notice of what we have just done.

5                   We have passed the emergency regulations.  
6 The emergency regulations will be promulgated. This  
7 next motion is designed to allow us to post a notice in  
8 various places so that everybody will understand that  
9 this transition has occurred, the transition from the  
10 Racing Commission to us with the existing regulations  
11 still in place.

12                   The form of the notice is attached to the  
13 work papers. It has been part of what the motion is  
14 talking about. This is simply a motion that authorizes  
15 us to post that document.

16                   I'd move that the Gaming Commission issue  
17 a notice of public interest substantially in the form  
18 attached to the motion explaining the background and  
19 reasons for the Commission's promulgation of emergency  
20 regulations effective May 20, 2012 concerning the former  
21 Massachusetts State Racing Commission, and to authorize  
22 the Commission's Secretary to take any actions he may  
23 deem appropriate to post or publish notice on the  
24 Commission's website in the Massachusetts register of  
25 the Secretary of the Commonwealth account or otherwise.

1 CHAIRMAN CROSBY: Do I have a second?

2 COMMISSIONER CAMERON: Second.

3 CHAIRMAN CROSBY: Any discussion on the  
4 motion? All in favor? I.

5 COMMISSIONER ZUNIGA: I.

6 COMMISSIONER CAMERON: I.

7 COMMISSIONER MCHUGH: I.

8 COMMISSIONER STEBBINS: I.

9 CHAIRMAN CROSBY: All opposed? The  
10 motion passes unanimously.

11 COMMISSIONER MCHUGH: We will have that  
12 notice published in the appropriate places in the very  
13 near future.

14 This next one is a motion that is designed  
15 to authorize Commissioner Cameron to complete the  
16 details, I should say, of the interagency service  
17 agreement that will operate between us and the Department  
18 of Public Licensure for the services that both  
19 Commissioner Cameron and Ms. Atkins just described.

20 Those negotiations have been going on for  
21 some time. There are details that have to be completed,  
22 but that details will be completed shortly. It is not  
23 completed at the moment. This authorizes Commissioner  
24 Cameron to complete that detail so that the agreement  
25 will be in place in a timely fashion.



1                   With that prolonged background, I move  
2 that the Gaming Commission authorize and direct  
3 Commissioner Cameron to negotiate, finalize, execute and  
4 enter into and then administer on behalf of the  
5 Massachusetts Gaming Commission and interdepartmental  
6 service agreement or agreements and any amendments  
7 thereto with the Division of Professional Licensure, an  
8 agency of the Office of Consumer Affairs and Business  
9 Regulation, concerning matters formerly within the  
10 jurisdiction of the State Racing Commission and  
11 transferred to the jurisdiction of the Gaming Commission  
12 and effective May 20, 2012. Pursuant to which the  
13 Department of Public Licensure will perform for a  
14 transitional periods or period day-to-day activities  
15 with respect to horseracing, harness racing, pari-mutuel  
16 wagering, simulcasting and related matters including  
17 without limitation matters pertaining to routine track,  
18 simulcasting and laboratory operations, administrative,  
19 fiscal and human resource operations, enforcement and  
20 public safety activities and legal oversight and  
21 assistance with respect to adjudicatory proceedings.

22                   CHAIRMAN CROSBY: Second?

23                   COMMISSIONER ZUNIGA: Second.

24                   CHAIRMAN CROSBY: Any discussion on the  
25 motion? Are you okay with that Commissioner?

1 COMMISSIONER CAMERON: I am, Mr. Chair.

2 CHAIRMAN CROSBY: All in favor? I.

3 COMMISSIONER ZUNIGA: I.

4 COMMISSIONER CAMERON: I.

5 COMMISSIONER MCHUGH: I.

6 COMMISSIONER STEBBINS: I.

7 CHAIRMAN CROSBY: All opposed? Motion  
8 passes unanimously.

9 COMMISSIONER MCHUGH: The final motion is  
10 a contingent motion to give Commissioner Cameron some  
11 discretion in the event that she feels it appropriate to  
12 exercise that discretion.

13 You heard her say that she will become the  
14 hearing officer taking the place of the hearing officers  
15 who formerly had performed for the Division of Public  
16 Licensure, the Racing Commission. There is a document  
17 with respect to which a vote is not required today, but  
18 you will sign authorizing her to do that. That's a  
19 matter within your discretion, Mr. Chairman.

20 This next motion is a motion that  
21 authorizes Commissioner Cameron to consult with the  
22 Division of Administrative Law Appeals to take over some  
23 of the hearing responsibilities if and to the extent she  
24 thinks it is appropriate to do so.

25 It may be that as we get into this and get

1 into other activities that we are involved in that the  
2 task of conducting the hearings and the reviews is more  
3 time-consuming than we think beneficial. It may not be.  
4 We simply don't know.

5           But this motion that I am about to make  
6 would give Commissioner Cameron the opportunity if it  
7 turns out that it is more time-consuming than we think  
8 we can afford it to be to go to the Division and engage  
9 in negotiations with them to take over these kinds of  
10 hearings and appeals.

11           They are the department of the State  
12 government that does this for a wide variety of state  
13 agencies. They have the expertise. They have  
14 administrative law judges that are very skilled in this.  
15 And they have a whole procedure designed to do it. They  
16 are administrative law judges. That is the background  
17 for this next motion that I am about to make.

18           The motion itself is that the Gaming  
19 Commission authorize Commissioner Cameron to negotiate,  
20 finalize, execute and enter into and administer on behalf  
21 of the Massachusetts Gaming Commission any necessary  
22 requests to an interagency agreements or other  
23 arrangements with the Division of Administrative Law  
24 Appeals pursuant to which that Division will conduct  
25 adjudicatory hearings concerning certain classes of

1 administrative appeals formerly within the jurisdiction  
2 of the Massachusetts State Racing Commission and  
3 effective on May 20, 2012 now within the jurisdiction of  
4 the Gaming Commission related to horseracing, harness  
5 horse racing, pari-mutuel wagering, simulcasting and  
6 related matters.

7 CHAIRMAN CROSBY: Second?

8 COMMISSIONER ZUNIGA: Second.

9 CHAIRMAN CROSBY: Any discussion on the  
10 motion? All in favor? I.

11 COMMISSIONER ZUNIGA: I.

12 COMMISSIONER CAMERON: I.

13 COMMISSIONER MCHUGH: I.

14 COMMISSIONER STEBBINS: I.

15 CHAIRMAN CROSBY: Opposed? The motion  
16 passes unanimously.

17 One other item on this topic, the  
18 legislation calls for the creation of a horseracing  
19 committee, I think it is called, pursuant to the  
20 establishment of the stabilization fund and directs  
21 either IBV Commission's representative or designee and  
22 that we select that designee by May 20.

23 I am thinking you would be the natural  
24 person to be on that. I do not think we need a vote. But  
25 if you're okay with that then I will notify -- the

1 Governor's nominee is the chair of the horseracing  
2 committee. I assume the Governor and that person will  
3 figure out when we are going to get started. I will  
4 notify them to that effect.

5 COMMISSIONER CAMERON: Yes.

6 CHAIRMAN CROSBY: Great. Anything else  
7 about horseracing business, Racing Commission?

8 Thank you very much, good stuff, good  
9 work.

10 COMMISSIONER CAMERON: You're welcome.

11 CHAIRMAN CROSBY: Thank you, Director  
12 Atkins.

13 We had anticipated talking quite a bit  
14 about the development of the work plan with the gaming  
15 consultant, but unfortunately at the last minute the  
16 representative of the gaming consultant could not come.  
17 So, we are going to have to postpone a good portion of  
18 that.

19 I just wanted to clarify a couple of things  
20 and there may be some things we can talk about. First  
21 of all, there is the contract, which we will be signing.  
22 There is a statement of work, which is referred to in the  
23 contract, which really is the guts of the contract.

24 That is being negotiated now with the  
25 consultant team, which is made up of both Spectrum and

1 Michael & Carroll. That also is signed by the parties  
2 and as I say is the heart of the contract. We are very  
3 close to having that completed. Commissioner Zuniga and  
4 I have been negotiating that. We are very close to the  
5 completion of that statement of work.

6           The statement of work refers to the work  
7 plan, which is the document that I did pass out, which  
8 is which you all have seen and have been thinking about.  
9 And this really represents the totality of the work that  
10 is going to be done by week by the responsible party  
11 during the course of what will essentially be a 16-week  
12 project by the gaming consultants.

13           If there are questions here that you want  
14 to bring up that we can discuss constructively without  
15 the gaming consultant here, let's do it. I think for the  
16 most part we probably need to wait until next week when  
17 we can have them here.

18           A second point is that as Commissioner  
19 McHugh said, there is also a work plan that Anderson and  
20 Kreiger, the law firm, has worked out over a similar time  
21 period, not identical but a similar time period. And  
22 what we would like to have on the wall in the Commission  
23 is a project management chart, which will include all of  
24 the items on the gaming consultant's work plan and all  
25 of intersecting items of the law firm and all of the

1 required actions on our part, like when we are supposed  
2 to set up funds, when we are supposed to set up advisory  
3 committee and so on and so forth.

4           So, we will have a really comprehensive  
5 chart with dates and responsible parties for basically  
6 everything we are doing. That would be the guide to the  
7 next four to five months.

8           We are well towards that with the work that  
9 the two outside firms have already done. This will be  
10 the backbone of it, but we will be adding a lot onto it.  
11 It's a great tool and we been longing for that for a long  
12 time to make sure we have a reference point for everything  
13 that we are doing.

14           So, do you want to discuss this at all or  
15 do you want to wait until the consultants are able to be  
16 here?

17           COMMISSIONER CAMERON: I had a question  
18 that I think is a question for the Commission as opposed  
19 to the consultant. I am looking at the last page under  
20 the second to last category where it talks about hires.  
21 It talks about review the recommendations with the  
22 Commission. That's the entire work period that they  
23 need to review those recommendations with the  
24 Commission.

25           It struck me that possibly we should have

1 a Commissioner and maybe a backup assigned to work with  
2 the consultants on each of these categories so that they  
3 know -- we know we are going to be expected to work on  
4 that particular item with someone else possibly. It  
5 just seems to me they cannot meet with all of us all of  
6 the time.

7 CHAIRMAN CROSBY: Quite the opposite.

8 COMMISSIONER CAMERON: Right. So, it  
9 just would seem to me that it may make some sense to go  
10 through and say you are going to be working on this item  
11 and that item. So, we will know we will be interfacing  
12 with the consultants on those tasks.

13 CHAIRMAN CROSBY: That's a good idea. In  
14 this column, it does say in many cases it says MGC  
15 personnel. But we can identify where we know either the  
16 responsible Commissioner or as we hire other people we  
17 could put them on there. I think that's a good idea.

18 Anything else?

19 COMMISSIONER ZUNIGA: I had a couple of  
20 questions that are really for the gaming consultants.  
21 But I would just mention a couple things just for our  
22 consideration.

23 This 16-week period that starts, I guess,  
24 as soon as we get the contract signed, has a number of  
25 weeks particularly around June, I see June and July that



1 if we go down the whole plan, they make demands on  
2 resources, significant resources I think in general.  
3 Only by virtue of various activities -- There's a number  
4 of activities happening every week.

5           In addition to the point of Commissioner  
6 Cameron how much resources are going to be needed of  
7 Commissioners individually or Commissioners as a group  
8 or staff of the Commission but also I would like to  
9 understand the resources that the consultants will bring  
10 relative to many of those activities.

11           What assumptions are there in terms of  
12 resources? Again, this is a general way of saying that  
13 some of these weeks are going to be very busy. And some  
14 of these may have some dependencies.

15           I'm talking about, for example,  
16 developing the RFQ process at the same time that we are  
17 writing regulations. Clearly, regulations have to  
18 stipulate the RFQ process from which we are informing  
19 ourselves, etc.

20           So, I am not suggesting that one should be  
21 done before the other, but I need to be able to understand  
22 what dependencies are inherent in those processes.

23           CHAIRMAN CROSBY: I think that's a really  
24 good point. I think for my money at least, it would be  
25 worth making this a real Gantt chart that does chart

1 interdependencies. It's a real critical path chart.  
2 There is so much to be done and so much going on so fast  
3 that to not have critical path connections identified  
4 here -- and that will surface issues. There are a number  
5 of scheduling -- I mean, this is a draft. So, it is okay  
6 that there are some disconnects in this. It's a big, big  
7 step towards what we need to get done.

8                   A critical path chart will show us, will  
9 reveal inconsistencies like you're talking about where  
10 there are conditions precedent, which are in the wrong  
11 place in the chart.

12                   I think we should ask one or the other,  
13 whichever of the consultants is best at putting together  
14 Microsoft Project to do that. That's a really good  
15 point.

16                   There are so many moving parts. We are  
17 going to need to add in the Racing Commission. The  
18 Racing Commission isn't even on this chart. And all of  
19 a sudden we have a whole host of steps to be taken there.  
20 So, it is a really good suggestion. You and I can follow  
21 up with the consultants to do that.

22                   COMMISSIONER ZUNIGA: Another piece that  
23 I had also was it occurs to me that by reading the tasks  
24 that this work plan anticipates that public hearings to  
25 be done after the completion of the work plan 16 or

1 however many weeks it turns out to be. That's perfectly  
2 what is required of us.

3           The first draft of regulations and then we  
4 issue them for public comment and then we can come back  
5 and revisit, etc. But is there anywhere relative to  
6 obtaining advice, consulting with State coordinators  
7 that could benefit the writing of those very regulations,  
8 for example, or the facilitation of this work plan? This  
9 may be very ambitious, of course, because in order to do  
10 something of this magnitude in 16 weeks, the more people  
11 we attempt to bring in the more exponential the  
12 difficulty becomes.

13           Are there any junctures, any milestones in  
14 between this work plan where we can either consult with  
15 necessary groups? I'm just extrapolating one of the few  
16 tasks here initially had to do consulting with other  
17 jurisdictions. That's a great process. But is there  
18 anywhere in the middle or anywhere at the end of some of  
19 these process that we can either circle back or consult  
20 in more detail?

21           It's something to talk conceptually but  
22 it's another one to talk in more detail. It's a  
23 rhetorical question but it's a question for us for this  
24 Commission.

25           CHAIRMAN CROSBY: Again, I think it's a

1 really good point. If there's another thing that will  
2 have to be added to this is the communications and  
3 outreach plan, which we already have going on. It will  
4 need to be layered into this. One of the issues would  
5 be where are stakeholders that need to be brought into  
6 this process.

7                   As you said, there is an exponential  
8 impact. But I'd rather spread this out and do everything  
9 that we need to do rather than force it artificially into  
10 a 16-week period. If it takes a little longer because  
11 we are doing it right, then that's okay.

12                   COMMISSIONER MCHUGH: I guess that's the  
13 point I was going to make, Mr. Chairman. I think this  
14 is essential to do, but we have to understand that this  
15 is plastic and it's going to change. The whole nature  
16 of the Gantt chart and the critical path chart is to  
17 identify the kinds of things that you can't figure out  
18 otherwise.

19                   This may spread itself out. We may find  
20 ways to contract certain things. And we will identify  
21 tasks to split up among us and to move forward. But in  
22 any event, we will have some way of keeping track of  
23 exactly where we are, where we need to move out and the  
24 kinds of adjustments we need to make going forward. I  
25 think we definitely need to turn this into that kind of

1 a chart and organizational plan.

2 COMMISSIONER STEBBINS: I agree with the  
3 other comments. Just some clarification the next time  
4 we are talking to our consultants is they kind of outlined  
5 some work around the RFQ and RFP process and then they  
6 segment the RFQ planning process. I didn't know if some  
7 of that was done in anticipation of us approving an RFQ  
8 process or whether it was just kind of folded in  
9 afterwards.

10 CHAIRMAN CROSBY: I think that is one of  
11 the things that needs to get clarified on this. I made  
12 that same observation.

13 One, a couple of points. As we have been  
14 negotiating the statement of work, which is what the work  
15 plan will fit into, we have increased the scope here  
16 several times. We have asked them to help in advance of  
17 the contract actually being signed on the description of  
18 the executive director. We asked them to expand on this  
19 idea of bifurcating the RFQ from the RFP.

20 We have asked for help on Racing  
21 Commission issues. We have asked for help on the Tribal  
22 Compact issues, etc., all of which they have been  
23 perfectly willing to do, but I think it is going to drive  
24 the total.

25 Plus we have asked the two of them to work

1 together which is good for us because we get the benefit  
2 of both teams, I think, but it does create some  
3 inefficiencies.

4 I think now we will probably max out on the  
5 amount. There was a cap of \$500,000. One of the bids  
6 was slightly under that. And one of the bids was more  
7 than \$100,000 under that. But I think we are going to  
8 end up being right up against the cap. We've talked  
9 about that.

10 I think we will do better -- it will  
11 probably be a fixed-price contract rather than an hourly  
12 rate for the tasks as outlined in this scope of work and  
13 work plan. I think we will be better off with that.  
14 Just FYI that's what Commissioner Zuniga and I have been  
15 working on.

16 Okay. We will then pick up on that. I  
17 know we all, I at least, have a lot of detailed questions  
18 about this, which are appropriate, but we will put that  
19 off until next week.

20 The finance budget, do we have anything  
21 significant about?

22 COMMISSIONER ZUNIGA: Very minimal. Now  
23 that we are executing contracts with our lawyer, outside  
24 counsel that is, our interservice agreement with DPL will  
25 start reflecting all of those numbers into the form of

1 encumbrances into our MMARS system so that that becomes  
2 incorporated into the finance reports.

3           The other one, I already did an update  
4 relative to the procurement of the executive search.

5           CHAIRMAN CROSBY: Great. Okay, number  
6 seven public education information, Economic  
7 Development Forum. Just do you want to give us a quick  
8 status report?

9           COMMISSIONER STEBBINS: Sure. Again,  
10 the date is June 14. I visited Quinsigamond Community  
11 College last week and met with their folks as well as the  
12 president of the college who is happy to host us. We are  
13 finalizing some additional speakers. It's involved me  
14 talking to them and kind of figuring out -- trying to pick  
15 their line of work that we really we want them to focus  
16 on.

17           Obviously, some of the folks whose names  
18 we picked up, Professor Barrow had sent us a list of  
19 recommendations, following up with them and trying to  
20 make sure that we are not having a lot of duplication from  
21 our panelists. But hopefully we are having topic areas,  
22 which are going to be reflective and helpful in the  
23 Commission's work.

24           So, my goal is to finalize the speakers  
25 this week, work with MMA to help distribute information

1 about the event and work with Janice on some of the  
2 logistical details. We have most of the bodies already  
3 confirmed. It's a matter of getting people to address  
4 certain issues so we don't have just a lot of people  
5 repeating the same information over and over again.

6 CHAIRMAN CROSBY: Great. We are now  
7 trying to hone in on either June 4 or June 8 if we can  
8 do it for what will become the second not the third, the  
9 other forum that was on community mitigation and  
10 compulsive gambling.

11 The moderators are set. It is Kathy  
12 Scanlan for compulsive gambling and Mark Draisen from  
13 MAPC for the community mitigation. We are now working  
14 on the panelists for that group and the format.

15 Again, I think it is going to be a  
16 half-day, no more than four hours. And MAPC is going to  
17 help with the logistics. I am actually talking to them  
18 later today if we get back in time to try to work out --  
19 We are going to try to do it the week of the fourth. That  
20 may be too fast. If we can't we'll -- For reasons of  
21 vacations and everything, it would be nice to get it done  
22 if we could before the 14th one.

23 COMMISSIONER ZUNIGA: Mr. Chairman, can I  
24 mention just this dovetails into the previous update. I  
25 will be putting together a budget, a small budget



1 relative to the public forum. I will consult with  
2 Commissioner Stebbins relative to what items, if any,  
3 have costs associated with it for consideration.

4 CHAIRMAN CROSBY: Great. Request for  
5 information.

6 COMMISSIONER MCHUGH: There are two  
7 items, Mr. Chairman, I wanted to discuss with the  
8 Commission today.

9 We talked last week about the fact that we  
10 are getting a variety of questions from members of the  
11 public by our website and have a mechanism for answering  
12 them. Most of them can be answered fairly quickly and  
13 without much discussion.

14 From time-to-time there are questions  
15 that really are worth discussing as a group before we give  
16 an answer so that we are all on the same page with respect  
17 to it.

18 Commissioner Stebbins and I have been  
19 talking about some of these questions. And there are two  
20 today that I thought it would be helpful to take a look  
21 at because they are representatives of other questions.  
22 And in one form or another we can expect them to recur  
23 as we move forward.

24 The first of those is this: We have a  
25 question from an individual who says that his company is

1 interested in developing a poker room in Massachusetts  
2 where live, face-to-face poker games would be played  
3 between patrons with house earnings a percentage fee or  
4 a rate from each pot. No traditional casino games or  
5 slots would be offered.

6           The person says I would like to know if  
7 current gaming regulations would allow for the operation  
8 of such a venue and if so what the licensing requirements  
9 are.

10           There are no current gaming regulations,  
11 so that's obvious. The question raised for me and I put  
12 it to the Commission a slightly broader question, that  
13 is the extent to which the Commission should be in the  
14 business of responding to what amounts to requests for  
15 legal advice by individuals who have a particular kind  
16 of activity they'd like to undertake.

17           There's a fine line and in many cases not  
18 so fine line, but a line between giving general advice  
19 to people either through answers to particular questions  
20 or developing policies or regulations that address  
21 general questions and issues, and having answers after  
22 hearings that we conduct, and then just giving advice to  
23 people who have a specific question about a specific  
24 activity they want to engage in and the specific legality  
25 of that question.



1 same thing if we were now in steady-state operations and  
2 we had a legal staff and we had gaming regulations in  
3 place and so forth?

4 COMMISSIONER MCHUGH: I don't know that I  
5 would. But I think that giving what amounts to legal  
6 advice to an individual about what his or her business  
7 operations can consist of is going to remain a tricky  
8 business throughout, even if we were in a steady-state.

9 We have to be very careful about  
10 developing regulations that deal with that so that we are  
11 not in the position of interpreting a regulation to  
12 permit something that some other law enforcement agency  
13 may think is not appropriate. There is a way to deal with  
14 that.

15 I think we have to be very careful that  
16 even if we were in a steady-state operation, but we are  
17 not in a steady-state operation. And for now I think we  
18 just cannot answer those kinds of particularized  
19 questions.

20 CHAIRMAN CROSBY: What about  
21 recommending that the person or such questions go to  
22 whoever we can identify as the right person in the AG's  
23 office to ask?

24 COMMISSIONER MCHUGH: Well, I am not sure  
25 the AG's office is in a position to be answering these

1 kinds of questions either. In fact, I am pretty  
2 confident that the AG's office would not answer these  
3 questions.

4 I think advisory opinions about  
5 abstractions are things that people who are in a  
6 steady-state operation are just not going to answer.  
7 These are legal issues that lawyers have to figure out,  
8 make some advice. It's not something that one can give  
9 and off-the-cuff answer to.

10 CHAIRMAN CROSBY: How does that person  
11 figure out what to do?

12 COMMISSIONER MCHUGH: That person goes to  
13 a lawyer the same way that people who are operating a  
14 business, if they can't figure it out, go to a business  
15 planning person, a lawyer who represents them, gives that  
16 person the best legal advice and judgment and that person  
17 acts the way any other business person would on the advice  
18 counsel gives them.

19 CHAIRMAN CROSBY: I don't know, maybe.  
20 It's not that big a deal, but it feels a little  
21 bureaucratic. Maybe it's bureaucratic for a good  
22 reason. But it feels to me like this guy is just trying  
23 to figure out whether he can have a poker game or whatever  
24 the question is. And to not be able to find someone to  
25 ask and go ask him to spend a bunch of money to hire a



1 questions like that. I agree. But trying to figure a  
2 place to send such people, if there were. There's in  
3 Economic Development, they have people there. They have  
4 ombudsman who are trying to help people start businesses  
5 and stuff. There must be somebody out there that we can  
6 suggest to at least try.

7                   COMMISSIONER MCHUGH: As we go forward  
8 and get ourselves up to a steady-state operation, it  
9 seems to me we could develop a process for having an  
10 ombudsman, for having a mechanism for getting these kinds  
11 of opinions that was non-bureaucratic to the extent we  
12 can make it. That was simple that was straightforward.

13                   When that moment arrives as we are  
14 thinking through these regulations, it is certainly a  
15 topic worth consideration. But I think still at the end  
16 to try and give people what amounts to business planning  
17 advice is not going to be something we can profitably  
18 spend our time on.

19                   COMMISSIONER STEBBINS: There are free  
20 small business start-up resources available around the  
21 Commonwealth, small business development centers. I  
22 don't know whether they would be able to particularly  
23 address the legality of a business, but certainly other  
24 business ideas come and go in front of them. And they  
25 can say that's not allowed or that is allowed.

1 I think as we have seen with some  
2 businesses including some that the AG is trying to  
3 shutdown, you have businesses that pop up whose grounds  
4 or operations are found to be illegal.

5 I think your point, Mr. Chairman, about  
6 would our answer today be the same answer we would give  
7 maybe five or six years from now when we are up and going  
8 I think would be a different question.

9 Considering everything we are charged and  
10 tasked with, trying to deviate down a path of somebody  
11 that wants to take us in a business direction to say  
12 promulgate regs for me or tell me if I am legally allowed  
13 to do this I think is kind of a stretch beyond our  
14 responsibilities at this point.

15 CHAIRMAN CROSBY: I agree with that. I  
16 think it is just a matter of how we do it. I think trying  
17 to be perceived as a responsive agency, if we say we don't  
18 have the ability to do that, there may be people in the  
19 such and such office of this agency or that agency.  
20 There maybe people -- try to do something if we can. We  
21 want to feel like we are trying to give people the best  
22 we can give them, not just stiff arm them. That's all.  
23 It's just a matter the way it is done.

24 I do not disagree with the substance of the  
25 point, but I do think the manner is important. There is



1 nothing worse than getting a bureaucratic sounding  
2 letter saying I can't help you. That's just annoying.

3 COMMISSIONER ZUNIGA: I would concur with  
4 the idea that as a matter of general policy and principle  
5 we should get away from providing business or certainly  
6 legal advice. I think if we get specific questions about  
7 how our own regulations, that's maybe something we should  
8 have to be in the business of clarifying whenever that  
9 is very relevant.

10 But in the absence of regulations where we  
11 start treading into the realm of a legal opinion, I would  
12 be concurring 100 percent with Commissioner McHugh  
13 relative to really staying away from that notion.

14 COMMISSIONER MCHUGH: Certainly, the  
15 idea here is not to stiff arm anybody. To the extent that  
16 there is a likely available alternative source for the  
17 answer, I think we should point people in that direction.

18 If there isn't any person on the horizon  
19 other than privately retained counsel, it seems to me we  
20 ought to at least tell the person that that's where we  
21 think the answer must lie.

22 COMMISSIONER ZUNIGA: The question may  
23 also be one of resources. If it's bogging down very  
24 scarce resources of this Commission at the beginning  
25 where resources should really be applied to the main

1 visions of the Commission that's a different question.

2 CHAIRMAN CROSBY: I don't think we have  
3 anything substantive. You can be told no nicely and you  
4 can be told no offensively. And I know you don't  
5 disagree with this.

6 COMMISSIONER MCHUGH: No, no. I believe  
7 nice no's are important.

8 CHAIRMAN CROSBY: That's all I am trying  
9 to say. Let's vote on being nice or not?

10 COMMISSIONER MCHUGH: No, I think we  
11 probably do that by acclamation.

12 The second one I am just going to  
13 generalize. It has to do with a question from an  
14 individual who says who is responsible for insuring that  
15 public officials in the city or town where this person  
16 lives negotiate with potential casino developers. How  
17 do I get the public officials motivated to do it if they  
18 are not willing to do it? How do I get them interested  
19 in voting? Who can negotiate a host agreement? Do the  
20 people as a whole have the right to vote on whether  
21 negotiations should commence if the local officials are  
22 not willing to engage in negotiations?

23 There it seems to me that the legislation  
24 is quite clear that no class one or two license can be  
25 issued without a community host agreement and unless

1 there has been a vote to accept the agreement. Before  
2 there is a vote there has to be the agreement as they say.

3 But the statute does not specify the  
4 process for the negotiation of the agreement.  
5 Therefore, it seems to me that the Commission's position  
6 ought to be that the local municipal governmental  
7 organization and regulations determine who it is that  
8 makes the decision with respect to engaging or not  
9 engaging in negotiations. That is something that the  
10 Commission does not really have a role until the  
11 negotiations have concluded and a vote has been taken.

12 So, we are going to see those questions,  
13 I think, in a variety of slightly different forms as we  
14 go forward dealing with slightly different kinds of  
15 governmental entities and jurisdictional areas.  
16 Basically, the Commission is not in a position to  
17 determine how those local judgments are made.

18 So, I throw that out for discussion as  
19 well.

20 CHAIRMAN CROSBY: That's not even -- In  
21 some cases nobody knows. It's not really clear or maybe  
22 it is clear who in a surrounding or a host community, a  
23 town or a city, is it clear who has to create the  
24 agreement, which is then voted on?

25 COMMISSIONER MCHUGH: The gaming

1 legislation is silent. So, you start with the  
2 proposition that the gaming legislation does not tell you  
3 anything about that.

4           And it doesn't give the Commission, with  
5 very limited exceptions, there is a limited exception for  
6 negotiations between a developer and a surrounding  
7 community after there is a host agreement where the  
8 Commission does have a role.

9           But apart from those limited exceptions,  
10 there is nothing in the gaming legislation that gives the  
11 Commission a role in that. So, what one is left with is  
12 the normal rules, regulations, laws, charters and the  
13 like that govern municipal operations.

14           And we are not in the business of  
15 interpreting what those regulations, charters and other  
16 things say. That is something that has got to be  
17 resolved either in the town itself or the city itself or  
18 in some other fashion, but not by us making some kind of  
19 edict or determination.

20           That it seems to me is something we need  
21 to recognize and help the cities and towns understand and  
22 recognize. This is not a place where we are authorized  
23 to make interpretive judgments in that regard.

24           CHAIRMAN CROSBY: This is clearly a place  
25 where we can say in the response -- we can say this is

1 not out authority but your Town Council or whatever is  
2 the place to turn for a question like this. I agree with  
3 that.

4 This does raise the question we talked  
5 about several times before about the extent to which we  
6 want to either provide or assume that it is provided  
7 support to potential hosts and surrounding communities  
8 for dealing with this issue. We have slight differences  
9 of opinion on degrees of emphasis and how we should handle  
10 that.

11 I think we ended up talking about trying  
12 to make sure that somebody else can really step up to the  
13 plate and do this so that we are not in the middle of  
14 potentially giving out mixed messages to different  
15 communities and end up some possible accusations of  
16 favoritism or whatever, which I think makes sense.

17 Where are we on that? That's a ball I  
18 would like not to lose track of.

19 COMMISSIONER STEBBINS: Some of the other  
20 questions that have been posed to us have been around  
21 funding fees for hiring a consultant to act on the  
22 municipality's behalf to negotiate a host agreement.  
23 Some municipalities from what you read in the media are  
24 already hosting RFPs for that kind of assistance and  
25 help.

1                   Commissioner McHugh and I talked  
2 yesterday about there are responsibilities in the  
3 legislation which gives us an authority of direct  
4 regulations as well as how that might conflict with the  
5 work alongside the State regulations, which allows  
6 somebody to accept money on behalf of the community.

7                   So, the question becomes on a host  
8 community agreement should there be a framework that we  
9 can kind of help communities establish, I don't know.  
10 What would we look for? Do we still leave that really  
11 all within the authority of the local municipalities? I  
12 think we continue to wrestle.

13                   We have always talked about the initial  
14 assistance support, trying to answer questions whether  
15 those be deferred until we have regulations in place in  
16 trying to be as helpful and thorough and diligent as  
17 possible to assist communities and to give them some  
18 sense of where we are going and what direction they may  
19 want to take. Or what provisions of the law to look at.

20                   In terms, I think we are still beyond that.  
21 I think we are still trying to figure out where we can  
22 have a helpful role in the process and what type of  
23 assistance we can offer. Certainly, there is going to  
24 be a level of assistants at some point in talking with  
25 the surrounding communities.

1                   It was helpful to see in the draft work  
2 plan of getting some assistance to really help in define  
3 what is an impact to surrounding communities, which I  
4 think kind of leaves it wide open. But beginning to  
5 focus in on that definition gives them some context to  
6 it is going to be helpful.

7                   COMMISSIONER MCHUGH: Just to follow up  
8 on what Commissioner Stebbins said, both section four and  
9 section 15 of the statute talk about compensating  
10 communities for the work that is necessary to investigate  
11 the plan that the post developer is coming forward with.  
12 There is a little ambiguity as to when that money is  
13 available.

14                   That's an area like many others in the  
15 statute where I think that regulations can clarify  
16 ambiguity and be very helpful. Where we can develop a  
17 policy, put it into a regulation and get it out there.  
18 It seems therefore that one promising avenue in that  
19 regard would be to think early on about regulations that  
20 would allow us to define these kinds of ambiguous terms,  
21 and set some conditions and procedures to help people.  
22 And to have a development of regulations sequenced by the  
23 time in the process when people are going to need them.

24                   That's one avenue that I think we can  
25 proceed to give to cities and towns some help. Again,

1 to think about cooperation with the Mass. Municipal  
2 Association and other like groups to provide that kind  
3 of information and perhaps support it in some way.

4           It seems to me those two as we talked about  
5 those two areas may well be promising areas to pursue.

6           COMMISSIONER ZUNIGA: I was reminded of  
7 the work plan and some of the feedback relative to  
8 regulations. There was also initial discussion over one  
9 of the emergency regulations. It occurs to me that this  
10 would be one topic that clearly fits emergency  
11 regulations because a lot of activities fall out the  
12 negotiations of host community agreement. It's an early  
13 item.

14           CHAIRMAN CROSBY: I think your idea  
15 coupled with the emergency is a really good idea. Where  
16 there are significant issues relative to host and  
17 surrounding communities that are relevant to them  
18 immediately but are not clear, we could definitely jump  
19 on that.

20           Even more than that, it feels to me like  
21 it would be -- the normal course of events would be to  
22 say okay we are about to go off onto this huge new thing.  
23 We are about to bring in this new phenomenon, which is  
24 going to have an enormous impact on a great many cities  
25 and towns. For somebody to proactively communicate with



1 communities that might be host or surrounding and say we  
2 understand this big tsunami is coming down the road  
3 towards you. And we have the ability to help is  
4 something that would be in the normal course of events.

5 I understand and I certainly go along  
6 with, but I am not totally persuaded by Commissioner  
7 McHugh's point that it should not be we who play that  
8 role. If that's the consensus, I'm okay with that.

9 I do think somebody should be playing that  
10 role. I think people are bereft. A lot of people are  
11 bereft. We get these wistful notes sometimes from  
12 people who don't know whether they're coming or going.  
13 It just seems to me that it is an appropriate role for  
14 the Commission to make sure that somebody, whether it's  
15 MMA or the Collins Center or the RPAs is proactively  
16 communicating and saying we are here to help. And we do  
17 have the resources to help.

18 They can feedback to us. If they identify  
19 problems that need regulatory explanation or expansion,  
20 then that would be great. It would be another source of  
21 feedback for us on things we need to do.

22 It feels to me we should push as a priority  
23 to get some kind of proactive outreach out there.

24 COMMISSIONER MCHUGH: I do not disagree  
25 with that. And I am not against tsunami prevention.

1 But my point was that -- and there is a difference between  
2 answering particular -- Again, it gets back to sort of  
3 the same thing we talked about before. -- answering  
4 particular issues about particular negotiations with  
5 particular people that we may later have to pass judgment  
6 on. And making general statements and doing general  
7 things to help everybody understand the path through  
8 this. I think with respect to the latter, we ought to  
9 be doing as much of that as we can.

10           And your idea that you just articulated  
11 about having others act more directly on particular  
12 problems, feed that back to us and then if we get a number  
13 of issues along the same lines, adopting, changing  
14 regulations to help everybody understand what to do in  
15 this situation is exactly what we ought to be doing.

16           I think there is a way to do that. And I  
17 think we ought to be proactive about doing it. I don't  
18 have a disagreement on the general theory.

19           CHAIRMAN CROSBY: I think that's right.  
20 I know you had some sort of starting conversations. We  
21 are not exactly clear on where you want to go here, but  
22 I think it is clearing up a little bit. I think we ought  
23 to pick those balls back up again and see if we can find  
24 somebody who will play that role distant from us but play  
25 that role perhaps with resources provided by us.

1                   COMMISSIONER STEBBINS:  Our  
2  conversations with Collins Institute was very early on.  
3  I think now that we have publicly addressed the Racing  
4  Commission piece and with that aside, circling back to  
5  them and talking about our thoughts on the RFQ process  
6  and other of steps I think would be helpful.

7                   COMMISSIONER ZUNIGA:  One thing I can't  
8  help but wonder throughout Massachusetts there is great  
9  diversity in the level of staff, just to name one, that  
10  cities and towns have.  On the one hand, there is cities  
11  with large public works departments, financial  
12  departments, budget, capital programs, etc.  And there  
13  is also towns where one or two people work in many of those  
14  roles.

15                   By way of saying the financial and  
16  technical assistance could considerably be very  
17  different -- the need rather.  A question for this  
18  Commission as we contemplate what that may be, we need  
19  to be sensitive that different towns and cities have  
20  different needs.

21                   By the same token, I completely agree that  
22  they help needs to be generalized.  The more we delve  
23  into specifics, the riskier that the uniformity in the  
24  help gets.  So, we should just be sensitive to all that.

25                   CHAIRMAN CROSBY:  Right.  I think we have

1 a good sense of how to move forward here. Anything else?

2 COMMISSIONER MCHUGH: That's in that  
3 category.

4 CHAIRMAN CROSBY: I only had one thing  
5 under item eight, other business, which was Commissioner  
6 Zuniga, you may want to just give an update on the task  
7 force meeting, the on-line task force. It was really  
8 pretty interesting stuff going on there.

9 COMMISSIONER ZUNIGA: The Treasurer's  
10 office conducted one of its meetings of the online  
11 products task force. This is a task force that is  
12 advisory in nature to the Treasurer as it pertains to  
13 lottery -- lottery type online products that are out  
14 there developed in Europe and Canada, etc.

15 It is a very diverse group of people. We  
16 now have myself as a member of that task force. Chairman  
17 Crosby came to give some very good remarks relative to  
18 the large mission really here is one of benefit to the  
19 public good of the Commonwealth, not one of a turf battle  
20 as to whether anything should rely with the Gaming  
21 Commission or with the Lottery Commission.

22 But as we look at the possibility of online  
23 products coming to the states, Massachusetts would see  
24 that is a discretion of the Legislature. This task force  
25 is really thinking strategically as to what steps might

1 need to be in place or what recommendations would have  
2 to be in place for the Legislature if we ever came to those  
3 events.

4           There was a good report from Spectrum  
5 relative to what is happening in other jurisdictions.  
6 There is a general consensus that there is not one  
7 jurisdiction that applies well here, because this is in  
8 many ways unchartered territories for the states, for  
9 jurisdictions like us and the Lottery Commission here.

10           But there is also a notion that the  
11 introduction of online products may not necessarily  
12 cannibalize either casinos or the lottery. That done  
13 thoughtfully, it could enhance the two operations.

14           I will continue to provide updates as we  
15 continue to meet in those task force meetings.

16           COMMISSIONER CAMERON: I have a question.  
17 Was there any discussion with the task force about what  
18 role the Federal Government will play in regulation?

19           COMMISSIONER ZUNIGA: Yes. This whole  
20 thing came about to a great degree because the Justice  
21 Department issued an opinion to, I believe, New Jersey  
22 relative to the establishment and regulating these kinds  
23 of products.

24           I am not going to be able to do it justice,  
25 but the gist of the opinion is that as long as it does

1 not violate the Internet Gaming Act -- That is a misnomer ,  
2 because that it not the real name. -- the recent act in  
3 which Federally fly-by-night operations were prohibited  
4 from conducting any kind of gaming activity.

5           That left open the door to lottery and  
6 gaming commissions to do that. The opinion was no  
7 business can set up to conduct that kind of operation,  
8 only jurisdictions like us and the Lottery.

9           The other component was as long as it did  
10 not violate the Wire Act, in other words, sports betting  
11 that was another piece again that this task force is not  
12 contemplating.

13           But the general opinion after that of the  
14 Department of Justice is that it defers to the states.  
15 Meaning in this case the state legislature on how much  
16 appetite would be there to allow this is a big question  
17 here in Massachusetts for example. That's a question  
18 for the leadership and the State Reps. and Senators and  
19 eventually of course the Governor would have to sign  
20 something into law.

21           This recent opinion opens the door to kind  
22 of the first move advantage as well, which is why the  
23 State Treasurer's office is wanting to explore this  
24 sooner rather than later.

25           CHAIRMAN CROSBY: It's not a very big deal

1 at the moment for us, but it could become very quickly.  
2 Other people raised the issue of whether we would be able  
3 to successfully negotiate with casinos if they don't know  
4 whether there's going to be some kind of Internet  
5 gambling available sometime soon, possibly even before  
6 they are even up and running.

7           So, it is going to be a significant issue  
8 for us. Fortunately, there are other people that are  
9 concerned about it. And of course, the Lottery is  
10 extremely concerned about whether this will enhance  
11 lottery operations or detract from lottery operations.

12           The trouble is, again as you said, there  
13 is no test case out there. There is no other  
14 jurisdiction to look and say what happens when you bring  
15 in online gaming? What happens to pre-existing casinos  
16 or what happens to pre-existing lotteries, because in  
17 Europe they are very different kinds of structures and  
18 particularly because in Massachusetts we have so high per  
19 capita lottery that -- We have two and a half times the  
20 national average, almost three times the national  
21 average. And nobody knows what would happen in an  
22 environment like ours.

23           But to the Treasurer's credit, A - he put  
24 people on this task force who are very independent  
25 thinkers. And all points of view are represented,

1 several people from the private sector who are  
2 smart-minded thinkers about this.

3           B-he completely agreed with the point that  
4 we made about we have to look at this holistically from  
5 the standpoint of what is in the interest of the  
6 Commonwealth of Massachusetts not what is in the interest  
7 of the Gaming Commission or the Lottery.

8           Everybody bought into that, I think, in a  
9 significant way, which will -- I mean, devil's in the  
10 details, but as a mindset for the organization for this  
11 task force there was I think a very thorough buy into that  
12 point, which was good.

13           COMMISSIONER ZUNIGA: There is also one  
14 just general observation that came through yesterday.  
15 In general products, just like everywhere else is  
16 attracting -- everything online is attracting younger  
17 demographics. Whereas in particular for the Lottery,  
18 which is the very mature operation and very successful,  
19 it is an aging demographic.

20           From a strategic perspective, there is  
21 something to consider there. Then of course there is a  
22 very nascent Gaming Commission to be part of the mix as  
23 it pertains to us. These are very, very important sort  
24 of strategic considerations as well.

25           CHAIRMAN CROSBY: Looking forward to



1 keeping up-to-date on this.

2 Any other things that were not  
3 anticipated, topics?

4 COMMISSIONER MCHUGH: None for me.

5 CHAIRMAN CROSBY: Motion to adjourn?

6 COMMISSIONER MCHUGH: So moved.

7 CHAIRMAN CROSBY: All in favor? I.

8 COMMISSIONER ZUNIGA: I.

9 COMMISSIONER CAMERON: I.

10 COMMISSIONER MCHUGH: I.

11 COMMISSIONER STEBBINS: I.

12 CHAIRMAN CROSBY: Motion passes.

13

14 (Meeting adjourned at 2:31 p.m.)

15

16 ATTACHMENTS:

17 Attachment 1, Agenda for May 15, 2012 meeting

18 Attachment 2, Position description draft, executive  
19 director

20 Attachment 3, Four motions for State Racing Commission  
21 transition

22 Attachment 4, work plan

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C E R T I F I C A T E

I, Laurie J. Jordan, an Approved Court Reporter, do hereby certify that the foregoing is a true and accurate transcript from the record of the proceedings.

I, Laurie J. Jordan, further certify that the foregoing is in compliance with the Administrative Office of the Trial Court Directive on Transcript Format.

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My commission expires: May 11, 2018

//Elizabeth Tice// Date: May 16, 2012  
Elizabeth Tice, President, Office Solutions Plus, LLC  
My commission expires: August 26, 2016