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COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION
PUBLIC MEETING #208

CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

Lloyd Macdonald

Gayle Cameron

Bruce W. Stebbins

Enrique Zuniga

January 19, 2017 10:00 a.m.

MASSACHUSETTS GAMING COMMISSION
101 Federal Street, 12th Floor
Boston, Massachusetts 02110

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P R O C E E D I N G S

CHAIRMAN CROSBY: All right. We are calling to order commission meeting No. 208 on January 19th at about 10 o'clock, at our offices in Boston. We have, on our speakerphone, Mark Nichols from UNR, I guess, right?

COMMISSIONER ZUNIGA: UNLV.

CHAIRMAN CROSBY: University of Nevada of Reno, not Las Vegas. And we're going to get to your topic, Mark, very quickly. Thank you for calling in. But, first of all, we will do the approval of the minutes. Commissioner Macdonald.

COMMISSIONER MACDONALD: Thank you, Mr. Chairman. I move that we approve the minutes of the meeting of January 5, 2017, subject to corrections for typographical errors and other -- and for other nonmaterial matters.

COMMISSIONER CAMERON: Second.

CHAIRMAN CROSBY: Discussion? I just had -- not concerned about the content, but

1 just reminders. We had talked about the table
2 game rules. We said -- on -- the minutes say
3 we were going to bring those up again in two
4 weeks, which would be today, but they're not
5 on today, right?

6 MS. BLUE: That's correct. We put them
7 out for comment, but we realized we would not
8 have enough time to take the comments and
9 review them and get them back for this meeting
10 so...

11 MR. BEDROSIAN: And that had to do
12 with -- I don't think we anticipated the
13 holiday in between.

14 MS. BLUE: I think that's right, so
15 they'll be on the next meeting.

16 CHAIRMAN CROSBY: Okay. Good. And
17 then, we were looking for feedback about the
18 PlayMyWay schedule that I think staff was
19 going to reach out to MGM and Wynn, and be
20 back to us within four weeks. And we were
21 also talking to Mark to make sure that we were
22 clear on the technical, logistical timelines.
23 So that process is underway, Ed, the reaching
24 out to --

1 MR. BEDROSIAN: It is. Yes, it is.
2 Thank you. Thank you for reminding me. It
3 is.

4 CHAIRMAN CROSBY: Okay. Other than
5 that, I have nothing. All in favor? Aye.

6 MR. MACDONALD: Aye.

7 COMMISSIONER STEBBINS: Aye.

8 COMMISSIONER CAMERON: Aye.

9 COMMISSIONER ZUNIGA: Aye.

10 CHAIRMAN CROSBY: Opposed? The ayes
11 have it unanimously. All right. We are on,
12 then, to topic number three, research and
13 responsible gaming. Mark, I'll let you
14 introduce the topic and our guests.

15 MR. VANDER LINDEN: Great. Good
16 morning, Chairman and Commissioners.

17 MR. MACDONALD: Good morning.

18 COMMISSIONER CAMERON: Good morning.

19 COMMISSIONER STEBBINS: Good morning.

20 MR. VANDER LINDEN: I am joined here,
21 in person, by Rachel Volberg, whom you know
22 very well, as well as on the phone by
23 Mark Nichols, at the University of Nevada
24 Reno.

1 Our topic today is the 12-month
2 lottery analysis. The Expanded Gaming Act --

3 CHAIRMAN CROSBY: Excuse me, Mark. I'd
4 also point out, although I don't see him.

5 Yes, we have Mike Sweeney, who is the
6 executive director of the lottery here with
7 us, and a great parter in this -- I'm sure
8 you'll mention this, but the lottery has been
9 an extraordinary partner with us in this whole
10 project. The whole, actual, casino project,
11 nevermind the research as well. So thank you,
12 Mr. Sweeney, for coming.

13 MR. VANDER LINDEN: Correct. That's
14 right. Yeah. And just to point that out, our
15 collaboration with Michael Sweeney, I think is
16 unprecedented, in terms of gaming commissions
17 collaborating with lotteries when they're
18 separate agencies. And it's been instrumental
19 in allowing us access to data to do the type
20 of study that's being presented to you today.
21 So thank you so much, Michael. The Expanded
22 Gaming Act directs the Commission to --

23 CHAIRMAN CROSBY: Excuse me. I'm
24 sorry, one more time, Mark. Mark Nichols, can

1 you hear us all right?

2 MR. NICHOLS: Yes, I can hear you fine.

3 CHAIRMAN CROSBY: Okay. And you can
4 hear Mark when he's talking?

5 MR. NICHOLS: Yes, I can hear Mark.

6 CHAIRMAN CROSBY: Okay. Great.

7 MR. VANDER LINDEN: Great.

8 CHAIRMAN CROSBY: Okay.

9 MR. VANDER LINDEN: Anything further?

10 CHAIRMAN CROSBY: Try again.

11 MR. VANDER LINDEN: Okay. So we are
12 directed, by The Expanded Gaming Act, to seek
13 to protect the lottery from adverse impacts
14 due to expanded gaming. So in an effort to
15 determine how lottery-product buying behavior
16 may be affected by the introduction of casino
17 gambling in Massachusetts, the Commission has
18 three ongoing studies.

19 The general population study and the
20 cohort studies ask specific questions about
21 lottery play to better understand at an
22 individual level how gambling behavior changes
23 with the local availability of casino
24 gambling.

1 The study, which is going to be
2 presented to you today, is an analysis of
3 lottery sales before and after Plainridge Park
4 Casino opened in 2015, at several levels,
5 including statewide, and in host, and
6 designated, surrounding communities.

7 Mark Nichols is joining us from the
8 University of Nevada Reno. He is a
9 widely-accepted expert on this topic. So I'm
10 going to turn it over to Rachel, who will
11 introduce Mark further, and then on to Mark
12 Nichols.

13 MS. VOLBERG: Good morning,
14 Commissioners.

15
16 CHAIRMAN CROSBY: Good morning.

17 MR. MACDONALD: Good morning.

18 COMMISSIONER CAMERON: Good morning.

19 COMMISSIONER ZUNIGA: Good morning.

20 COMMISSIONER STEBBINS: Good morning.

21 MS. VOLBERG: It's a pleasure to be
22 here again, and a pleasure to also be joined,
23 although remotely, by one of a number of
24 partners that we have on this research

1 project, who actually are not based at the
2 University of Massachusetts Amherst.

3 Mark Nichols is a professor of
4 economics at the University of Nevada Reno.
5 I've known him for quite a number of years
6 before this project started, but it was a real
7 pleasure to be able to engage him in assisting
8 our economics team, as the economic and fiscal
9 impact analyses roll forward.

10 And I want to also join
11 Mark Vander Linden in thanking Mike Sweeney
12 and the Massachusetts Lottery for the type and
13 amount of detailed data that we have been
14 provided, and that Mark Nichols has been able
15 to analyze. Unless you're in the gambling
16 studies field, perhaps, it's hard to realize
17 how unique an opportunity this actually has
18 been. I don't know of any other jurisdiction
19 where a state or national lottery has been
20 willing to turn over or engage with
21 researchers and provide the data that we have
22 had at the level of detail that we've had.

23 So in addition to being very
24 important and relevant to Massachusetts, this

1 particular analysis is also going to be of
2 great interest to quite a number of
3 governments and researchers around the world
4 so -- and I thank you for your support as
5 well. So, Mark, do you want to get started?

6 MR. NICHOLS: Yes, that'll be fine.

7 MS. VOLBERG: All right. I'm in charge
8 of advancing the slide, so tell me if I get it
9 wrong.

10 MR. NICHOLS: Okay. So can everybody
11 see them okay?

12 CHAIRMAN CROSBY: Yes.

13 COMMISSIONER CAMERON: Yes.

14 COMMISSIONER ZUNIGA: Yes.

15 MR. NICHOLS: That's great. First of
16 all, thank you and good morning for the
17 opportunity to present. I really appreciate
18 it. And as has already been mentioned, this
19 is going to be an analysis of lottery revenue
20 as it pertains to the impacts of Plainridge
21 Park Casino, and really looking at the first
22 12 to 15 months of data.

23 Again, as mentioned, the focus here
24 is really exclusively on Plainridge Park's

1 casino, and the presentation today is going to
2 kind of unfold in three phases. First, we'll
3 present data using fiscal year data, just to
4 give an overview of, sort of, trends and
5 year-to-year variation and lottery revenue
6 over time. And then we'll dive into a rather
7 unique dataset that, again, has already been
8 mentioned, we are very grateful to the lottery
9 for providing us, which are actually
10 agent-level sales. So we have data for every
11 lottery agent in the state of Massachusetts,
12 really, from the period of June 2014 --
13 actually, we have it all the way to October of
14 2016.

15 And so, we'll analyze that data in,
16 kind of, two phases. One is a simple
17 year-over-year comparison, just to see how
18 lottery revenues have changed year over year.
19 And then, finally, a little bit more detailed,
20 biweekly analysis, which will allow for
21 variation in lottery sales over time. Kind
22 of, immediately after the opening of the
23 casino to be analyzed in more detail.

24 And, finally, just to, sort of,

1 ensure the consistency and robustness of our
2 results, we've analyzed this data in multiple
3 contexts, we've analyzed sales statewide,
4 we've looked at the host community of
5 Plainville and the designated surrounding
6 communities, but we've also examined it at
7 various -- agents at various driving distances
8 from the casino as well.

9 So moving along. I always kind of
10 like to just cut to the chase and sort of give
11 people an overview of the key findings right
12 up front. And so, first of all, there's been
13 no widespread decrease in lottery revenue
14 following the opening of the Plainridge Park
15 Casino.

16 And, on average, there's been no
17 declines in lottery revenue in areas near
18 Plainridge Park Casino. And that includes
19 other agents within Plainville, agents within
20 the designated surrounding communities, and
21 agents at various driving distances. Lottery
22 revenues, however, have grown more slowly on
23 average in those areas than the rest of
24 Massachusetts. And whether that is actually

1 the result of the casino is actually
2 indeterminate at this time because, as we'll
3 see, there's just a lot of variability in
4 lottery sales naturally. And the thing I'd
5 also like to emphasize is, these are
6 relatively short-term results. We only have
7 one year and 15 months of data. And so,
8 whether this pattern continues in the future
9 is indeterminate at this point, and these
10 results may not necessarily reflect what
11 happens when the casinos in Springfield and
12 Everett open, which will be larger and also
13 have more noncasino amenities.

14 So moving on, the next slide shows
15 lottery revenues by fiscal year over time.
16 I'll emphasize, at this point, that these are
17 nominal dollars; in other words, they have not
18 been adjusted for inflation. In the report
19 that we've submitted, in the appendix are
20 inflation-adjusted sales. But over this time,
21 the average annual growth rate in lottery
22 revenue has been 1.7 percent. To give you
23 some context, inflation over that time has
24 grown at 2 percent.

1 So, by and large, really, nominal
2 lottery revenues have not kept up with
3 inflation very well, and revenue growth has
4 been, as you can kind of see by this graph
5 even, relatively flat, but, perhaps,
6 increasing a bit more recently in
7 postrecession years.

8 CHAIRMAN CROSBY: Mark Nichols, could I
9 interrupt just for one second? I just want to
10 highlight that point, because there's been
11 some various ways this is framed.

12 If you count the effect of
13 inflation, as a practical matter, the lottery
14 sales has been, essentially, flat. If you
15 just look at nominal dollars, they've grown
16 slightly. So you hear two different
17 characterizations.

18 Sometimes we're told -- you hear
19 they're flat sometimes you hear they've grow
20 slowly. It depends on whether you're using
21 inflation-adjusted. And under any set of
22 circumstances, they've grown very slightly.
23 But on an inflation-adjusted basis, they've
24 actually been flat, maybe even slightly

1 declining. So go ahead.

2 MR. NICHOLS: Yes, that's correct. If
3 you look at the -- and I didn't include it in
4 the slide deck, but if you were to look at the
5 inflation-adjusted dollars, you would see that
6 sales in fiscal year 2016 are, approximately,
7 equivalent to what they were in fiscal year
8 2008. And they would actually be below what
9 they were in fiscal years 2003 and 2004. So
10 since the beginning of our sample, real
11 lottery dollars have actually declined
12 slightly. That's correct.

13 CHAIRMAN CROSBY: Okay. Thank you.

14 MR. NICHOLS: So the next slide show
15 the percent change in lottery sales. Again,
16 nominal dollars statewide. And there's two
17 things I want to point out here. One, sales
18 in fiscal year '16 were up 4.3 percent, which
19 is the largest increase, really, since fiscal
20 year 2012.

21 But, more importantly, you can see
22 by this graph, I think, that lottery sales are
23 volatile year to year. They notably declined
24 during the recession, but in generally -- in

1 general, excuse me, growth is positive, but it
2 is relatively variable. And so, you know,
3 we're looking for the impact of change in
4 lottery as a result of the opening up
5 Plainridge Park Casino. I want to emphasize
6 that they're looking at it in a series that
7 tends to be somewhat volatile anyways so that
8 just has to be kept in mind.

9 And the next slide shows fiscal-year
10 data for Plainville, the surrounding
11 communities. This looks very similar to sales
12 statewide, and that's kind of the point. The
13 area that we're looking at really isn't, in
14 terms of growth in lottery sales, dramatically
15 different than the rest of the state. They
16 grew slightly more, perhaps, by 2.28 percent.
17 But again, very, very similar to the rest of
18 the state.

19 So moving on. The next bit of
20 analysis, we want to use the weekly lottery
21 data that the lottery, again, graciously has
22 provided us. And so, we have weekly sales
23 data by agent. This gives us a very, very
24 unique opportunity, as Rachel mentioned.

1 First of all, we can analyze sales
2 by community, but also by other distances,
3 including drive time or mileage. So we can
4 kind of look for, you know, distance to K type
5 effects and lottery sales as you move further
6 from the casino. For example, we can analyze
7 it by game, and we can analyze multiple time
8 periods so we're not restricted to just
9 examining year-over-year changes, but we can
10 actually examine, as we'll see, biweekly
11 changes. And more on why we look better
12 biweekly in just a bit.

13 So as I proceed here, the first
14 thing that I want to present are just the
15 year-over-year comparisons, and then we'll
16 look more closely at the actual biweekly
17 comparisons. And I think the two compliment
18 one another rather well.

19 So the next slide shows
20 year-over-year changes in Plainville and the
21 surrounding communities. And, again, this is,
22 roughly, the year after the casino opened,
23 compared to the year prior. So, officially,
24 it's June 15th of 2014 to June 20th of 2015

1 relative to the period June 21, of 2015 to
2 June 25th of 2016. And the casino opened, as
3 I'm sure everybody knows, on June 24th of
4 2015.

5 So no doubt, I think the most
6 immediate thing that stands out in that graph
7 is the dramatic increase in lottery sales in
8 Plainville. And this includes the lottery
9 agent at Plainridge Park Casino, which as we
10 will see, as we proceed, is largely
11 responsible for that dramatic increase. So
12 that's the first thing that stands out to me
13 in this graph.

14 And the other thing that I think is
15 important to notice is, for the surrounding
16 communities, there's no consistent pattern of
17 a change in sales. So Attleboro and
18 Mansfield, for example, sales actually grew in
19 those communities, and they grew slightly more
20 than the state as a whole during this period.
21 The state as a whole during this period grew,
22 approximately, 5 percent. Attleboro and
23 Mansfield had growth in sales slightly above
24 that. In contrast, sales in Foxborough, North

1 Attleboro and Wrentham had small declines,
2 with the largest decline occurring in
3 Foxborough. So no consistent decline in sales
4 across all communities, or, for that matter,
5 no consistent increase in sales across all
6 communities.

7 And the next slide shows a similar
8 comparison of year-over-year sales by drive
9 time. And so, this is where the data from the
10 lottery really provided us a great opportunity
11 because we can know exactly how far, in
12 driving minutes, each agent is away from the
13 casino. And we examined it, roughly, in
14 15-minute intervals. So the first is from
15 zero to 15 minutes. And this, again, includes
16 Plainridge Park Casino. I'll show some
17 results where Plainridge Park Casino's
18 excluded in a little bit.

19 For agents within a 15-minute drive
20 of the casino, you can see sales
21 underperformed slightly, relative to the rest
22 of the state. They grew 3.78 percent versus,
23 roughly, 5 percent. But when you move to the
24 next category of 16 to 30 minutes, you can see

1 that sales actually surpassed the state
2 average slightly. And most importantly, I
3 think, there's no evidence of what's sometimes
4 referred to the distance of the K effect,
5 meaning that sales increase the further you
6 move away from the casino. There's no real
7 evidence of that kind of distance to K
8 pattern.

9 So the biweekly -- or excuse me, the
10 year-over-year sales really just kind of show
11 that -- kind of a lack of consistency. We
12 don't see any kind of consistent pattern by
13 surrounding communities or by driving
14 distance.

15 So the next data we want to examine
16 are biweekly agent level sales. And for this,
17 we're going to examine the whole time period
18 from June 24th -- or excuse me, June 2014, to
19 October of 2016. When I think about this, is
20 it allows for a little more detailed analysis
21 of trends and changes in sales before and
22 after the opening of the casino. We examine
23 biweekly sales because not all game -- it's
24 part of an accounting reason. Not all games

1 and sales are reported every week. So if we
2 were to examine sales weekly, there's a lot of
3 volatility, simply because the books aren't
4 closed on every single game every week.

5 And then, finally, some of these
6 graphs will have data that are normalized, if
7 you will, on the period prior to Plainridge
8 Park Casino opening. And this is done for
9 several reasons. One, it allows how the
10 dynamics or variability of sales to be
11 observed. And it also allows us to examine
12 areas with vastly different magnitudes in
13 sales, comparing, Plainville, for example,
14 with the rest of the state. And all we do,
15 simply, is, we just take the sales for the
16 two-week period immediately prior to the
17 opening of Plainridge Park and we divide every
18 period sales by that number. So if our
19 relative sales are greater than one, it shows
20 an increase in sales relative to the week --
21 or excuse me, period prior to the opening. A
22 number less than one shows a decline.

23 So the next graph shows the results
24 of these relative sales for three areas. The

1 green line is Plainville, including Plainridge
2 Park Casino. The yellow or gold line are the
3 designated surrounding communities as a group,
4 and the blue line is Massachusetts as a whole.

5 And if you look at the green line
6 for Plainville, a couple of things stand out.
7 Prior to the opening of the casino, the agents
8 in Plainville underperformed relative to the
9 rest of the state and relative to the
10 surrounding communities. Relative sales were
11 below relative sales for those other --
12 compared to those other agents.

13 After the opening of Plainridge Park
14 Casino, which is denoted by that first
15 vertical black line, you can see relative
16 sales in Plainville actually surpass and
17 outperform sales in the surrounding
18 communities and the state as a whole. So
19 relative sales increased in Plainville after
20 the opening of the casino. And, again, this
21 includes the agent in Plainridge Park Casino.

22 Also important, I think, to
23 recognize, is that relative sales for the
24 surrounding communities really follow the

1 state pretty consistently over time. We don't
2 see a great divergence in those agents' sales
3 after the opening of the casino compared to
4 the rest of the state.

5 Visually, prior to the opening of
6 the casino, surrounding communities were,
7 perhaps, slightly above the rest of the state.
8 And then, after the opening of the casino,
9 they seemed to parallel it or overlap it a
10 little bit more. And that's just consistent
11 with the slower growth in that area that we'll
12 see coming up here as well.

13 And then, lastly, that other spike,
14 that's when the Powerball jackpot hit whatever
15 the figure was. I think it was some -- over a
16 billion dollars, whatever, but I just wanted
17 to note that as well. So --

18 COMMISSIONER ZUNIGA: Mark --

19 MR. NICHOLS: Yes.

20 COMMISSIONER ZUNIGA: I do have a
21 question. Back on that slide, which, after
22 your comments, is very insightful. Generally,
23 what -- if you -- if we collapse or aggregated
24 Plainville and its surrounding communities in

1 one line, let's say, how does that track with
2 the state; does it also flip, in general, by
3 the opening of the casino, or does it track
4 the rest of the state?

5 MR. NICHOLS: I don't know. We haven't
6 done that. We certainly can. My hunch is
7 that it would track direct to the state,
8 simply because Plainville is relatively small
9 and has relatively few agents relative to the
10 surrounding communities as a whole. So I
11 think, on average, it would probably just
12 bring that line down with the agents in the
13 surrounding communities, I can't remember the
14 exact number at the time, would essentially
15 dominate Plainville, but we can certainly look
16 at that more closely.

17 COMMISSIONER ZUNIGA: Okay. All right.
18 Thank you.

19 MR. NICHOLS: So in order to kind of
20 put, maybe, statistical rigor on the analysis,
21 the next slide shows a difference in
22 differences analysis, and it's just what it
23 sounds like. We examined sales before and
24 after the casino opened in Plainville, so we

1 look at the change or the differences in sales
2 in Plainville, and then we look at the change
3 or the difference in sales for the rest of the
4 state over that same time period. And though
5 both differences are then compared, or the
6 difference in those differences are compared,
7 and hence the main difference in differences.
8 And a couple of things about this table, and
9 it confirms the previous slide. If you look
10 at Plainville. Now, these are average,
11 biweekly sales per agent. So the average
12 agent in Plainville every two weeks sells
13 \$24,503 in lottery tickets. Compared to the
14 rest of the state, which is 26,898, so
15 consistent with the above graph, sales in
16 Plainville were below what they are in the
17 rest of the state. So agents in Plainville
18 were relatively underperforming compared to
19 the rest of the state.

20 After the opening of Plainridge Park
21 Casino, agent sales -- average agent sales in
22 Plainville, and, again, this includes the
23 casino itself, increased notably to \$31,546,
24 or an increase of, roughly, \$7,000 every two

1 weeks. The rest of the state also increased
2 during this time, but closer to \$1,000, \$977.
3 And that difference of, approximately, \$6,000,
4 \$6,065, is statistically significant, which
5 essentially says that we can statistically and
6 confidently say that the growth that occurred
7 in Plainville after the opening of the casinos
8 was statistically significant. Again, I think
9 it just, kind of, reaffirms what we saw in
10 that previous graph, you see sales in
11 Plainville going from being, sort of, below
12 the rest of the state to being above.

13 COMMISSIONER ZUNIGA: Mark, can you --

14 MR. NICHOLS: Yes.

15 COMMISSIONER ZUNIGA: I think it has to
16 do with the statistically significance, but
17 can you explain those negative figures under
18 each of these sales figures that you explained
19 before, the negative numbers -- or the numbers
20 in parentheses, rather?

21 MR. NICHOLS: Oh, the number in
22 parentheses? Oh. So -- yeah, excuse me, I'm
23 sorry. Those are standard errors. So, you
24 know, these are just averages so, obviously,

1 there's variability around those numbers.

2 So, for example, the growth in
3 Plainville of \$7,000, the standard error of
4 that is about \$1,600. So if you want to think
5 about it, we would usually think about, like,
6 a 95-percent confidence involving two standard
7 errors. So you could add or subtract \$3,000,
8 approximately, to that 7,000. So sales may
9 have increased as much as \$10,000, or they may
10 have actually increased as little as \$4,000.

11 COMMISSIONER ZUNIGA: Okay.

12 MR. NICHOLS: And the asterisks there,
13 essentially, just indicate that that number's
14 different than zero. And, similarly, for the
15 rest of the state -- now, the rest of the
16 state, the standard error is smaller, and
17 that's because we have a much larger sample
18 size for the rest of the state. We have a lot
19 more agents in the rest of the state than we
20 do in Plainville, for example, so we're more
21 confident about what the change in those sales
22 are. Again, roughly, \$977, but it could be --
23 you know, with 95-percent confidence, it could
24 be \$200 higher or \$200 lower.

1 COMMISSIONER ZUNIGA: Okay.

2 MR. NICHOLS: So the next slide -- and
3 that actually get to -- that's a good segue
4 into this next slide. The next slide we
5 examined, we do the same difference in
6 differences analysis, but we used the
7 surrounding communities, rather than
8 Plainville. And you can see the surrounding
9 communities, again, consistent with the graph
10 that we saw a few slides ago, roughly,
11 parallel to the rest of the state.

12 Average biweekly sales, prior to the
13 opening of the casino, were about \$27,000,
14 \$27,307, relative to the rest of the state,
15 which was \$26,885, so they were slightly above
16 the rest of the state. After the opening of
17 the casino, they increased. They increased by
18 \$228, on average.

19 And, there again, speaking of the
20 standard errors, you'll notice that standard
21 error is roughly \$900, so that increase of
22 \$228 is not statistically significant. In
23 other words, we can't statistically say that
24 it's different than zero. The rest of the

1 state, kind of consistent with the results
2 before, increased by, roughly, \$1,000, and the
3 difference is a negative \$775. That
4 difference is also not statistically
5 significant. So what this tells us is that
6 the surrounding communities grew more slowly
7 than the rest of the state. But,
8 statistically, we can't say that the
9 difference in growth rates between the two
10 existed at all. So it is visually -- you
11 know, the sales didn't look like they
12 declined, but we can't necessarily say that
13 they significantly increased either.

14 COMMISSIONER ZUNIGA: It could be due
15 to chance, hence the confidence interval.

16 MR. NICHOLS: Yes. Yes, it could be
17 due by chance. Exactly. And as time
18 proceeds, you know, we should be able to get
19 give better estimates of that. And we'll
20 see -- and those statistical significance
21 levels could change, but as of right now,
22 statistically, we really can't conclude that
23 there's a difference in the growth rates
24 between the surrounding communities and the

1 rest of the state.

2 COMMISSIONER ZUNIGA: Right.

3 MR. NICHOLS: As I've mentioned before,
4 a lot of the changes in Plainville were due to
5 the agent at Plainridge Park Casino, and the
6 next slide separates out Plainridge Park
7 Casino. And we examined the relative sales
8 here. Again, we want to, kind of, keep the
9 confidentiality of the agent at Plainridge
10 Park Casino in check, so these are just
11 relative sales. Again, sales divided by the
12 period immediately prior to the casino
13 opening, and I think it's pretty clear what
14 happens.

15 The agent at Plainridge Park Casino
16 underperformed relative to the rest of the
17 state, and relative to other agents in
18 Plainville, which is the gold line. But after
19 the opening of the casino, lottery sales at
20 Plainridge Park increased three to five fold,
21 so there was just a dramatic increase in
22 lottery sales, after the opening of the
23 casino.

24 CHAIRMAN CROSBY: Mark, can I --

1 MR. NICHOLS: Yes, Steve.

2 CHAIRMAN CROSBY: -- just interact on
3 one point? Prior to Plainridge Park Casino,
4 there was the racetrack there, and there was a
5 casino agent -- I mean, a lottery agent at the
6 racetrack so it was the racetrack alone that's
7 being referred to prior to the launch of the
8 casino.

9 MR. NICHOLS: That's correct. Yes,
10 that's correct. There is -- there has been a
11 lottery agent at the track. My understanding,
12 that it has been there since 1999. So, you
13 know, this graph clearly shows the dramatic
14 increase in sales for that agent.

15 Equally important, I think, is --
16 and, actually, Rachel, if you just go to the
17 next slide, it shows the results for the other
18 agents in Plainville relative to the rest of
19 the state.

20 I've removed Plainridge Park here
21 because it just distorts the scale so much.
22 You can see, really, that those other agents
23 in Plainville pretty much tracked the rest of
24 the state pretty closely. In fact, by the end

1 of this sample, the lines practically overlap.
2 So no real divergence for the other agents in
3 Plainville compared to the rest of the state.
4 In other words, we don't see their sales
5 dropping off dramatically.

6 And the difference in difference
7 analysis confirms that. I don't report that
8 here, and I definitely do not want to report a
9 difference in differences analysis for
10 Plainridge Park's casino because, obviously,
11 then, we would know what those sales are. But
12 a difference in difference analysis would
13 confirm that as well, that there's really no
14 statistical difference between the other
15 agents and the rest of the state.

16 The next slide shows results for
17 drive time. And, again, this is just relative
18 sales over time by drive time. And there's
19 five different categories here, 15 minutes all
20 the way up to over 60 minutes. And there's a
21 lot of lines there and none really stand out,
22 and I think that's kind of the point. There
23 doesn't really seem to be any kind of
24 variation -- detectable variation in sales by

1 driving distance. Again, the 15-minute
2 category does include Plainridge Park Casino
3 in this case.

4 And the next slide, there's a
5 difference in difference analysis by driving
6 time. And important thing to point out here
7 is, this excludes Plainridge Park Casino
8 because we already know what occurred with
9 Plainridge Park Casino, so this difference in
10 differences analysis excludes Plainridge Park
11 Casino. Again, for agents within a 15-minute
12 drive of Plainridge Park, sales increased by
13 \$134 on average. But, here again, that
14 difference is not statistically significant so
15 we can't confidently conclude that they grew
16 at all.

17 In contrast, the rest of the state
18 definitely did increase significantly. But
19 here again, the difference between those
20 growth rates is not statistically significant
21 so we can't statistically, confidently
22 conclude that the difference in growth rates
23 for the agents within the 15-minute drive in
24 the rest of the state are different. And,

1 again, this has a lot to do with the simple
2 variability of lottery sales over time.

3 And the next slide repeats the
4 analysis for a 16- to 30-minute drive. I
5 won't dwell on this slide too much, but again
6 you can see, for those agents, sales grew by
7 more, by \$770 a statistically-significant
8 increase. More similar to the rest of the
9 state, which grew by a thousand dollars. And,
10 again, here too, the difference between those
11 two is not statistically significant so no
12 real difference in the growth rates between
13 agents within the 16- to 30-minute drive
14 relative to the rest of the state.

15 So concluding, there's no -- we find
16 no adverse impact, no negative impact on
17 lottery revenues statewide from Plainridge
18 Park Casino. As we saw before, lottery
19 revenues in fiscal year 2016, which roughly
20 corresponds to the full year of the -- after
21 the opening of the casino, they grew
22 4.3 percent. One thing that we can conclude
23 with certainty, is that the lottery revenues
24 at Plainridge Park Casino grew significantly.

1 Sales for the surrounding communities, other
2 agents in Plainville, agents within the
3 15-minute drive did not decrease.

4 And lastly, moving on to the last
5 slide, while those sales in nearby communities
6 and nearby agents did not decrease, they did
7 grow less than the rest of the state. But at
8 this point in time, the difference in those
9 growth rates is not statistically significant.
10 And, again, we really can't differentiate
11 whether that impact, or any impact, is due to
12 the casino, or just another source of
13 volatility in sales. As time goes on,
14 hopefully, that picture may become a little
15 bit more clear. This is also a short-term
16 impact. These results may change over time.

17 And, finally, I don't think these
18 results should be seen as foreshadowing the
19 results for the casinos that will open in the
20 future in Springfield or Everett. As I
21 mentioned at the beginning of the
22 presentation, those are vastly different
23 casinos, in terms of size and also amenities.

24 And, lastly, going forward with the

1 continued cooperation of the lottery, we'll
2 continue to gather this data, and continue to
3 analyze it. And the nice thing is, is we will
4 have an even bigger or larger baseline for the
5 casinos in Springfield and Everett to analyze.

6 So thank you very much for
7 everybody's attention and for letting me phone
8 in remotely. I really do appreciate it. It's
9 the first week of our semester so it is a
10 very, very busy week. And if there's any
11 other questions, I'd be happy to answer them.

12 COMMISSIONER CAMERON: Hey, Mark, this
13 is Gail Cameron. How are you?

14 MR. NICHOLS: I'm fine, thank you.

15 COMMISSIONER CAMERON: So I just was
16 interested in -- and, by the way, very
17 well-done report. Really easy to follow your
18 logic, as well as your analysis. So the
19 conclusion here is that there is no negative
20 impact. We had a similar report last week
21 with the crime analysis, that there was no
22 negative impact after a year of taking a look
23 at all of those numbers. I know you have
24 experience with both. Could you just talk a

1 little bit about other studies you have done
2 with regard to lotteries and/or crime, and how
3 this may be similar or different.

4 MR. NICHOLS: So this is the first --
5 I'll confess, this is the first analysis I've
6 done with lottery. In part, because,
7 generally speaking, it is hard to get lottery
8 data that is meaningful. You got to have time
9 to get statewide results or, perhaps,
10 county-level results, if you're lucky. Even
11 that requires the cooperation of the lotteries
12 themselves. And, generally speaking, they've
13 not been that cooperative, which is one of the
14 reasons that working with the Massachusetts
15 Lottery has been such a pleasure. So this is
16 the first time I've been able to analyze or do
17 a study on the impact of casinos on lottery.
18 I've done several studies on crime in the
19 past.

20 Just to summarize, very briefly I
21 guess, what we found, we really found no
22 consistent crime effect. Our study analyzed
23 seven or eight communities. It varies by time
24 period, actually, but -- and we compared them

1 with a set of controlled communities. And in
2 some communities, we found increases in crime
3 and other communities we did not. And in some
4 communities, we found decreases in crime.

5 There was no consistency across communities,
6 in terms of which crimes increased, or which
7 crimes decreased. So the results of my
8 analysis, sort of, supported that, but there's
9 really been no law-based increase in crime of
10 any type as a result of the opening of the
11 casinos. So that's -- and that study was from
12 some time ago.

13 More recently, we've been examining
14 some crime data, and that study's currently
15 under review, so I would just caveat that the
16 results are very tentative, but we find no,
17 sort of, long-term changes in crime. In some
18 instances, we do see short -- small increases
19 in crime immediately following the opening of
20 a casino, but those taper off relatively
21 quickly. And whether that's the result of the
22 casinos itself, or just changes in police
23 resources, we can't say.

24 Crime is a very, very difficult

1 thing to try to detect. And one of the
2 reasons -- and I'll just give you an anecdote.
3 We were in Biloxi, Mississippi, and the chief
4 of police there told us that, you know, he had
5 a lot more resources now. And, as a result,
6 you know, they were able to go out and,
7 essentially, detect -- detect more crime. And
8 that's one of the reasons -- that's one of the
9 areas where we saw an increase in crime. So
10 whether it's an actual increase in crime, or
11 the actual amount of crime is the same, and
12 just more of it is detected as the result of
13 different police resources, or just different
14 policing tactics, it's very difficult to say.

15 So that's kind of a long-winded
16 answer to your question. But I guess, just to
17 encapsulate it I would just say, we generally
18 find no dramatic, significant changes in crime
19 resulting from the opening of casinos. And
20 maybe just to reinforce that, I think, you
21 know, casinos exist now in, what, 35 states.
22 And I think, if communities were being overrun
23 by crime, you would start to see some of the
24 communities be repealed and reversed, and

1 people asking for them to be out of their
2 communities, and there's really no evidence of
3 that yet.

4 COMMISSIONER CAMERON: Well, Mark, it's
5 just, you know, when we started this, those
6 were two of the major concerns that we heard
7 about over and over again, was, we're really
8 worried about crime and we think it'll hurt
9 the lottery. So I think these two reports, at
10 least, provide some evidence that that's not
11 occurring here.

12 MR. NICHOLS: At least, let's just say
13 for now. I really don't expect dramatic
14 changes with the -- you know, just my own gut
15 feeling, based on my research, I would not
16 expect dramatic changes resulting from the
17 opening of the other casinos. And it's not to
18 say that crime doesn't occur. It does. It
19 usually makes the news.

20 And so, people, I think, just sort
21 of associate those two things together. But,
22 you know, statistically speaking and, kind of,
23 broadly speaking, my research has not found
24 dramatic changes in crime, as a result of the

1 opening of the casinos. And this is really
2 the first study that I've done on lottery so I
3 can't really speak to that from my own
4 research.

5 COMMISSIONER CAMERON: Thank you.

6 COMMISSIONER ZUNIGA: Can I follow-up
7 on the notion of, perhaps we'll do this -- or
8 we will, likely, do this and continue like the
9 rest of the research agenda that we have, the
10 impact on a year from now and so on and so
11 forth?

12 If -- let's say, if you were to put
13 ourselves a year from now, looking back at two
14 years worth of data for Plainridge and its
15 surrounding communities, is it likely that we
16 will get more confidence in this notion of
17 this statistical significance, or not
18 necessarily, given that we could still observe
19 variability among the surrounding communities?

20 MR. NICHOLS: So did you ask -- so
21 looking one year from now, so looking back two
22 years, do you think these results will
23 continue, or do you think we'll see a
24 significant change; is that the question?

1 COMMISSIONER ZUNIGA: Well, yes,
2 generally. But specifically, I'm thinking
3 some of the findings that you have here are
4 not statistically significant. It could
5 have been -- you observe a small increase, but
6 it could also have been a decrease, for
7 example. Does one more year of data will give
8 us the ability to have that confidence, that
9 whatever we observe is statistically
10 significant, simply by having one more year of
11 data, or not necessarily, given that, at that
12 time, we could still observe, let's say,
13 variability among the surrounding communities.

14 MR. NICHOLS: I would say not
15 necessarily because --

16 COMMISSIONER ZUNIGA: Okay.

17 MR. NICHOLS: -- again, the sales are
18 relatively volatile. And if you just -- you
19 know, if you recall from looking at the
20 percentage change in lottery sales over time,
21 they vary year to year a lot. And so, you
22 know, one more year of data, if it was pretty
23 consistent data, and if it wasn't that
24 volatile, I would say that our statistical

1 confidence would start to improve. But the
2 series is somewhat inherently volatile, so I
3 would say a year from now we're not
4 necessarily going to be able to -- I'm not
5 confident that we would have statistical
6 confidence one year from now.

7 CHAIRMAN CROSBY: Mark, I have two
8 things. First of all, just so it doesn't get
9 taken out of context, you said -- earlier on
10 you said crime is hard to detect. I think
11 what you meant was causality is hard to
12 detect, right?

13 MR. NICHOLS: That's correct. Yes.

14 CHAIRMAN CROSBY: I didn't want anybody
15 saying you said crime is hard to detect. It's
16 pretty easy to detect. The other one may be a
17 similar issue, I'm not sure.

18 I wasn't going to let this go
19 because I think we -- it starts to get into
20 the weeds, but I must say I don't get this, if
21 you're talking about survey results, which
22 have an inherent inaccuracy because of
23 methodological problems and sampling problems.
24 I understand where you can have what, in the

1 polling business, you would call a margin of
2 error, which we're calling difference of
3 differences, whatever. But when you're
4 actually measuring real numbers, I don't
5 understand how -- you know exactly, we know
6 because of the lottery, we know exactly what
7 the sales were.

8 So I don't understand how you can
9 say, they lit up a little, but they might have
10 gone down. How is -- again, if you're talking
11 about causality, that's one thing. If you're
12 saying yes it went up, but we don't know
13 whether it went up because of ordinary
14 variation variance, or whether it went up
15 because of the casino or something else, or
16 weather or whatever, that, I would understand.
17 But to say that it might not have gone up, it
18 might actually have gone down \$700 per, I
19 don't understand that.

20 MR. NICHOLS: So, in part, because
21 those numbers are averages of multiple agents.
22 And so -- and that's why I say, on average
23 there's been no decline in sales. But some
24 agents will have seen decreases in sales, some

1 agents will have seen increases in sales. So
2 there's just an inherent variability.

3 And so, the number that we report
4 there is an average. So it's, sort of, the
5 average agent, if you will, over that two-week
6 period. But there's variability within those
7 agents. And some agents decreased, some
8 agents increased. So we really --
9 statistically, we say we just can't
10 confidently conclude that that increase was
11 significant. In other words, that it's
12 different than zero. And around zero are
13 negative numbers, so that's why I say, okay,
14 it could have -- technically, it could have
15 decreased, actually. We really just,
16 statistically, can't say that had increased.

17 But -- and I think the important
18 thing, though, is, also, because of that
19 variability, we can't say that the difference
20 in the growth rates between those two groups,
21 between Plainville, for example, without
22 Plainridge Park, or between the surrounding
23 communities and the rest of the state are
24 different.

1 Yes, you're right. We know what the
2 exact sales numbers are. And, yes, you're
3 absolutely right, we cannot -- even if we know
4 what those exact numbers are, we cannot assign
5 causality. The only way we can do that is, if
6 we knew what every person did, who bought a
7 lottery ticket and -- or who spent money at a
8 casino and they were to tell us, yeah, I'm
9 spending my money here. I'm not buying a
10 lottery ticket. And we don't know that.

11 CHAIRMAN CROSBY: Right.

12 MR. NICHOLS: It's just, those numbers
13 I'm reporting are averages, and they're
14 averages of multiple agents. And there's
15 variability for those agents. Some sales for
16 some agents decreased. Just like we saw, for
17 example, sales in some of the surrounding
18 communities decreased. But, yeah, it's
19 critical to know that we cannot assign
20 causality there. We cannot say that that was
21 the result of the casino. We cannot say that
22 those differential impacts are the result of
23 the casino. But just, on average, we just
24 statistically can't conclude that sales

1 increased, or that they decreased, for that
2 matter. But just nominally, just the average
3 number was -- you know, it went up by less
4 than what the rest of the state went up by.

5 CHAIRMAN CROSBY: I have to tell you
6 that this is a reflection on me, not on you,
7 I'm sure, but this is like when somebody tells
8 you the universe is expanding, what's it
9 expanding into? You know, this makes my head
10 hurt. I don't get it. But --

11 MR. NICHOLS: Oh, I'm sorry.

12 CHAIRMAN CROSBY: But I'm with you.
13 But nevermind. I'm sure you're right.

14 COMMISSIONER ZUNIGA: Well, take two
15 agents --

16 CHAIRMAN CROSBY: Nevermind. I get it.
17 I mean, it doesn't matter. The bottom line
18 is, the numbers are what the numbers are. And
19 the conclusions are what matters. And we can
20 talk off line about the fact that I'm a dummy
21 when it comes to this stuff.

22 Any other questions?

23 Director Sweeney, did you have anything you
24 wanted to say or ask about, or anything?

1 MR. SWEENEY: Let me make just a very
2 quick comment.

3 CHAIRMAN CROSBY: Yeah. You want to --
4 why don't you come and grab the mic. Push the
5 button to make it bright green.

6 MS. VOLBERG: I already did that for
7 you.

8 MR. SWEENEY: Thanks so much.

9 MS. VOLBERG: You're welcome.

10 MR. SWEENEY: Good morning,
11 Commissioners.

12 CHAIRMAN CROSBY: Good morning.

13 MR. MACDONALD: Good morning.

14 COMMISSIONER CAMERON: Good morning.

15 COMMISSIONER ZUNIGA: Good morning.

16 COMMISSIONER STEBBINS: Good morning.

17 MR. SWEENEY: Thank you for asking me
18 up briefly. First of all, I would also like
19 to just thank the Gaming Commission. I think
20 the work that you're doing on a number of
21 fronts, including the crime analysis, this
22 analysis with lottery, but also the work that
23 gets promulgated with the Massachusetts Public
24 Health Trust Fund. All critical importance, I

1 think, is separating the Commonwealth from
2 other states of how they've approached the
3 issue of gambling over the last decade or two.

4 And I'd also like to thank UMass.
5 I'm a UMass alum, and never been prouder than
6 the opportunity I've had to interact with
7 officials from UMass during my time here at
8 the lottery, because their work's been
9 outstanding. And Dr. Nichols has been a great
10 parter to work with, also. So I just
11 appreciate all the work that's been done.

12 Just a couple of things quickly. I
13 think one of the variations that Dr. Nichols
14 identified and is difficult to attach
15 causality to, which, fortunately, for everyone
16 you wouldn't be aware of in the slightest,
17 unless you were really embedded in the lottery
18 world, one of the fluctuations for sales for
19 us can be something as simple as a store
20 closing, a store undergoing renovations for a
21 two- or three-month time period. But, also,
22 in either management or employee changeover
23 can also cause a significant decrease in
24 sales, or, conversely, an increase in sales,

1 if you suddenly have an employee who's more
2 familiar with the product and more engaging
3 with the product.

4 And so, all those things are very
5 difficult to quantify, unless you continue an
6 extremely deep dive into the data for each
7 individual agent in each individual area.

8 One other thing I'd like to keep in
9 mind is what Dr. Nichols pointed out. The
10 study, I don't think, necessarily, can be
11 morphed over to make conclusions about what
12 may or may not occur as the other two casinos
13 come on line. This is obviously some good
14 news to start with.

15 I'd like to think that, in part, the
16 efforts of Treasurer Goldberg, prior to the
17 opening of Plainridge, made a decision to
18 really have our account representatives double
19 down on the efforts in our interaction with
20 our retail agents in each location in the
21 Plainridge area. In essence, to make sure
22 they were running as efficiently as possible
23 to the runup to the opening of Plainridge and
24 immediately afterwards, as well as asking us

1 to really focus on any needs or concerns that
2 those agents brought to light during this time
3 period. And I think that decision by
4 Treasurer Goldberg paid dividends for the
5 Commonwealth, and also for our relationship
6 with Plainridge.

7 But that's another thing I want to
8 thank the Commissioners for, because I think
9 it's been very important that we've been able
10 to have this relationship with Plainridge
11 fostered. And I'm hoping that the same will
12 continue with the two new casino entities that
13 are coming into the Commonwealth. I have
14 every indication that that will occur.

15 And Plainridge has been a great
16 partner to work with. They've listened to the
17 rationales and sales methods of people at the
18 lottery. And another interesting tidbit that
19 came out, at least for me on this, and was
20 important for the lottery, I think, both for
21 the casino industry and for the lottery, there
22 was a question as to whether or not -- or,
23 rather, how well lottery products would be
24 received by a individual who's making a

1 conscious decision to be a casino customer in
2 a casino environment.

3 And what we've learned, at least,
4 again, from this initial opening at
5 Plainridge, is that lottery products that
6 we've exposed them to have been very well
7 received by the patrons at Plainridge, and
8 we've run -- also have run a promotion or two
9 with Plainridge that I think's been
10 well-received. And I think that's important
11 data, both for the casinos and for the lottery
12 also.

13 So, you know, this has been a real
14 win. The research, I think, has been great.
15 They listen to any concerns or additional
16 explanations that may have been needed with
17 some of the data. And I'm cautiously
18 optimistic that this trend will continue. I
19 do have concerns about the -- not,
20 necessarily, the nature, but I just want to
21 note that, obviously, as you know, and the
22 public is aware, the operational models for
23 the other two casinos will be very different
24 than Plainridge. Particularly, the location

1 here, near the Boston area. We may see some
2 impact from that. But, again, the lottery
3 views the casinos that are here, and that are
4 coming on line, as friendly competition, as
5 potential partners, and as a net plus for the
6 Commonwealth as a whole. So we're going to
7 continue to look forward to working with them,
8 and with you as commissioners. Anything we
9 can do to help?

10 CHAIRMAN CROSBY: Great. Thank you,
11 Mike.

12 COMMISSIONER ZUNIGA: Thank you, Mike.

13 CHAIRMAN CROSBY: Go ahead, Bruce.

14 COMMISSIONER STEBBINS: Yeah, quick
15 question.

16 CHAIRMAN CROSBY: Don't go away yet.

17 COMMISSIONER STEBBINS: You know,
18 obviously, we're going to be continuing to
19 track this.

20 CHAIRMAN CROSBY: Bruce, excuse me one
21 sec. Mark Nichols, if you need to go back to
22 class, or have breakfast or something, I know
23 it's early out there, I think we're probably
24 finished with Dr. Nichols, if you want to.

1 You're welcomed to stay on the phone, but if
2 you need to cut off, please do.

3 MR. NICHOLS: Okay. I'll stay on until
4 this -- until this gets -- closes.

5 CHAIRMAN CROSBY: Okay. Great.

6 COMMISSIONER STEBBINS: I'm curious as
7 to -- Mark and Rachel, what you see as, kind
8 of, the ongoing analysis of this, because, I
9 think as Mr. Sweeney just pointed out, we have
10 two different cases with the opening of the
11 other casinos. You don't see a huge spike
12 because there's no existing agent already in
13 business at the property locations of our
14 Class 1 licensees.

15 I will tell you, I found the -- the
16 kind of tracking data a lot more important, or
17 a lot more helpful, in terms of the impact
18 than, maybe, the overall sales figures,
19 because volatility in sales, or last year's
20 big Powerball was, you know, I think kind of a
21 strange occurrence that maybe skewed some
22 numbers. But looking at the tracking, it's
23 encouraging that we didn't see a big dip below
24 the state average for kind of what they had

1 performed. What's our schedule for continuing
2 to, kind of, do this analysis, a year-by-year;
3 what do you have in mind?

4 MR. VANDER LINDEN: I mean, to me, I
5 see this as a central component to our ongoing
6 research agenda and the work that we would do
7 with SEIGMA and Dr. Nichols, the
8 Donahue Institute, to measure the overall
9 economic impacts, which would include, what
10 are the impacts on the lottery?

11 Much like the crime study, I see
12 that at -- for this region, we're developing
13 models that could then be brought forward to
14 Springfield and to Everett, with some tweaks
15 here and there from lessons learned. But,
16 overall, I would say that we're looking to
17 replicate what we're doing now in Plainville
18 and surrounding area.

19 COMMISSIONER STEBBINS: Okay. And kind
20 of on an annual basis, is what you're saying?

21 MR. VANDER LINDEN: Correct. Yes.

22 CHAIRMAN CROSBY: Just on that point,
23 Mike, we were meeting with Mike Mathis, the
24 head guy at Springfield, yesterday, on some

1 items. And we talked to him about the fact,
2 how are things going with you? And he said,
3 you know, we haven't been in contact recently.
4 We should be. So he's ready. And I think, if
5 he doesn't reach out, you might want to
6 because it's -- it's time now. They're
7 getting close enough. It's time to start
8 getting serious. You know, where is the
9 facility going to be located? That kind of
10 thing.

11 MR. SWEENEY: Right. We had initial
12 conversations a number of months ago. They
13 were still working on the floor plan and some
14 of the other square footage and dynamics of
15 that nature. We recently touched base,
16 actually, again here today. So those meetings
17 will be forthcoming, and we will heed your
18 word there, for sure.

19 CHAIRMAN CROSBY: Okay. Great. I had
20 two other things. One is, we frequently
21 express appreciation to you, Mike, and your
22 predecessor -- I'm blanking on her name. What
23 was her --

24 COMMISSIONER ZUNIGA: Beth Bresnahan.

1 MR. SWEENEY: Beth Bresnahan.

2 CHAIRMAN CROSBY: Beth was also
3 terrific. But that does not happen without
4 the support of the treasurer, who is your
5 boss. And I know, from my experiences in the
6 NF secretary back about 15 years ago, it has
7 not been standard operating procedure that the
8 -- the information at the lottery was made
9 readily accessible to the public and other
10 agencies in the way that you have done. And
11 that is due to Deb Goldberg.

12 And, you know, Steve Grossman, I
13 think, was making moves this direction, but
14 Deb has -- Deb Goldberg -- I say Deb because I
15 know her from Brookline. Treasurer Goldberg
16 has really set a tone that's empowered you to
17 do the work that you've done.

18 And it should not go -- you know,
19 there has always been this tension between the
20 lottery and the casinos because everybody was
21 worried about what the impact was going to be.
22 Sometimes, it's looked at as an adversarial
23 relationship, and you all have not done that.
24 And Treasurer Goldberg has set that tone, and

1 I want -- I hope you'll pass that through
2 because it's -- we frequently -- we frequently
3 pat you on the back, but we know that it's she
4 who empowers you to do what you're doing.

5 MR. SWEENEY: Yeah. I just wanted to,
6 just very quickly -- you know, obviously,
7 hundred percent agree with you. I can't
8 follow certain mission criteria without,
9 obviously, the support and enthusiasm that's
10 shown by Treasurer Goldberg. It's sometimes a
11 catch line, but it's a fact of the matter that
12 Treasurer Goldberg and the lottery take
13 transparency very seriously, and we try to be
14 as transparent as possible.

15 CHAIRMAN CROSBY: And that's a --
16 that's a big change from not very long ago so
17 thank you. Just the last thing. There's a
18 subthread here that's an important, and
19 everybody knows this, but I want to say it
20 again.

21 The legislature did not tell the
22 Gaming Commission to be sure that the
23 relationships, that we protected the lottery
24 because they were invested in the lottery, per

1 se. They're invested in the almost one
2 billion dollars a year that the lottery
3 generates for local aid.

4 Local aid is the issue here. And
5 that's why they have mandated that we work
6 with the licensees to make sure the
7 relationships are complementary, but also
8 mandated that a substantial portion of the tax
9 revenue from the casinos goes to local aid to
10 offset the possibility of a negative impact.

11 And this year alone, Plainridge
12 generated 60-odd million dollars for local
13 aid, which is around 6 percent of the total.
14 So that the Plainridge itself generated almost
15 a 6-percent increase in local aid, in addition
16 to all these other things that we've been
17 talking about.

18 So that came from the legislature.
19 That was a really powerful point. And I want
20 to make sure that people are aware of that
21 aspect of this relationship as well.

22 MR. SWEENEY: Absolutely. It's the
23 primary mission of the lottery, clearly, is to
24 return that money to 351 cities and towns as

1 unrestricted local aid. It's a critical
2 mission.

3 CHAIRMAN CROSBY: Good. Anybody else?
4 Rachel, did you have anything to close up?

5 MS. VOLBERG: I just wanted to -- I
6 will close up by saying that, as with all of
7 our reports, the full report on the lottery
8 study that Mark has presented here -- Mark
9 Nichols, has presented here, is going to be
10 available on the SEIGMA Web site, hopefully,
11 by about noontime today. There's an executive
12 summary that we're posting separately. And,
13 of course, if anybody has any questions, we'll
14 be happy to answer them going forward.

15 CHAIRMAN CROSBY: Great.

16 COMMISSIONER MACDONALD: Thank you.

17 CHAIRMAN CROSBY: Okay. Thanks,
18 everybody, very much. Mark Nichols in Reno,
19 thanks very much.

20 COMMISSIONER CAMERON: Thank you.

21 MR. NICHOLS: Thank you. Good morning,
22 everyone. Goodbye.

23 CHAIRMAN CROSBY: Yeah, let's take a
24 quick break. And, Mike, maybe you can

1 disconnect -- if there's anything to
2 disconnect here, we'll be back shortly.

3
4 (A recess was taken)

5
6 CHAIRMAN CROSBY: We are reconvening
7 public meeting No. 208. And once I get my
8 glasses on, we'll figure out where we are on
9 the agenda. We're at the administrative
10 update, Executive Director Bedrosian.

11 MR. BEDROSIAN: Good morning,
12 Commissioners.

13 CHAIRMAN CROSBY: Good morning.

14 MR. MACDONALD: Good morning.

15 COMMISSIONER CAMERON: Good morning.

16 COMMISSIONER ZUNIGA: Good morning.

17 COMMISSIONER STEBBINS: Good morning.

18 MR. BEDROSIAN: I got a couple agenda
19 items on, and I may want to, with the
20 Commission's permission, move one agenda item.
21 But first, I'd like to introduce a new
22 employee, Nowshin Jahan, who is sitting
23 right -- there she is.

24 CHAIRMAN CROSBY: Welcome.

1 MR. BEDROSIAN: She's our newest
2 financial investigator to the IEB. Nowshin
3 comes to us from the office of the state
4 auditor, where she was a financial analyst
5 with the occupational school oversight
6 program. In that capacity, she analyzed
7 statements, balance sheets, cash-flow
8 statements, SEC filings and other financial
9 reports related to occupational schools to
10 ensure compliance with Massachusetts laws.
11 Prior to this, she was a tax examiner for
12 Mass. Department of Revenue, and she recently
13 completed her studies for master's of science
14 in finance with the concentration investments
15 at University of Massachusetts, and she began
16 with us just about a week-and-a-half ago, so
17 we welcome her.

18 COMMISSIONER CAMERON: Terrific.

19 CHAIRMAN CROSBY: Welcome aboard.

20 COMMISSIONER ZUNIGA: Welcome.

21 COMMISSIONER MACDONALD: Welcome.

22 COMMISSIONER STEBBINS: Welcome.

23 MR. BEDROSIAN: The next item --

24 COMMISSIONER ZUNIGA: Director --

1 CHAIRMAN CROSBY: Excuse me -- yeah.

2 MR. BEDROSIAN: I'm sorry?

3 COMMISSIONER ZUNIGA: I'm probably
4 going to tell you the same thing. Michael,
5 the feed up here is very problematic. I just
6 want to make sure that it's not on this TV.

7 CHAIRMAN CROSBY: On this screen, it's
8 flickering up and down. I don't know if it's
9 on the outside.

10 COMMISSIONER CAMERON: And there's two
11 of everyone.

12 CHAIRMAN CROSBY: Yeah. It's bad
13 enough when it's one.

14 COMMISSIONER STEBBINS: One is enough.

15 MR. BEDROSIAN: It may have been that I
16 kicked something under the table so I can't --

17 COMMISSIONER ZUNIGA: As long as the
18 feed --

19 MR. SANGALANG: It's fine on the feed.
20 I'll try to fix it.

21 CHAIRMAN CROSBY: All right.

22 COMMISSIONER STEBBINS: No problem.

23 CHAIRMAN CROSBY: Great.

24 MR. BEDROSIAN: The next issue is a

1 quarterly update. And for that, I will turn
2 it over to our CFAO, Mr. Lennon.

3 CHAIRMAN CROSBY: Thank you. Good
4 morning, Mr. Chairman and Commissioners.

5 MR. MACDONALD: Good morning.

6 COMMISSIONER CAMERON: Good morning.

7 COMMISSIONER ZUNIGA: Good morning.

8 COMMISSIONER STEBBINS: Good morning.

9 MR. LENNON: Agnes and I are here today
10 to present to you the second FY '17 quarterly
11 budget update. The MGC approved an FY '17
12 gaming control fund budget of 27.17 million,
13 which required an assessment on licensees of
14 21.4 million, after the balance forward of
15 987,000 from surplus FY '16 revenue was
16 accounted for.

17 The budget is composed of 18.5
18 million -- 18.59 million for MGC regulatory
19 and gaming operations. 1.65 million in
20 indirect costs, 4.48 million for research and
21 responsible gaming, which is ultimately going
22 to transition to being paid for from the
23 public health trust fund, 2.37 million for the
24 AGO operations, including troopers assigned to

1 the AGO, and 75,000 for the ABCC.

2 Appendix A to this document has been
3 reformatted to call out the budget and
4 spending for each of the areas I just
5 mentioned. This is different from how it was
6 previously reported for the last two or three
7 years. And while some may say 27.17 million
8 is 27.17 million, we feel it important to
9 distinguish between the cost of MGC for
10 regulating, and the costs that are built into
11 the statute for other equally-important
12 activities but we don't control.

13 CHAIRMAN CROSBY: Right. Let me just
14 interrupt, Derek. Thank you very much. And
15 I -- this is something I just want to
16 highlight, although, you just did it. But
17 this number of 27 million gets passed around
18 as if the cost of the gaming commission is
19 \$27 million. We understand that the licensees
20 have to pay the total 27 million, but the cost
21 to the gaming commission is 18 million,
22 thereabouts, 18-1/2.

23 There are these, as you say, these
24 other expenses. The attorney general's office

1 and the public health trust fund and so on and
2 so forth, which are legislatively-mandated
3 outside our control, and fairly unique in
4 the -- in the overall regulatory environment.
5 So when people talk about the cost of the
6 Gaming Commission in Massachusetts, it's 18
7 not 27 million bucks. Thanks.

8 MR. LENNON: And that will be reported
9 on a monthly basis in this new format.

10 CHAIRMAN CROSBY: Right.

11 COMMISSIONER ZUNIGA: Thank you.

12 MR. LENNON: I'd like to take this time
13 to remind the Commission that the Commonwealth
14 works on a slightly modified cash basis.
15 Therefore, while you look at the reports in
16 your packet, you'll see that 50 percent of the
17 year has passed. However, we've only seen
18 bills -- that only accounts for bills that
19 we've received through 12/31. So services
20 through 12/31 you'll see hit the accounts in
21 July -- in January.

22 I am recommending a decrease to the
23 currently-approved projections of the MGC's
24 budget by 133,000 this quarter. This

1 reduction is based on the MGC having approved
2 3.5% of its anticipated salary pool for
3 raises. In actuality, we only used just under
4 2 percent of this. The balance, including
5 fringe benefits, is what I'm recommending to
6 be reduced [sic]. There are no further
7 reductions that I'm recommending. All other
8 -- all other transfers are net zero within
9 people's budgets.

10 And as a refresher, I'm not
11 recommending that we reduce the assessment.
12 And the reason I'm not recommending we reduce
13 the assessment, is that the budgeting process
14 for FY '17 eliminated all contingency items
15 and was built with the intent, at the request
16 of our licensees, to minimize any surplus
17 rollover funds into FY '18.

18 In addition, I'd like to call to
19 your attention page two of Appendix A, in the
20 revenues section. The Region A slot fee item,
21 we had projected 1.945 million and only
22 received 1.716 million from Wynn because they
23 changed the composition of their gaming floor.
24 The commission did not approve this change in

1 revenue coming in. However, we also have not
2 determined how to handle it. So we kind of
3 kicked it down the road to take a look at how
4 revenues would come in and what other
5 licensees felt.

6 CHAIRMAN CROSBY: Right. And we
7 realize there's some equity issues with the
8 other licensees, and we just haven't got our
9 arms around figuring it out.

10 MR. LENNON: Correct. So that leaves a
11 \$200,000 current hole in our budget.
12 Therefore, I'm not recommending a reduction to
13 the assessment because 133, 200, we're still
14 technically in the hole at this point.

15 On top of that, there are too many
16 areas that we do not have firm figures on,
17 such as litigation exposures, possible
18 investigations by the AG's office, which
19 throws overtime for them into a -- into a
20 really unpredictable area. And the research
21 and responsible gaming platform and activities
22 changes throughout the course of the year.
23 We're only six months in.

24 Included in your package is

1 Appendix A, which we went over, which shows
2 all current projections, as well as spending
3 to date. Appendix B, which shows specific
4 budget amendment requests this quarter. And
5 then, Appendix C, which shows each division's
6 budget and how they're spending compared to
7 their budget through December 31st. If you
8 have any questions at this time, I'd like to
9 take them.

10 MR. BEDROSIAN: So I would just add,
11 Commissioners, CFAO Lennon and I have worked
12 diligently, I think at the direction of the
13 Commission, and certainly with the input of
14 our licensees, to try and be as efficient this
15 year as possible. Look at administrative
16 efficiencies.

17 We recognize, obviously, our
18 licensees, other than Penn right now, PPC, are
19 in a transition period between building and
20 operations, which will extend into another
21 year, two years, depending upon the licensee.
22 And we've tried to keep that factor in mind
23 while we prepare the Commission for its
24 future, full-time regulatory role, and we will

1 continue to do so.

2 COMMISSIONER ZUNIGA: I do have a
3 couple questions on the -- on fund five,
4 perhaps, refresh my memory on page four of the
5 report, the racehorse --

6 MR. LENNON: Appendix A?

7 COMMISSIONER ZUNIGA: Appendix --

8 COMMISSIONER STEBBINS: Mm-hmm.

9 MR. LENNON: Okay.

10 COMMISSIONER ZUNIGA: Yes, Appendix A,
11 page -- page four.

12 MR. LENNON: Yep.

13 COMMISSIONER ZUNIGA: There's -- fund
14 five, quadruple 05.

15 MR. LENNON: Yep, 1050 triple 05?

16 COMMISSIONER ZUNIGA: The racehorse
17 development fund, how is this number
18 58 percent based on -- how come that we're --
19 we have an actual that's slightly higher than
20 50 percent?

21 MR. LENNON: So we took a look at what
22 we were projecting based on the previous year.
23 And I actually had to explain this to
24 Commissioner Stebbins yesterday. If you look

1 at what we've brought in to date, it's only
2 6.9 million but we -- so this year, in new
3 fee -- new revenue, not the 12/9 that rolled
4 forward. Yet, we paid out 8.4. It's because
5 of the big, lump sum payments that we gave to
6 -- to --

7 COMMISSIONER ZUNIGA: Oh, from the
8 licensing fund?

9 MR. LENNON: Yeah. From -- not just
10 the licensing fund, but the -- kind of the
11 swap 45/50 fund as well.

12 COMMISSIONER ZUNIGA: Oh, yes.

13 MR. LENNON: So we had a few big
14 lump-sum payments, but it's not -- it's not
15 going to really skew items in the future.
16 It's just we had those --

17 COMMISSIONER ZUNIGA: Yes. We pay
18 in --

19 MR. LENNON: As well as the Suffolk
20 lump sums, so they're not kind of cyclical.

21 COMMISSIONER ZUNIGA: Yeah, okay.
22 Sounds good.

23 CHAIRMAN CROSBY: Anybody else,
24 questions? Questions?

1 COMMISSIONER ZUNIGA: And -- well,
2 another one on the same fund, O triple 04,
3 this is actual spend -- the community
4 mitigation fund, 311,000 is actual spend?

5 MR. LENNON: Correct. That's all we've
6 spent to date. We don't have a projection up
7 there, just because we haven't given out the
8 grants yet.

9 COMMISSIONER ZUNIGA: Right, for the
10 current year.

11 MR. LENNON: Yeah, the current year.

12 COMMISSIONER ZUNIGA: But we've made
13 commitments well in excess of that.

14 MR. LENNON: Correct.

15 COMMISSIONER ZUNIGA: In the reserves,
16 the planning reserves and the transportation
17 planning reserves that are not reflected here
18 but --

19 MR. LENNON: They are not reflected.

20 COMMISSIONER ZUNIGA: -- they're
21 committed?

22 MR. LENNON: Correct.

23 COMMISSIONER ZUNIGA: Fair enough.

24 CHAIRMAN CROSBY: All right. Great.

1 Thank you very much.

2 MR. LENNON: Thank you.

3 COMMISSIONER CAMERON: Thank you.

4 CHAIRMAN CROSBY: Anything else from
5 you?

6 MR. BEDROSIAN: Yes, Mr. Chairman.
7 With your permission, I would like to advance
8 Item 7A under the legal division, which is the
9 Plainridge Park Casino Capital Reinvestment
10 Plan. We've had some folks travel to come
11 today. And while we have full confidence
12 Mr. Sottosanti will make his afternoon flight,
13 anything we can do to expedite that.

14 CHAIRMAN CROSBY: I know we also have
15 some people here, I think, who are interested
16 in some of the topics under the Investigations
17 and Enforcement Bureau. And I hate to make
18 everybody wait, but I think somebody who's
19 flown in from out of town is going to take
20 precedence, so apologies to those of you here.
21 Have to wait a little bit longer, but I think
22 this makes sense.

23 MR. BEDROSIAN: So let me -- and Todd
24 is -- good, thank you. So let me give a

1 little bit of background on this and make some
2 recommendations, and then I'll ask Deputy
3 General Counsel Grossman to comment and
4 correct any misstatements of mine.

5 So, Mr. Chairman, members of the
6 commission, another one of the unique aspects
7 of The Expanded Gaming Act is the requirement
8 of our licensees to develop a multiyear plan
9 and/or make certain levels of capital
10 reinvestments in their properties. I can
11 speculate that this was put in place by the
12 legislature to make sure that the properties
13 situated in Massachusetts never deteriorated.
14 The statutory provisions for these exist under
15 the gaming act, Section 23K. Specifically,
16 Sections 21, Subsection 4 and the license
17 section, and then 23K, Section 2, what defines
18 what capital expenditure was. Subsequent to
19 this, the Commission, as part of its internal
20 controls regulations, under 205 CMR 13909
21 expanded on the requirements of our licensees.
22 So today, we have two separate but related
23 issues before the Commission on these issues.

24 The first, after a lengthy

1 back-and-forth process with Penn staff and PPC
2 staff, Penn has submitted a plan, which, I
3 think Deputy General Counsel Grossman and I
4 suggest, with some caveats, complies with both
5 the letter and spirit of the current statutory
6 and regulatory obligations.

7 The second issue, Commissioners, is
8 highlighted by one of our Category 1 licenses,
9 MGM, who is also involved in the past few
10 months with staff, in trying to interpret the
11 statutory and regulatory requirements. And as
12 you will see, or might have seen from the
13 letter they've submitted, MGM takes a position
14 that the Commission may have gone a little
15 farther in 205 CMR 13909 than the gaming act
16 requires, and takes us occasion to request the
17 gaming commission revisit that regulation.
18 While these two issues are related, I suggest
19 they don't both need to be resolved today, and
20 I'll address that in a second.

21 Let me turn to Plainridge's
22 multiyear plan, which is outlined, both
23 contextually in their letter, and then in the
24 spreadsheets that they put forth. Our

1 recommendation on Penn's plan to spend,
2 approximately, 9.15 million over the multiyear
3 plan to be approved under the following
4 caveats, and I expect the Commission may have
5 questions for Mr. Sottosanti, who may want to
6 make some comments, and General Manager
7 George, who are here.

8 The first caveat would be that this
9 is a minimum capital expenditure during this
10 time frame. And, also, that the Massachusetts
11 specific requirement not exclude PPC from any
12 other corporate funds that might be available
13 for reinvestment purposes so...

14 The second caveat would be, to use a
15 political term, trust but verify. We would,
16 in the first instance, ask PPC to self-report,
17 do an annual report, but we would also ask our
18 gaming agents -- and Mr. Band has had some
19 experience with this in his previous
20 employment in New Jersey, to act as our first
21 eyes and ears and report to us on the ongoing
22 maintenance of the facility.

23 And, lastly, I would suggest that
24 the Commission yearly review compliance with

1 the plan to revisit any approval, make sure
2 it's going consistent with what the Commission
3 envisioned for the brand.

4 Now, the unique aspect of all this,
5 with this unique requirement, is that this is
6 the first of these plans to be presented, and
7 it is a plan that talks about the maintenance
8 of a new facility. So it's the -- to use a
9 bad analogy, we have taken a new shoe out of
10 a -- out of the box and try and determine when
11 we need to shine it. So this is a unique
12 context you find yourself on.

13 Dropping down -- before I turn it
14 over to Deputy General Counsel Grossman, to
15 the second issue of MGM's request for an
16 affirmative regulatory change. I'd suggest
17 there are two options.

18 One is, you may have enough
19 information before you and decide, yes, we
20 should -- you can direct staff to take this on
21 now. The second is, as the executive
22 director, I think I've had this conversation
23 with the Commission, and specifically you,
24 Mr. Chairman, about an annual regulatory

1 review, like Maryland does, where I would give
2 our licensees the option of getting together.
3 And, collectively, if they thought there was a
4 item in our regulations that they wanted to
5 collectively ask us to address, and again they
6 collectively had a solution to it, we would
7 take it up. This could certainly be one of
8 those items. So I see two options on MGM's
9 request.

10 So with that, let me turn my
11 comments over to Deputy General Counsel
12 Grossman before we ask Mr. Sottosanti to make
13 any comments.

14 MR. GROSSMAN: Mr. Chairman and members
15 of the Commission.

16 CHAIRMAN CROSBY: Good morning.

17 MR. MACDONALD: Good morning.

18 COMMISSIONER CAMERON: Good morning.

19 COMMISSIONER ZUNIGA: Good morning.

20 COMMISSIONER STEBBINS: Good morning.

21 MR. BEDROSIAN: Light on?

22 MR. GROSSMAN: It is on. Okay. If it
23 would be helpful, I'm prepared to quickly run
24 through the provisions of the governing law

1 that we will look to, and you will look to in
2 determining whether the submission meets the
3 requirements.

4 And, secondly, if it would be
5 helpful, we have run an analysis of some of
6 the numbers that may be more helpful to
7 present after Mr. Sottosanti or Mr. George
8 have had a chance to speak. But I thought,
9 really quickly, I would just introduce, as
10 Mr. Bedrosian already touched on, some of the
11 governing provisions of the law that we will
12 look at.

13 It all starts with the General Laws,
14 Chapter 23K, Section 21, where the capital
15 expenditure plan is first discussed, and it
16 provides for either the expenditure annually
17 of 3.5 percent of net gaming revenues, or for
18 provision of a multiyear plan. And that is
19 the option that Plainridge Park Casino has
20 elected and presented to you here today.

21 The regulation, which the Commission
22 crafted. To clarify, some of the provisions
23 of Chapter 23K, Section 21 is found at 205 CMR
24 139.09, in paragraphs one and two. And

1 there's two important parts of that. In the
2 first part, we define what we mean by net
3 gaming revenue. And what we mean by that is,
4 essentially, that it is the gross gaming
5 revenue that is calculated in accordance with
6 the regulations, minus the taxes paid. And
7 that's how we arrived at what the net gaming
8 revenue is that we will evaluate this plan in
9 accordance with.

10 And as you'll hear, and as you can
11 see from the submission, that number comes out
12 to, approximately, \$79.56 million a year, in
13 the case of Plainridge Park Casino. And what
14 we say in the regulation is that, over the
15 course -- "Over the term of the plan that has
16 been submitted, the total expenditure shall
17 equal or exceed 3.5 percent of the net annual
18 gaming revenues derived from the gaming
19 establishment during the covered term of
20 years, unless good cause is demonstrated to
21 the contrary by the licensee."

22 In this case, Plainridge Park Casino
23 has presented and is prepared, I believe
24 today, to discuss the good cause for coming in

1 under that 3.5 percent annual expenditure.
2 The numbers, essentially, come out to,
3 approximately, a \$1.66 million annual
4 expenditure over the term of this five-year
5 plan that's up on the screen at the moment.

6 There are a couple of numbers that I
7 would draw to your attention. The one that we
8 excluded from our staff analysis of this was
9 the racing number. The racing numbers are a
10 relatively small part of the plan so it don't
11 affect the overall analysis a great deal, but
12 for two reasons we suggested that they be
13 excluded.

14 First, the racing -- the facilities
15 are outside what we have defined as the gaming
16 establishment. And Chapter 23K Section 21
17 talks about the fact that these capital
18 expenditures are supposed to be made to the
19 gaming establishment.

20 Secondly, there's the harness horse
21 and racing horse trust fund, which you're all
22 familiar with, by which improvements are made
23 to the racing portions of the facility. So
24 those monies are already expended, so this

1 would, in some respects, be a double dip, if
2 it were counted here as well. But again --

3 COMMISSIONER STEBBINS: Just for
4 clarification on the racehorse capital
5 improvement trust fund, there's no requirement
6 from our licensees to request that money; it
7 sits there until they want it.

8 MR. GROSSMAN: That's correct, they
9 don't have to spend the money. I think the
10 numbers bear out the fact that they have spent
11 the money, and that the numbers that kind
12 of -- that flow through the fund are similar
13 or equivalent to the numbers that you see here
14 on the chart, so they match up pretty closely.

15 COMMISSIONER CAMERON: Can we clarify
16 that? That's their own money that they're
17 receiving back, though, correct?

18 MR. GROSSMAN: That's true.

19 COMMISSIONER CAMERON: So I'm not sure
20 I agree that that should be a double count.

21 MR. GROSSMAN: There are a couple ways
22 to look at it, I suppose.

23 COMMISSIONER CAMERON: I guess, from my
24 perspective, keeping that racetrack looking as

1 nice as the casino is really important. I
2 think it is. The entire facility -- I
3 understand the gaming establishment piece of
4 this, but I -- from an overall looking at that
5 property, I do think that's a really important
6 piece.

7 MR. GROSSMAN: Agreed a hundred
8 percent. And I'm not, in any way, suggesting
9 that number be disregarded. The only question
10 is whether it could be counted towards the
11 capital expenditure number that we're looking
12 at here. It could certainly be counted, in
13 any event, towards any good-cause analysis
14 that you do. And it absolutely should be
15 considered.

16 MR. SOTTOSANTI: Commissioner Cameron,
17 Carl Sottosanti here on behalf of Penn. That
18 position that Mr. Grossman just mentioned is
19 the one we're taking. Honestly, whether we
20 count it as part of the 3.5 percent
21 requirement, or count it as part of the
22 overall equitable consideration of the good
23 cause, we're indifferent. We do, however,
24 want you as the commissioners and the

1 decision-making body here, to acknowledge that
2 there's more to keeping this racetrack open
3 than -- and looking good than what appears in
4 what might be an imperfect definition of
5 Capex.

6 CHAIRMAN CROSBY: Could I -- I want to
7 suggest something and it may not work. But
8 I'm going to look at the two issues together.
9 The Penn letter and the Penn discussion, and
10 what we've even already just now -- goes to a
11 number of definitions about what should count.
12 Assuming that we are going to stick with our
13 earlier reg that says they have to show good
14 cause why they don't spend 3.5 percent per
15 year.

16 So if we decided, as MGM has raised
17 in its letter, that the 3.5 percent and the
18 good cause was a mistake on our part, you
19 know, it was something we wanted to
20 reconsider, then, we don't have to go through
21 all this thing and define. It would -- you
22 know, it would be -- so let me just -- so that
23 what the -- what the statute says is you
24 either -- the licensee either has to spend

1 3.5 percent of its net gross revenues, or
2 provide a multiyear plan, which the Commission
3 approves.

4 When I first read that, and back
5 when we did the regs later on, I assumed that
6 the legislature -- what the legislature meant
7 was, it has to average 3.5, but one year could
8 be lower, one year could be higher, so I was
9 comfortable with going forward with the reg we
10 wrote, which sort of still presumes the 3.5
11 per year, but you can get out of it, if you
12 show good cause.

13 The MGM letter has the legislative
14 history, which, pretty clearly, suggests to me
15 that that wasn't what the legislature meant.
16 The legislature meant what it said, which was,
17 if there's a default, we're going to say it's
18 got to be 3.5 percent per year. But if the
19 Commission receives a multiyear capital plan
20 and the Commission approves it, meaning, the
21 Commission has exercised its judgment that the
22 quality of the facilities will be protected,
23 then, the 3.5 goes away. That's what the law
24 says on its face. I thought, originally, it

1 probably meant something more than what it
2 said. Now, I think it meant what it said.

3 And I would be much more comfortable
4 saying that, as long as we approve a multiyear
5 plan, that we're fine with that. Whatever the
6 number works out to be, and as Director Ed
7 said -- Bedrosian said, we will do an annual
8 check and we'll go look at the facility.
9 We'll know a facility that's falling down and
10 needs help when we see it. And that -- if
11 that's where we come down, that we were going
12 to rethink that good-cause clause, then, I'm
13 not -- I don't -- I'd rather not get into a
14 debate about whether, you know, maintenance
15 counts is up, or whether the racetrack should
16 count. I don't care about that. What I care
17 about is a Capex plan that we approve, that,
18 in our judgment, does protect the quality of
19 the facility.

20 So if others agreed with me, then, I
21 think we can shortcut this process and start
22 the process of reviewing that reg. If you
23 disagree with me, then, we can go ahead and
24 let Penn present their --

1 MR. BEDROSIAN: So, Mr. Chairman, let
2 me just -- and I appreciate what you're
3 saying. I think, part of our bifurcate plan
4 was a sense of responsibility, which, you
5 could take away from us, obviously, of the
6 fact that, in fairness, Penn had raised this
7 issue well into last year. I was distracted
8 as the new executive director. This got
9 tabled a bit, and we felt a sense of
10 responsibility to get it resolved. I'm
11 certainly not adverse, and I'll leave it to
12 the Commission, on the other issue, because
13 I -- because we are -- we may be talking a
14 cart and horse type thing.

15 CHAIRMAN CROSBY: Right. And I'd be
16 willing to bet that Penn would be perfectly
17 happy to drop the good cause and forget
18 debating the particulars.

19 MR. SOTTOSANTI: We certainly have --
20 and, hopefully, this is demonstrated in our
21 letter, we're trying to take a holistic,
22 practical approach to this. Particularly, in
23 light of some of the potential infirmities in
24 the reg. But we would -- potential, of

1 course. We would prefer that our request is
2 acted upon. If the reg is going to be
3 reconsidered and amended, that will take,
4 necessarily, some time.

5 And to be clear, we have
6 collaborated with the staff and with -- and
7 communicated extensively with MGM at every
8 step. We think the two proposals in front of
9 you are actually complementary and not
10 mutually exclusive. The distinction,
11 Commissioner -- Chairman, if I may, is, we're
12 open right now, and we need to be able to plan
13 promptly to go forward. MGM is still in the
14 development stage, and they're necessarily
15 taking a more farsighted view of this. And
16 there's nothing wrong the view they're taking.

17 CHAIRMAN CROSBY: I appreciate that.
18 And, again, if the other commissioners feel
19 like I'm on the wrong track, please say so,
20 but let me just finish what I was going to
21 say, before you tell me I'm on the wrong
22 track.

23 If we ended up having a consensus
24 that we thought the good-cause clause was

1 unnecessary, and that what we want is a good
2 plan that we approve. It doesn't have
3 anything to do -- multiyear plan, doesn't have
4 anything to do with 3.5 percent, we could
5 accommodate you by waiving stuff, whatever.
6 If we get into the debate about what's
7 included or not, for your trying to prove good
8 cause, I mean, some of the things you're
9 claiming I don't agree with, but I think it's
10 irrelevant because you don't need good cause.
11 So I would much rather figure out how we can
12 let you do what you need to do to plan
13 accordingly, by waiver or by tacit agreement,
14 or whatever, if there is kind of a consensus
15 that the real issue is, are you going to do
16 good work? Not, are you going to adhere to
17 3.5 percent?

18 MR. SOTTOSANTI: So two very simple
19 follow-ups on your statement. One is, we are
20 going to do very good work, and we're going to
21 be committed to it, and you're going to have a
22 plethora of ways to hold our feet to the fire
23 on that.

24 Two, Penn is indifferent whether the

1 path today is a consensus agreement, good
2 cause or a waiver, because, at the end of the
3 day, I think we're all result-oriented here
4 today.

5 CHAIRMAN CROSBY: Right. Okay.

6 COMMISSIONER ZUNIGA: I was going to
7 say exactly what you just articulated at the
8 end. Which, in my view, whether we call it
9 good cause, or whether we look at a multiyear
10 plan and agree with it, ends up in the same
11 place.

12 CHAIRMAN CROSBY: Right.

13 COMMISSIONER ZUNIGA: If we approve it.
14 If we don't, we have a different story. But,
15 you know, what some of the -- what's presented
16 here by Penn, I think we can talk about it, we
17 can talk about the details, we can talk about
18 assumptions in the approval and changes
19 afterwards. We would treat it as a minimum.
20 And if you need to change it, you need to
21 notify us, et cetera.

22 But this distinction between the
23 good cause or what the statute says, which is
24 really these two notions, if they don't have a

1 plan, a multiyear plan that we have not
2 approved, then, there's a 3.5 percent.

3 CHAIRMAN CROSBY: Right. That's the --

4 COMMISSIONER ZUNIGA: And I think, if
5 looking at the plan we decide to call it good
6 cause, that they're not meeting the 3.5, or
7 we're satisfied that at 1.8 over the number of
8 years, because of the items that they've
9 included, is something that we'll approve as
10 part of the multiyear plan. I think it's the
11 same thing.

12 MR. BEDROSIAN: So the other aspect of
13 this - and I saw Commissioner Cameron about to
14 say something so I apologize for interrupting
15 - I think that could be helpful is, if you go
16 through the regulatory review process as a
17 condition precedent to resolving this, and you
18 get true comments from our operators about how
19 they view the maintenance of their facilities,
20 I think you will hear that their brand, in
21 their consideration of their brand, is
22 probably very much in line with this
23 requirement. It may not -- it may not align
24 perfectly with what we're defining as being a

1 capital reinvestment as much as the type of
2 maintenance they do and how important it is.

3 So I guess I'm refining my initial
4 remarks and saying there might be some
5 advantage, as long as we give Penn the
6 security that they are going to get approval
7 of something that they need to plan for in a
8 prompt matter that you may want to hear on the
9 regulatory issue what our licensees are
10 actually saying they will do to protect the
11 brand and fulfill what I would call the intent
12 of the statute and regulation.

13 CHAIRMAN CROSBY: I mean, I have no --
14 I think, useful to hear what they're planning
15 to do. The question is, do we want to go
16 through the decision-making about is this good
17 cause, or are we willing to just, sort of,
18 forget the good cause and say are they taking
19 good care of the facility in a multiyear
20 basis.

21 COMMISSIONER CAMERON: I'm concerned
22 that we do not have the expertise to -- on
23 staff here to make those determinations about,
24 are they keeping the place up properly.

1 COMMISSIONER ZUNIGA: I'm going to
2 disagree with you, Commissioner. We do have
3 that expertise in house.

4 COMMISSIONER CAMERON: Well, I mean, I
5 think there are things that go in behind the
6 scenes, if we look at, even from racing, how
7 much detail we get about improvements, and the
8 fact that they have to use outside experts in
9 order demonstrate that what we're doing --
10 what they are doing is appropriate.

11 I'm just concerned that -- you know,
12 I kind of like the detail, is what I'm saying,
13 that they provide on exactly and what those
14 costs are broken out.

15 CHAIRMAN CROSBY: The detail of what
16 they're doing is fine. I think that we should
17 hear that. But whether we need to debate
18 whether or not it's enough to be good cause to
19 get the exemption from our existing reg, or
20 whether it counts -- whether it should be
21 maintenance or Capex, you know, to me
22 that's -- anyway, but I've sort of said my
23 piece. If anybody else wants to weigh in --

24 COMMISSIONER ZUNIGA: Well, the

1 promulgation -- the regulation that we have we
2 promulgated duly and it's existing. And, you
3 know, if we -- if we want to entertain changes
4 to those regulations, there's a whole process
5 for that. You've articulated one that might
6 work, whenever licensees want to -- for us to
7 rethink regulations. We can do what Maryland
8 does. They can send us comments, like they
9 have. And, you know, if we need to, we can
10 issue an emergency regulation, even though I'd
11 rather not do that in this case.

12 So what we should do is have a
13 discussion. And we have, before us, a request
14 that fits within the current regulation, that
15 was drafted in contemplation of the statute
16 and -- and a difference, by the way, that MGM
17 raises that I don't agree with. I think the
18 regulation simply clarifies it in another way,
19 this notion of good cause. In the end, it's
20 ultimately, look at a plan, it's multiyear.
21 If we're satisfied with it, we can approve it
22 and that will be the end of it.

23 MR. BEDROSIAN: So -- and just to add
24 one aspect to that, my fault, you can't

1 actually approve it today because I neglected
2 to put this on for a vote. But I -- you know,
3 if we don't get this to that point I'd -- I
4 know, give me that look. I'd love not to have
5 Mr. Sottosanti have to come back up here.

6 MR. SOTTOSANTI: I would like nothing
7 better.

8 MR. BEDROSIAN: So it leaves --

9 COMMISSIONER ZUNIGA: Would it be
10 helpful, Commissioner, if they walk you
11 through, on a high-level -- some of the
12 investment -- the line items here?

13 COMMISSIONER CAMERON: No, no. I'm
14 comfortable with what I'm looking at here.
15 I'm uncomfortable in the future, if we're just
16 going to have -- because things do deteriorate
17 over time. And, you know, looking at a plan
18 that talks about how things and -- you know,
19 just having some kind of an expert available
20 to us, I guess is what I'm saying, in the
21 future, that actually knows what they're
22 talking about when they walk in a facility and
23 knows if the plan is appropriate. That's what
24 I was -- maybe I didn't articulate it that

1 well.

2 CHAIRMAN CROSBY: I'm with you
3 completely. We'll know if the carpets need
4 help.

5 COMMISSIONER CAMERON: Correct.

6 CHAIRMAN CROSBY: But we won't know if
7 the back of the house is being kept up
8 properly, the systems --

9 COMMISSIONER CAMERON: Correct.

10 CHAIRMAN CROSBY: You know, so we've
11 talked, in another context, about bringing in
12 somebody, maybe, who's got the expertise. If
13 we decide to go by this more subjective
14 process, which is reviewing their plan and not
15 worrying about the good cause argument, just
16 is it keeping the property up, then, I would
17 agree with you. We would need professional
18 help to make sure that we know what we're
19 approving. I'm with you on that.

20 COMMISSIONER CAMERON: But today, I
21 think our decision is, do we separate these
22 two things? One is, we have a plan. Are we
23 willing to go through it and make an approval?
24 And, secondly, we have the thought that maybe

1 looking at the regulation again is important.

2 I actually liked Executive Director
3 Bedrosian's idea of getting all the licensees
4 so we don't do it piecemeal, that they each
5 have a chance to weigh in, and that can be
6 done once a year. I did think that was --
7 that sounded like an appropriate way, rather
8 than just handle these things piecemeal. And
9 it always is helpful to see what each of them
10 have to say about a particular -- lots of
11 times it's not the same.

12 COMMISSIONER ZUNIGA: For a regulatory
13 review, or for a Capex modification of a
14 regulation?

15 COMMISSIONER CAMERON: I think,
16 Director, what you were talking about is a
17 more holistic. At the end of the year, if
18 there are certain regulations, we could ask
19 for comments on all of them and have some kind
20 of a meeting. Is that...

21 MR. BEDROSIAN: That's the Maryland
22 motto, where once a year they sit with their
23 licensees and offer this option.

24 CHAIRMAN CROSBY: Let's make an

1 executive -- I think we should definitely have
2 that, whether we need -- whether we can wait
3 for that to address the MGM issue, but I don't
4 hear everybody jumping up saying they like
5 what I suggested, so let's just let you guys
6 make your presentation, get this over with and
7 get you to your plane.

8 MR. SOTTOSANTI: Well, I appreciate
9 that. Thank you. So look, I'll skip with the
10 introductory remarks, given that we've already
11 parsed through some of them, but we certainly
12 appreciate your patience. We were the first
13 to open, we're still the only one open, so
14 we're breaking ground together. And I guess,
15 some days it's good to be the guinea pig, some
16 days less good.

17 So Director Bedrosian noted, and the
18 good dialogue of the Commission demonstrates
19 there's some ambiguities about, precisely,
20 what these Capex rules mean today and what
21 they may have meant when they were drafted.

22 I want to make one thing perfectly
23 clear, though, one thing that's not confusing
24 to Penn National, or to the operator,

1 Plainridge Park. The objective of the statute
2 is perfectly clear to us. We want to keep a
3 facility in place that we're as proud of on
4 the day we opened as we are today, as we are
5 at the conclusion of the five-year plan that
6 we have, that we've submitted to you.

7 And we believe, we really believe,
8 that the \$9 million plan that we have
9 submitted to you in some level of detail as
10 Appendix 1 to the letter, as Tab 1, we really
11 think that it's going to accomplish that
12 objective. We believe -- we believe that very
13 strongly. And we believe that because of the
14 work that went into the plan.

15 And even beyond the work that went
16 into the plan, I think this is like many areas
17 that we've discussed thoughtfully over the
18 course of the 1-1/2 years that we've been
19 opened, this is one that we are perfectly
20 aligned in. Think about it.

21 We want the facility to attract more
22 and more patrons in what is only going to be a
23 more competitive marketplace. It's not going
24 to get easier for us. As you see Tiverton

1 moving closer. As the fate of the Mashpee
2 becomes more clear, as Wynn opens, we want our
3 place to be terrific. We want it to be
4 terrific now and well into the future. And we
5 think the plan supports that.

6 Our plan has been very thoughtfully
7 developed, in light of Lance and the team's
8 experience in the last year-and-a-half.

9 And, lastly, I submit to you guys
10 that Penn National probably has as much
11 experience as any gaming operator in the
12 country, given how many properties we've
13 opened in the last eight years. We really
14 know what it takes to keep a new property
15 looking good.

16 So what also went into the plan as
17 another set of eyes, after Lance and his team
18 developed this, we looked at six openings in
19 the last eight years in Pennsylvania, in
20 Kansas, and in Ohio. And we compared and
21 contrasted and found that Lance's plan was
22 very similar, projecting forward, to what had
23 actually happened at those other facilities.

24 Speaking to some of

1 Director Bedrosian's caveats, we are open to
2 whatever scrutiny the Commission elects here.
3 We get relicensed periodically. We appear
4 before you regularly. We'll do annual
5 reports. You name it, I can't think of
6 something that is an enforcement mechanism
7 that we would have trouble with. In fact, you
8 have folks on site every day, so we are
9 perfectly comfortable with that level of
10 scrutiny.

11 Speaking to the second caveat for a
12 moment, this is, of course, a minimum. I
13 mean, that's what we were tasked with putting
14 forward. We would be delighted, nothing would
15 make us happier than if market or legislative
16 forces caused greater demand on our facility
17 and we had to spend more.

18 There is -- yes, capital is a
19 somewhat scarce resource at any entity,
20 including at Penn National, and our operators
21 compete for that capital. But if Lance has a
22 good ROI, I promise you the capital will flow
23 and it'll flow freely.

24 So we've talked about some of the

1 details in our letter. We've set forth
2 several paths, whether it's waiver, whether
3 it's agreement, whether it's good cause. We
4 believe, strongly, that our plan make sense.
5 And we submit it today for your approval, and
6 we can answer questions on how we got here, or
7 on a specific parts of the plan, in which
8 Lance will be the much more fluent person
9 today. So we appreciate your consideration of
10 this. Thank you.

11 COMMISSIONER CAMERON: I'm not sure we
12 let Mr. Grossman finish his comments earlier.
13 So we have this information, we've all looked
14 at it, but I know you've done a really more
15 extensive analysis, and I'd like to hear your
16 thoughts.

17 MR. GROSSMAN: At the end of the day, I
18 think, as you were all discussing, we get to
19 the same point, which is, I think
20 Director Bedrosian and I were of the opinion
21 that this plan is sufficient and meets the
22 statutory requirement, meets the regulatory
23 requirement, and certainly meets the spirit of
24 the whole law, which Mr. Sottosanti and others

1 have talked about, which is to ensure that the
2 facility is maintained well. And, for those
3 reasons, we were comfortable with that.

4 I think it is helpful, as the
5 regulation has laid out, to gather this
6 information and these figures and see what the
7 overall picture is, what the holistic view of
8 both the capital improvement and the
9 maintenance component is, regardless of how
10 you want to parse it and how you -- which
11 category things go into. I agree, doesn't
12 really matter. We just want to know what is
13 going to be done, and what can we hold them
14 to, as opposed to what would go above and
15 beyond, hopefully, in the future. But I
16 think, as a minimum threshold, this is what
17 you can hold them to, and this is, certainly,
18 a good minimum -- a good starting point.

19 We can get into some of the numbers,
20 if that would be helpful, of course. But by
21 and large, I think that this is a thoughtful
22 and well-done plan that meets with the legal
23 requirements.

24 COMMISSIONER ZUNIGA: Yeah, I had some

1 questions. I think on -- well, let me say
2 this, I'm familiar with a prior version of
3 this that you presented with over the phone.
4 And I think it might be helpful to highlight a
5 couple of numbers here, for the benefit of the
6 public and the commissioners, embedded in this
7 plan, or highlight a couple of points. If I
8 may, I'm going to make a couple and then
9 follow-up with questions.

10 CHAIRMAN CROSBY: Sure.

11 COMMISSIONER ZUNIGA: We'll see, for
12 example, that there's a significant portion of
13 the dollar spent every year on slot
14 replacements and slot conversions. If you
15 follow the -- sort of, the yearly cash flow.
16 Whereas, some other items appear until -- for
17 the first time on year five, or for the first
18 time on year three. And that begins to tell
19 the schedule of replacement, like carpets and
20 other things.

21 I find it positive, and perhaps you
22 could expound on this, that you're keeping
23 your product on the floor with some -- we're
24 replacing it and converting it with regularity

1 once -- you know, every year. Do you want to
2 speak to that, please?

3 MR. GEORGE: Sure. Absolutely. Sure.
4 As we look at this document and forecast and
5 project out for five years, we need to parse
6 out what is known and what is not known. And
7 for us as a company and overall, slot capital
8 ends up being about 40 percent of the capital
9 allocated per property. And so, the goal is
10 to turn over the floor somewhere between seven
11 and eight years, ensuring you have the most
12 up-to-date product.

13 So two important points there.
14 About 40 percent allocated to slot
15 replacement, with a goal of turning the floor
16 over every seven to eight years.

17 COMMISSIONER ZUNIGA: Now, on year two
18 there's a couple of items that I think might
19 be worthwhile. Just at a high level of
20 explaining, in each of the public view, back
21 of the house and racing areas, you have a
22 miscellaneous item. Once you add them
23 together, that's a good portion. But could
24 you speak to in general what those might be

1 for this first year?

2 MR. GEORGE: Absolutely. So, yes, as
3 we put these in separate buckets, there were
4 easily -- or easy-to-recognize lines that
5 would -- some of these projects would fall
6 into. Unfortunately, many of them do fall
7 into the miscellaneous category, or other. If
8 we look to the bottom of the page that you
9 guys have in front of you, there is more
10 detail as it relates to public view. And
11 these are some of the projects that were
12 actually completed in year two. You can see
13 that we expanded the floor of the lounge,
14 replaced wheelchairs, sushi counter is going
15 in, speed bumps were added. So much of it
16 maintenance, with less of it being
17 development.

18 So as we talk about the two separate
19 types of Capex, you're looking at project, and
20 you're looking at maintenance, and we have a
21 little bit of both.

22 COMMISSIONER ZUNIGA: So just on that
23 note, the miscellaneous detail on public view,
24 for example, has everything you mentioned,

1 it's here at the bottom of the page, but the
2 schedule of expenditure has some of it every
3 year. Do any of these refer to the first
4 year, or is that as spread throughout the five
5 years?

6 MR. GEORGE: Sure. So the majority of
7 the items detailed at the bottom of the page
8 refer to the first year for us, which is
9 labeled here as year two, which would be last
10 year, 2016.

11 COMMISSIONER ZUNIGA: Okay. So it's
12 fair to assume that year three, for example,
13 where you have a miscellaneous of the public
14 view of \$172,000 will include a whole new set
15 of items, not necessarily the ones at the
16 bottom of this page?

17 MR. GEORGE: That's exactly right,
18 yeah.

19 COMMISSIONER ZUNIGA: And so, back of
20 the house, conversely, is the same way.
21 You're assuming 420,000 this year on all the
22 items detailed here at the bottom.

23 MR. GEORGE: That's correct. That is
24 consistent throughout the document. And one

1 point of clarification, I know there is
2 some -- or has been some discussion of -- and
3 I don't want to get into the minutia, but
4 racing, as listed on this page, would not have
5 come from the capital fund. This would be
6 above and beyond, so I did want to make that
7 points of clarification.

8 COMMISSIONER ZUNIGA: Right. Can you
9 also then speak to -- on year five, on the
10 public view, there's a total of 325 that
11 you're assuming on some restaurant renovation,
12 is that just a guess; do you have any detail
13 on a particular project?

14 MR. GEORGE: So that is, as we
15 projected, and Carl made this point, the
16 cleanest and the easiest approach for us was
17 to look back at prior openings and what has
18 occurred in real life. And so, that's what we
19 saw consistently as our -- as our casinos came
20 into years four and five, and six, this is
21 actually what occurred, and so that is where
22 we derive these numbers.

23 MR. SOTTOSANTI: Lance, anything from
24 rebranding to refurbishing, depending on what

1 input -- what feedback we hear from the
2 patrons.

3 MR. GEORGE: Yeah. Change out the
4 theme, change out the brands. That is, more
5 than likely, by the time we reach five years.

6 COMMISSIONER ZUNIGA: Right. And since
7 carpets were mentioned earlier, is the first
8 time that you have a major replacement of
9 carpets is on year six, according to this
10 schedule?

11 MR. GEORGE: I believe I see casino
12 carpet here in year four, 350,000.

13 COMMISSIONER ZUNIGA: Oh, you're
14 replacing the back of the house carpets in
15 year -- okay. That's right.

16 MR. GEORGE: Correct. Yes, yes.
17 Distinction.

18 COMMISSIONER ZUNIGA: Yes. You know, I
19 would just note for my fellow commissioners,
20 that there's nothing in this statute that
21 prevents us from approving more than, you
22 know, five years or anything different.

23 The term of the license remaining in
24 this license is four -- is four years, because

1 we've already gone through one. If this
2 commission -- and I'm not suggesting that we
3 should, you should just understand the
4 dynamics here, where to require, as part of
5 the relicensing process some kind of other
6 things, whether it's -- we have leeway to
7 require or not require anything as part of the
8 licensing process or relicensing process. I
9 submit to you that capital investment, at that
10 time, could we -- could be one of those items.
11 And that's something that I just wanted to
12 point out.

13 Approving a multiyear plan that goes
14 over the term of this license does not
15 preclude, in my opinion, a reconsideration of
16 that dynamic. I want to keep ourselves the
17 option -- the future commission an option to
18 come back and say, negotiate, whatever,
19 require as part of a relicensing process, a
20 further capital investment on the property.

21 MR. BEDROSIAN: And that, certainly,
22 could be clarified in whatever caveats or
23 final approval the commission ever has.

24 COMMISSIONER ZUNIGA: Well, some of the

1 caveats that you already mentioned, which is,
2 we would treat this as a minimum. We would
3 look at substitutions, which might be fine.
4 We just -- we would just have either in-house
5 or outside expertise look at the detail of
6 those substitutions. We would be very
7 reluctant about eliminations, for example.
8 That, perhaps, goes without saying. But
9 anything above and beyond what they present to
10 us, whether it comes as a reapproval, or as
11 simply a report on this schedule, we'd take a
12 look and either agree or decide that we need
13 to reapprove.

14 CHAIRMAN CROSBY: This probably goes
15 without saying, but approving a plan which
16 goes longer than the term of the license
17 should, in no way, be interpreted as an
18 extension of the license either, or any kind
19 of a presumption, just for the record.

20 COMMISSIONER ZUNIGA: Right.

21 COMMISSIONER STEBBINS: Sorry.

22 MR. SOTTOSANTI: So noted.

23 COMMISSIONER MACDONALD: If I could
24 just ask a question, to make sure that my

1 understanding of the first page of this chart
2 is accurate. That the item -- it says "total
3 capital expenditures," and then underneath
4 that, "the percentage of net gaming revenue."
5 These total capital expenditures that are
6 reflected here, is it safe for us to assume
7 that -- that the definition that you're using
8 of capital here is the generally-accepted
9 definition of capital; so this is, you know,
10 hard capital expenditures?

11 MR. GEORGE: Correct. So just so we're
12 all on the same page, the definition of
13 capital, generally-accepted, costs of over a
14 thousand dollars with a life of over one year.

15 COMMISSIONER MACDONALD: Okay. And
16 then, the percentages, which appear beneath
17 here, so year one, 2.1 percent, 1.9 percent,
18 year four 2.2, et cetera, these are the
19 percentages of your projected net gaming, you
20 know, revenue represented by the capital item?

21 MR. GEORGE: Accurate. Correct.

22 COMMISSIONER MACDONALD: So that, if we
23 use the 3.5 percent figure that appears in the
24 statute, that you're projecting hard capital

1 expenditure percentages of 1.9, 2.2, 2.5, 2.8.
2 So if we look at those and subtract them,
3 then, the delta between those is the -- is the
4 difference between the statutory amount and
5 what you would be committing to under this
6 long-term plan?

7 MR. GEORGE: That's correct. That's
8 correct.

9 COMMISSIONER ZUNIGA: I want to mention
10 something. There was -- just on the notion of
11 what constitutes a capital expenditure, there
12 is, indeed, you know, a widely-accepted
13 industry, accepted notion of what constitutes
14 a capital expenditure. But there's always,
15 invariably, a very important tie into
16 maintenance or capital maintenance.

17 If you really maintain -- and the
18 easiest example is the carpets. If you
19 maintain and clean up your carpets every day,
20 you might not need to replace them as soon as
21 if you otherwise did or didn't. And so,
22 there's a tie-in into how they manage and
23 operate the property with -- when there will
24 be a need for that capital expenditure.

1 MR. SOTTOSANTI: And, Commissioner, it
2 is for that reason that we broke out -- this
3 is responsive to both Commissioner Macdonald
4 and Commissioner Zuniga, that's why we broke
5 out operational, to show that we were casting
6 the capital expenditures, according to the
7 generally-accepted notions, but also to show
8 you some of the other work and cost that go on
9 behind the scenes, in terms of what would be
10 an everyday definition of maintenance.

11 COMMISSIONER ZUNIGA: And, perhaps, I
12 should also highlight for the record that your
13 assumption of net gaming revenue to derive
14 that percentage is 79 million flat line over
15 the next four, five years. And, you know, we
16 don't know if that's going to happen. And
17 we'll be reminded by the press how much the
18 changes over month to month.

19 CHAIRMAN CROSBY: Okay. So we're
20 advised by --

21 MR. BEDROSIAN: So I was just going to
22 suggest, given the quandary of not having this
23 on for a vote, the option is, if there is a
24 sense of the Commission, this would be

1 acceptable.

2 What I would suggest is staff --
3 Mr. Grossman, specifically, draft a motion
4 that articulates the caveats as conditions,
5 and then present it to the Commission at the
6 next meeting, to make sure you're satisfied,
7 and hopefully avoid Mr. Sottosanti coming back
8 up to Boston at the next meeting.

9 CHAIRMAN CROSBY: Right. So I think
10 the question is, we have advice of counsel and
11 our ED, that they believe this complies with
12 the statute and with the reg as it stands,
13 nevermind rethinking the reg. If there's a
14 sense, if everybody's more or less in
15 agreement with that, then, I think you've got
16 the spirit of the sense, and we'll do the
17 formalities of it in two weeks. Anybody else
18 have more concerns or questions that would --
19 okay.

20 COMMISSIONER MACDONALD: Well, let me
21 just -- just to make sure that my
22 understanding is accurate on this, we just
23 focused my earlier question on the -- on the
24 hard capital. You have the other items here

1 relating to maintenance and racing.

2 Is it fair to say that in providing
3 that data with regard to maintenance and
4 racing, that they represent your good-faith,
5 present-day commitment based on present, you
6 know, assumptions as to what those maintenance
7 items and racing-related expenditures will be
8 in the years going forward?

9 MR. SOTTOSANTI: Commissioner, they do.
10 And, in fact, our experience demonstrates that
11 those are less discretionary. The Capex, you
12 can think about what you're doing to do. The
13 Opex really just has to be done all the time.

14 COMMISSIONER MACDONALD: Okay. So that
15 in -- and are individually and collectively
16 making a judgment as to whether or not these
17 projected capital expenditures and the
18 percentages, that they fall under the
19 3.5 percent, that those capital expenditure
20 projections should be seen as part-in-parcel
21 with the -- with the maintenance and racing
22 data that you are -- that appears in the other
23 parts of the matrix here.

24 MR. GEORGE: Yes. We certainly believe

1 that, and I think that's why we took the time
2 to present that information to you for your
3 consideration.

4 CHAIRMAN CROSBY: I'll just make -- I
5 think we're clear -- just one final comment.
6 Notwithstanding, you know, our sense of
7 Kumbaya here about, you know, where we're
8 going on this, and your good-faith assertions
9 that you'll be keeping this up to snuff, and
10 if things go well, you'll be wanting to do it
11 and the competitive environment will call for
12 it and so forth, there is an almost
13 irresistible rule of economics that if ROI is
14 not being met, costs come under pressure.
15 Many of the jurisdictions have had trouble
16 with that. Everybody understands that.

17 So, you know, our job will be to
18 make sure that, even if things aren't going so
19 well, that the inevitable pressure to look to
20 cost is mitigated consistent with the intent
21 of this. And that is -- will be our job.

22 Okay. So I think we're well set on
23 this. Thank you for visiting. Good to see --
24 nice to see you again.

1 CHAIRMAN CROSBY: Thank you. We have a
2 decision to make. It's 12:15. I know -- I'm
3 pretty -- Weezy (phonetically) and Chuck, are
4 you here for the -- yeah, okay. There are
5 people here. We can go straight to the issues
6 at the IEB that have to do with nongaming
7 vendor and nongaming employees, because
8 they've been sitting here for a long time.
9 And we could -- we could then either chug
10 through, or we could take a lunch break and
11 come back and finish stuff up; is that all
12 right with everybody?

13 COMMISSIONER ZUNIGA: Yep, that's fine
14 with me.

15 CHAIRMAN CROSBY: All right. So,
16 Karen, let's go to your items, Item Nos. 6A
17 and B. Actually, a very short break, however,
18 might be in order.

19
20 (A recess was taken)

21
22 CHAIRMAN CROSBY: All right. We are
23 reconvening public meeting 208 at about 12:20.
24 Director Wells.

1 MS. WELLS: Yes. Good afternoon,
2 Mr. Chair, members of the Commission.

3 CHAIRMAN CROSBY: Is your button
4 pushed?

5 MS. WELLS: It's on.

6 CHAIRMAN CROSBY: Okay.

7 MS. WELLS: At the request of the
8 Chair, we had the law firm of
9 Michael & Carroll, who have been our
10 consultant since the inception of the
11 Commission, just put together, sort of, a
12 comparison of some different states and what
13 the statutory requirement, what they do for
14 service employees and nongaming vendors. I
15 don't know if you want me to, sort of, read
16 through some of the highlights on the -- on
17 the comparison, or what your interest is in
18 taking a look at this, since it was your
19 initiative.

20 CHAIRMAN CROSBY: Well, what I -- what
21 I was looking for was, as you know, is was
22 what I referred to as a top to bottom relook
23 at the issues of nongaming vendors and
24 nongaming employees, and what registration and

1 licensing requirements we have. We've talked
2 about this now, in various versions, on and
3 on, and some of us, at least, felt we need to
4 just continue to look at this. And one of the
5 data points that I asked for is, what do other
6 jurisdictions do that we think are good
7 jurisdictions?

8 So we can read -- I mean, I think
9 the net of this -- and, you know, clarify if
10 I'm wrong, the net of this, the New Jersey,
11 Pennsylvania, Missouri, Maryland and Michigan
12 are -- there is little to know, registration
13 or licensing of nongaming employees, either
14 by -- either because there's no statutory
15 reference, or because the agency has given
16 tremendous discretion and does very little.

17 MS. WELLS: Just as a caveat, it's a
18 little different in Maryland because -- so,
19 for example, the difference between Maryland
20 and New Jersey. New Jersey originally had the
21 registration --

22 CHAIRMAN CROSBY: Right.

23 MS. WELLS: -- type requirement and
24 then changed it by statute. Maryland is

1 different in that the enabling statute for
2 Maryland gave the Commission express authority
3 to exempt certain types of employees at their
4 discretion.

5 So what Maryland did, in
6 conversations with folks at Maryland, and also
7 with Pat Madamba, who had worked with MGM down
8 in Maryland, is they, sort of, came together
9 with the casinos and, sort of, mapped out what
10 made sense for exempt versus nonexempt of that
11 service level.

12 So, for example, I think a cocktail
13 waitress on the casino floor, service
14 employee, does have to be registered. But
15 when we were touring the new facility down in
16 National Harbor, they showed us a food court
17 area, which was very separate from the gaming
18 floor area. And the workers that worked in
19 that area, the Commission had made the
20 determination to exempt those employees. So
21 it is different. It's more -- it's almost
22 geographical, rather than just the level of
23 employee. It depends where you work and where
24 you're connected.

1 CHAIRMAN CROSBY: In Maryland, right.

2 COMMISSIONER CAMERON: More of a
3 risk-based, would you say?

4 MS. WELLS: Yeah. So the Commission
5 had the authority to do that.

6 CHAIRMAN CROSBY: Right. And in the
7 case of nongaming vendors, again, very little
8 -- little to no, with the exception of
9 Michigan, where there's a threshold, I guess.
10 But...

11 MS. WELLS: Yeah, Maryland's similar to
12 what we do now, now that the Commission has
13 authorized the di minimus exemption. That's
14 where you get that \$10,000, in that last piece
15 of the chart, yeah.

16 COMMISSIONER ZUNIGA: Well, but
17 Maryland also exempts a number of categories,
18 don't they --

19 MS. WELLS: Correct.

20 COMMISSIONER ZUNIGA: -- on nongaming
21 vendors?

22 CHAIRMAN CROSBY: They don't --
23 Maryland starts out -- what they've exempted
24 is gaming vendors at a threshold. They're not

1 -- they don't have to license people who are
2 not involved in any way with the operation of
3 the casino.

4 COMMISSIONER ZUNIGA: I don't think --

5 MS. WELLS: No. I don't think that's
6 correct.

7 COMMISSIONER CAMERON: No, it says
8 nongaming.

9 COMMISSIONER ZUNIGA: It's nongaming.

10 CHAIRMAN CROSBY: I'm sorry?

11 COMMISSIONER CAMERON: It says
12 nongaming.

13 CHAIRMAN CROSBY: What says nongaming?

14 COMMISSIONER CAMERON: Under Maryland.

15 MS. WELLS: Maryland. "Nongaming
16 vendors between 10,000 and 299999 per year
17 must register. 300 and above must be
18 certified. So that's similar to what we would
19 call a secondary vendor in our position.

20 A lot -- you know, it's interesting,
21 you know, the firm Michael & Carroll, when
22 they did the analysis, sort of, the general
23 takeaway was statutes are very different. You
24 know, and their enabling statutes are very

1 different. Number one, in who they require to
2 be licensed or registered, or the equivalent.
3 And, also, in the discretion that the -- that
4 the law gives to the Commission.

5 So for exam -- you know, the
6 Maryland or Pennsylvania, that's different
7 from the Massachusetts legislation, which
8 gives less discretion to the Commission. So
9 it's an interesting analysis.

10 CHAIRMAN CROSBY: Right, right. And
11 what I was looking for was just, you know, a
12 sense of what other people do, other --
13 other -- whether legislatively or regulatory,
14 or both, you know, what other jurisdictions
15 that we think of as quality jurisdictions do.

16 MS. WELLS: Right.

17 CHAIRMAN CROSBY: As just one guidepost
18 to how we go forward here.

19 MS. WELLS: Right. And it is -- it is
20 interesting in that -- you know, just an
21 e-mail from Michael & Carroll, that the major
22 changes made in any jurisdiction, for example,
23 in New Jersey and in Maryland, Jersey went
24 from the -- sort of, the equivalent of

1 registering that service-level employee to not
2 doing that.

3 And, also, Maryland had that 10-year
4 -- pardon me. Similar to our 10-year
5 look-back, they had a lifetime band for
6 felonies, and the -- the legislature changed
7 that to seven-year, so they changed that. So
8 the summary from Michael & Carroll is that the
9 major changes made in any jurisdiction were
10 implemented by clear, statutory revision.
11 Only where the controlling statute vested the
12 agency with discretionary authority was that
13 discretion exercised. The revised licensing
14 categories are standard. So that's what they
15 saw from the analysis of what the other
16 jurisdictions do.

17 CHAIRMAN CROSBY: Right.

18 COMMISSIONER STEBBINS: Director, you
19 may know this. I'm looking at Maryland, and I
20 know we have some folks from MGM here who may
21 be able to help us clarify this, but I did
22 recall seeing some information where there was
23 a longer list of offenses, which would make
24 you ineligible, but are those primarily for

1 the gaming positions? There were things like
2 larceny of \$250, or joyriding, I think was
3 even in the --

4 MS. WELLS: Yeah. So some of the
5 jurisdictions use the -- you know, the crime
6 of moral turpitude. So they use -- so that
7 analysis, and then they've, you know, taken an
8 analysis of what constitutes a crime of moral
9 turpitude.

10 You know, we have yet to, sort of,
11 put different crimes of moral turpitude into
12 different categories so this is -- or you're
13 in the crime -- you're -- a crime is
14 categorized as a crime of moral turpitude or
15 not, that -- because of the voluminous number
16 of crimes, we started looking at that with
17 Mr. Grossman way back -- it was too
18 overwhelming so it was, sort of, on a
19 case-by-case basis.

20 But we had not -- in our experience
21 with Plainridge, we had so few that even you
22 would consider so we never had to actually
23 deal with that issue because there were
24 extremely few people that had criminal

1 convictions that would have excluded them from
2 working at the casino. So it didn't really
3 come up, unless it was obvious.

4 COMMISSIONER STEBBINS: Under
5 Michigan -- and maybe you can answer this, or
6 maybe it's follow-up we need to do with
7 Michael and Carroll, I was intrigued by what
8 Michigan does for nongaming vendors, I assume.
9 Under their applicable history they talk about
10 the board occasionally adopts resolutions, in
11 orders to implement actions and interpretation
12 within the confines of the statute. I wasn't
13 clear as to what they --

14 MS. WELLS: Yeah. So you'd probably
15 have to ask Michael & Carroll some of the
16 specific examples of that, but I think the
17 reason for putting it in there is that the
18 Board's actions -- so they -- I guess they
19 call them resolutions, they -- the actions
20 they do with respect to nongaming vendors are
21 within -- their analysis was within the
22 framework of the statute. If they do X, Y or
23 Z, it was either the discretions given them,
24 or it was in the definition of what they've

1 done. So that was the takeaway from the
2 analysis.

3 COMMISSIONER STEBBINS: And I read that
4 as they don't necessarily go through a formal
5 regulatory change. They have the power --

6 MS. WELLS: Resolution.

7 COMMISSIONER STEBBINS: Resolution to
8 do the exemption. Okay.

9 COMMISSIONER ZUNIGA: Well, it's also
10 fair to say that even -- even though there's
11 differences, many of them statutorily, across
12 these jurisdictions, even then, the
13 registering, for example, just take the lower
14 level of employees, may be different from the
15 due diligence and information captured on just
16 the registering process may be different from
17 jurisdiction to jurisdiction; is that a fair
18 statement?

19 MS. WELLS: Is that -- you mean, on the
20 application form?

21 COMMISSIONER ZUNIGA: No. The overall
22 process of registering, yes, including the
23 amount of information collected, but the due
24 diligence with that information that each of

1 -- each of these bodies do may be different;
2 is that a fair statement?

3 MS. WELLS: Potentially, yes.
4 Depending on their enabling legislation,
5 depending on their regulations, that may be
6 different. I think what you would see -- you
7 know, some -- for example, New Jersey doesn't
8 do anything because they no longer have that
9 registration or service-level category.

10 You'll see some common threads,
11 though. It's just -- you know, you'll see
12 that with our legislation, with our -- that,
13 you know, integrity, good character,
14 reputation, that's, sort of, consistent in
15 some of -- you know -- you know, the criminal
16 history check, looking at some kind of, you
17 know, a tax analysis on, you know, defaulted
18 payments.

19 There are certain things that are
20 just, sort of, a common threads that you'd
21 see. There may be some differences here and
22 there but...

23 COMMISSIONER ZUNIGA: And I'm not --
24 I'm not thinking about, you know, the high

1 level of scrutiny.

2 MS. WELLS: Correct.

3 COMMISSIONER ZUNIGA: I'm not talking
4 about key gaming employees or gaming employees
5 licensed in our world, the GEL or the GKEs.
6 I'm talking about, specifically, just
7 registrants.

8 MS. WELLS: Right.

9 COMMISSIONER ZUNIGA: That might be
10 different from jurisdiction to jurisdiction.

11 MS. WELLS: That's not part of this --
12 you know, they didn't -- they didn't
13 specifically look at what they're doing for
14 each category, so I'm just hesitant to speak
15 for another jurisdiction and what they do and
16 what they're investigative processes are.

17 You know, we could look at the --
18 you know, looking at the forms, for example
19 our registration form and what the kind of
20 capture, very similar to Maryland. You know,
21 so -- you know, that's just one I know off the
22 top of my head.

23 COMMISSIONER CAMERON: And I think
24 what's interesting to me to note here, is the

1 work that we do now is done in a matter --
2 without an applicant that has significant
3 issues, it's done in a matter of a couple of
4 hours. This is not a long and timely process,
5 with the expertise we're gaining and the kind
6 of work they're doing.

7 CHAIRMAN CROSBY: But the way we're
8 operating now is, if you're a gaming service
9 employee and you have a felony within 10
10 years, you're not able to work, right?

11 MS. WELLS: Correct.

12 CHAIRMAN CROSBY: Right. This isn't
13 just about, how much work is it? That's one
14 issue.

15 COMMISSIONER CAMERON: Right.

16 CHAIRMAN CROSBY: Always spending our
17 time and money where we should be. The other
18 is, is it good public policy towards the
19 people that this impacts? So let me just put
20 my -- we have difference of opinion on this
21 one so this has been a hard one for us. But I
22 think there's -- there's no way to deal with
23 it other than just be straight about it.

24 On the issue of nongaming employees,

1 who are not on the casino floor, so gaming
2 service employees who do not have access, or
3 are not routinely on the floor, I believe
4 that -- first of all, Michael & Carroll, back
5 in 2014, said -- they read our statute to say
6 there was this 10-year preclusion for those
7 folks. But they said they thought it was bad
8 policy. They thought it was overly harsh.
9 They recommended that it be changed.

10 This -- four, at least, of the five
11 states also have a policy where nongaming
12 employees, who don't have access to the floor,
13 are essentially exempt from anything. I think
14 that's the right policy.

15 I don't think it makes any sense to
16 have there be any concern about a hotel
17 employee, or a restaurant employee, or a
18 retail employee, or a movie theater employee,
19 who is not involved in casino operations, that
20 they should be held to a standard different
21 from hotel employees, or restaurant employees,
22 or movie theater employees anyplace else
23 across the street.

24 I just don't think there's a

1 relationship between the public interest and
2 the broad-based preclusion of folks for these
3 kinds of felonies for these kinds of jobs.
4 Now, that's just a matter of opinion, but
5 that's my opinion.

6 Our biggest question here -- we've
7 got two. What do we think is the right thing
8 to do? And the second is, do we have the
9 authority to do it? And the -- many people,
10 including Michael & Carroll, at the beginning
11 of this, read our statute to say we didn't
12 have the choice. We had to preclude these
13 folks for this 10-year period.

14 We have subsequently, like we have
15 with other things, like, for example, like
16 we're just now rethinking whether we properly
17 interpreted the statute in the reg having to
18 do with Capex, we have subsequently rethought
19 how we interpreted the statutes.

20 And on rethinking, some of us, and
21 some outside folks think, because of the --
22 what everybody agrees is peculiar drafting
23 between -- I think it's six -- 16F or --

24 COMMISSIONER STEBBINS: Thirty.

1 CHAIRMAN CROSBY: -- 30B, or whatever
2 it is, you know, one clause it says --

3 COMMISSIONER MACDONALD: 16B and 30F.

4 CHAIRMAN CROSBY: One clause it says
5 may and another says shall, and it's not
6 clear, exactly, to some readers at least, what
7 it means.

8 So, again, speaking personally as
9 one person, I believe -- I don't believe that
10 the legislature would have intended that we
11 treat restaurant employees off the floor the
12 same way we treat gaming employees. Doesn't
13 make sense to me. They knew what we know,
14 which is the way best practices are going.
15 They also gave us a mandate to try to employ
16 the unemployed, as one of the priorities of
17 the job.

18 So my best guess, such as it is, is
19 that, that ambiguity in the statute does, in
20 fact, give us the authority to say whether or
21 not we want to go by that 10-year standard.
22 That we have the ability to, in some way,
23 manage our way through that so that those
24 kinds of employees are not precluded from

1 employment. That's my personal opinion.

2 And I think -- my suggestion is that
3 we talk about it a little bit more here, and I
4 would like to see this brought up for a formal
5 review of the reg. I don't think we should do
6 it on a snap judgment. I mean, it's not
7 something that -- there are issues on both
8 sides, and there are people of good faith who
9 have different opinions about this. No
10 question about it. But I think we should put
11 it on the table.

12 We have some feedback now, in the
13 letter from Unite Here and another -- I forget
14 the other letter. But I think we should
15 get -- and we have some feedback from some of
16 our licensees, but I think we should have a
17 more formal process. But I would like to put
18 on the table the possibility of rethinking
19 that reg in its very fundamental way.

20 COMMISSIONER CAMERON: And I think that
21 it's not just a reg issue. It really is the
22 law. And I'm concerned that we are putting
23 IEB and ourselves in a position where, if
24 something happens and we decided that, you

1 know, the opinion was that maybe this
2 shouldn't be the law so let's find a loophole,
3 then, that puts us in some jeopardy.

4 I think there is a very big
5 difference between a personal opinion and how
6 to read this law properly. And in my
7 experience -- it's interesting. Knowing that
8 this was an issue, I have spoken to a couple
9 of -- and this was a couple of years ago,
10 legislators, who firmly believed that that --
11 that was what they intended. And they're very
12 cautious about -- about the implementation
13 here in the Commonwealth.

14 CHAIRMAN CROSBY: Well, they could --
15 they could weigh in. That's a very important
16 consideration. They could weigh in. If we
17 have a process, they could weigh in, if they
18 care to clarify it for us, more power to them.

19 COMMISSIONER CAMERON: Yeah. I would
20 love that clarification, rather than us just
21 saying, ugh, they couldn't amend that.

22 COMMISSIONER MACDONALD: Mr. Chairman,
23 I understand that we have some guests here
24 that were here to address us or -- should

1 we --

2 CHAIRMAN CROSBY: Not to address us.

3 COMMISSIONER MACDONALD: Not to address
4 us? Okay.

5 CHAIRMAN CROSBY: We may invite, at
6 some point, to have people to address, but we
7 didn't offer an opportunity for people to
8 come, and nobody has said they're here to
9 speak.

10 COMMISSIONER ZUNIGA: Yeah. Well, as
11 part of the process, and we've always had, in
12 any regulation, you know, public comment in
13 public hearings so we could --

14 CHAIRMAN CROSBY: Well, we would, for
15 sure. If we do decide to look at this, we
16 will definitely invite people to speak to the
17 point, on whichever side they come down.

18 COMMISSIONER ZUNIGA: I agree with you
19 on two -- on both fronts, Mr. Chairman. I
20 think there's -- reading this, and I've read
21 these sections a number of times, and there's
22 -- there's ambiguity, and there's an intent of
23 discretion, there's an intent -- and this is
24 true for the whole statute, there's an intent

1 on tiering, high-level of scrutiny all the way
2 down to the lowest level of scrutiny, that's
3 -- that goes throughout the statute for
4 vendors and for employees.

5 I would really not call it a
6 loophole. I say there's -- there's a real
7 ambiguity. And the process has -- you know,
8 as I understand it, and we've spoken about this
9 in the past, empowers the Commission to
10 interpret the statute. That's fundamentally
11 what we do by -- by regulation.

12 So I think it's incumbent upon us to
13 look at this. I think, fundamentally, we have
14 the authority to implement the statute to
15 interpret -- I'm sorry, areas of ambiguity. I
16 think we wouldn't do it haphazardly, as we
17 have never done it in the past. We'll do it
18 with careful consideration, have a lot of
19 public comment, including those of experts'
20 comparisons of other jurisdictions and other
21 statutes.

22 But I believe that, when it comes to
23 the lowest level of categories, nongaming
24 vendors or registrants in the side of

1 employees, there's discretion in terms of --
2 that -- that's embedded in these sections that
3 I think we should clarify.

4 And I agree with you on the
5 fundamental point of the public policy
6 question, which is that, as we look at where
7 the areas of risks are in this industry, when
8 it comes to areas that have very little to do
9 with the casino floor, especially, in the
10 context of other aspects of the gaming act,
11 which is to provide opportunities for the
12 unemployed and underemployed, it's paramount
13 for us to think about whether we do any level
14 of scrutiny for certain registrants.

15 In the past, I've viewed this
16 through the financial background that we --
17 that we do. I do know that it's not as, at
18 least, tiered. And that's very important,
19 that the highest level of employees get a duly
20 higher level of scrutiny. But, in my opinion,
21 doing any kind of financial investigation on
22 somebody who is simply going to be a
23 registrant is -- is misguided, or not
24 applicable.

1 MR. BEDROSIAN: So, Mr. Chairman, if I
2 could --

3 CHAIRMAN CROSBY: Let's just see if
4 there's -- were there other commissioners that
5 wanted to say something on this point.

6 COMMISSIONER STEBBINS: Commissioner
7 Cameron, did you want to --

8 COMMISSIONER CAMERON: Please.

9 COMMISSIONER MACDONALD: Okay. I mean,
10 I've -- I'm not sure what Director Bedrosian
11 was going to say, but I -- just briefly, that
12 I have already, at an earlier meeting, and I
13 can't remember when it was, November or ending
14 of October, have shared with the fellow
15 commissioners and the public, my -- my review
16 of the legal issues, as to whether or not
17 there is a principal basis for the Commission
18 to see that it has discretion here to resolve
19 the ambiguities that are presented in the
20 statute.

21 And the bottom line that I came to,
22 as -- as a matter of public record before, is
23 the same bottom line that I have today. Is
24 that, I do think that the provisions of the

1 statute at 16B and at 30F are, in fact,
2 inconsistent, and that it's a familiar
3 principal of administrative law. Is that,
4 when there's conflicting provisions in a
5 statute that affects an administrative agency,
6 the agency has the authority, the legal
7 authority, to address itself to resolving that
8 ambiguity or inconsistency by applying the
9 principals that underlie the -- the operation
10 of the administrative agency.

11 And so, I think it's -- I think it's
12 clear -- it's just one person, but I think
13 it's clear that we do have that -- we do have
14 that discretion -- discretion here, and that a
15 material objective of the statute has been,
16 and continues to be, to promote employment of
17 those members of the community, the
18 Commonwealth community that have been most
19 challenged employment in the past. And that,
20 I think it is -- it's very plausible that
21 the -- an application of an automatic
22 disqualification for anybody who has been
23 convicted of a felony -- and it's not just
24 felonies, it's also theft-related --

1 theft-related criminal -- you know,
2 criminal -- criminal laws would materially
3 prejudice -- without further inquiry,
4 materially prejudice a significant part of the
5 population that we are actually statutorily
6 obliged to make best efforts to incorporate
7 into the employment at our -- at our
8 facilities.

9 And to just make, you know, one
10 other -- you know, one other point, that since
11 this, you know, came up, I have become aware
12 that the EEOC has actually addressed itself to
13 substantive guidance, you know, on this point
14 for employers, you know, around the country.
15 And the EEOC guidance, which doesn't directly
16 apply to us because we're not -- we're not
17 employers, but that it's nevertheless --

18 CHAIRMAN CROSBY: We're not employers
19 of these people in question.

20 COMMISSIONER MACDONALD: Of these
21 people, you know, in question. But
22 nevertheless, that are policies have impacts
23 on employers. And the EEOC guidance is quite
24 clear, that any kind of across-the-board

1 disqualification on account of a criminal
2 history of a -- of an applicant, without
3 inquiry into the particulars of the offense,
4 without inquiry into -- into what the nature
5 of the position is that the person is being
6 considered for, is a violation of federal --
7 of federal employment -- federal employment
8 law.

9 And that, at the federal level,
10 there are some statutes that preempt the EEOC
11 policy on that. But, for example, in high
12 security -- security clearances and other such
13 things. But that, the EEOC has stated that,
14 absent a federal preemption, that state
15 statute, state regulations to the contrary
16 are -- are themselves preempted by EEOC.

17 So I think that our continued --
18 continued, you know, enforcement of a
19 automatic disqualification pursuant to 16B
20 actually promotes -- could be seen -- could be
21 reasonably seen to promote a violation of
22 federal employment -- employment principals.

23 MS. BLUE: Mr. Chairman, if I might
24 just add some things that, perhaps, the

1 Commission would like to consider. I think --
2 Commissioner Macdonald is correct, in that
3 every agency has the ability to interpret its
4 enabling act. I think, where there is, sort
5 of, the devil in the details, is that
6 reasonable minds can disagree about what is an
7 inconsistency in a statute and what isn't. So
8 that takes a good, close look and a lot of
9 discussion, I think, to do, and to make that
10 determination, which, you know, we can
11 certainly do.

12 In terms of impact on a community,
13 we have heard a lot of anecdotal evidence on
14 impact on a community. The Commission may
15 want to consider whether there is other
16 research that needs to be done to determine
17 the true impact on the communities that are
18 involved. And it might be in Everett or
19 Springfield or surrounding communities.

20 I do believe that, based on my read
21 of some of the EEOC cases, that there are
22 experts who do that, so that's something to
23 consider. I think, you know, if you're
24 talking about an impact, such as a Disparate

1 Impact, you want to have information that's
2 solid as to what that impact might be so the
3 Commission could consider trying to get that
4 information.

5 I think we also want to keep in mind
6 that there are two processes going on here.
7 There's an employment process that is totally
8 within the realm of the licensee. They have
9 to make their own determinations on who they
10 hire and who they don't and the standards for
11 hiring those folks. Our licensing decision is
12 separate and apart from that.

13 So while there is -- you know, I
14 know a lot of folks view it as being
15 intertwined, and there's certainly an
16 intersection. They are two very separate
17 processes. And as Commissioner Macdonald
18 points out, the EEOC guidelines do apply to
19 the licensee, as they make that decision.
20 They do not apply to us, as we make a
21 licensing decision.

22 On the question of state preemption,
23 the EEOC hasn't touched that. They have a
24 couple of cases out there where they have,

1 kind of danced around it, but they have not
2 shown any interest in addressing it at this
3 point. That doesn't mean that they can't.
4 And they do have language in their guidelines.
5 It's a little bit iffy.

6 So it's a very -- this is a very
7 broad issue, and our statute is quite detailed
8 and has a lot in it to look at. But there are
9 a lot of things to consider as we try to
10 grapple with this topic.

11 COMMISSIONER STEBBINS: I think
12 Catherine raises some -- some very relevant
13 points. Just to go back, I don't necessarily
14 subscribe to the fact that on this particular
15 topic we have too much authority for a
16 different interpretation, or the authority to
17 interpret this differently than maybe how the
18 statute was envisioned.

19 I think you raised a good point.
20 There's two, kind of, outstanding issues that
21 I think we all need to consider. One of which
22 you just pointed out, Catherine, is what are
23 our own licensees' hiring process is like. A
24 disqualification, perhaps, under our statute

1 may not be a disqualification under theirs and
2 vice-versa. You know, from touring National
3 Harbor, we saw employees went through a drug
4 test. That isn't a disqualifier for us.

5 So, you know, I think we do need to
6 take into consideration what our licensees'
7 hiring practices are in hiring guidelines. I
8 come back to this again and again, though, but
9 there is also an ingredient of effective
10 communication on this topic. I think
11 because -- when the Commission was first
12 formed, we had a lot of public discussion,
13 public communication about we were going to
14 know everybody on the floor. We were going to
15 have background on everybody on the floor.

16 I think -- and I think
17 Commissioner Zuniga has touched on this
18 before, is that, you know, do we have a
19 percentage of the population, a percentage of
20 a potential workforce that has
21 self-disqualified themselves out of
22 consideration, thinking that some infraction
23 of their past was going to come back to haunt
24 them in this process?

1 We've done a little bit to
2 communicate those types of issues, you know,
3 anecdotally. I had a woman come up to me in
4 Springfield and says, I was charged with this
5 crime, never convicted, where does that leave
6 me? Before I gave her a, kind of,
7 get-out-of-jail-free card, I did suggest to
8 her, stay with the process.

9 So, you know, I think there -- I
10 think there still needs to -- I think there
11 still needs to be a renewed effort on a --
12 it's kind of in alignment with everything else
13 we're talking about, but a renewed effort to,
14 kind of, communicate effectively, or more
15 effectively as to what -- what the actual
16 policy, as it stands now, actually -- actually
17 entails.

18 But, you know, I hear the
19 Commissioner's -- you know, the Chairman's
20 point. I know where his heart's at. I think
21 it's something that resounds with all five of
22 us. We look at our licensees as great
23 employers to help folks who have been left
24 behind by the turnaround in the economy.

1 People who may not have had the master's
2 degree or the doctorate to go work at GE.

3 You know, these are great
4 entry-into-the-workplace jobs for a number of
5 them, and I think both of our licensees,
6 through our evaluation process, are great
7 companies, in terms of being able to promote
8 and allow people who enter the workforce, you
9 know, the chance to grow with the company.
10 And that's exactly what we're looking for.

11 And I think a lot of people in
12 Massachusetts -- I don't necessarily subscribe
13 to, hey, we're at full employment, because the
14 employment rate says one thing. I think there
15 are people that have fallen out of being
16 counted. And trying to find a way in for
17 them, I think, is an effort that we would all
18 support. Figuring out how we can support it
19 is more of a legal question, which, I think
20 takes some more exploring at this point.

21 COMMISSIONER MACDONALD: You know, I
22 think that the -- taking into consideration
23 the licensees' perspective is a really
24 important one to honor. And under the present

1 regime, if my understanding of the present
2 regime is accurate, that if, you know,
3 Plainridge, MGM or Wynn are in the market for
4 hiring people, they would see themselves as
5 obliged to refuse to even consider somebody
6 who had, for example, been convicted of
7 shoplifting nine years before, who was
8 applying for a nongaming, you know, service
9 employee job. Those people don't even get
10 into the process at the licensee level on
11 account of the fact of our present -- our
12 present regulation, because it would be a
13 violation of our regulation, if they hired
14 somebody in this category.

15 And I think that's the -- I think
16 that's the problem here, is that it
17 establishes, as currently -- as our
18 regulations are currently, you know, drafted
19 and in force, we say that our licensees are
20 not permitted to even consider people who have
21 -- who fall within the -- you know, the
22 category, the -- you know, the 10-year period,
23 and that doesn't seem to -- that doesn't seem
24 to make sense to me.

1 Furthermore, I think, as I said
2 before, that we have -- we have discretion
3 here, but that this population doesn't even
4 get into the pool, if the -- if the licensees
5 are fateful in applying our regulations.

6 COMMISSIONER CAMERON: I just think
7 it's important to point out that, you know, we
8 have lawyers on staff that have -- have worked
9 in this particular area, of interpreting, who
10 certainly disagree with us having that
11 discretion. Michael & Carroll have always
12 said they think it's too restrictive, but it
13 would require a legislative change.

14 So I think the issues here are more
15 around what our abilities are. And I think
16 that's an important piece to keep in mind
17 here. It's just not -- you know, there's lots
18 of lawyers that will -- my experience is that
19 you can get a lawyer to interpret something
20 any way you wish, and I don't want to be in a
21 position of --

22 CHAIRMAN CROSBY: So there.

23 COMMISSIONER MACDONALD: Yeah. Look
24 out, there's at least one lawyer here.

1 COMMISSIONER CAMERON: Yeah, of just,
2 you know, saying, oh, okay, we have this. I'd
3 really like to be thoughtful about this
4 process and what abilities we have. All it
5 takes is one bad story with one bad, brand-new
6 facility in which, well, why did you license
7 that person? You know, with one bad outcome.

8 So I'm just concerned that we're
9 careful and thoughtful about this. And I
10 understand we want to give people
11 opportunities. I think we all would agree on
12 that, but it's just how we get there I'm very
13 concerned about.

14 CHAIRMAN CROSBY: Let me ask you
15 something, Catherine. If we all believed that
16 we had the decision -- had the authority to
17 interpret this, like we did discuss on the --
18 on the Capex, there seemed to be a consensus
19 that we could interpret that. If we had that
20 consensus, then, we could clearly have a
21 hearing where we then said, okay, we have the
22 authority to interpret, now we want people to
23 come to us about the substance of the policy.

24 We can also have a hearing -- or

1 include in the hearing, asking people their
2 opinions on whether we have the authority or
3 not. Right? Is there any peculiarity, or do
4 we have to somehow make that privately amongst
5 ourselves and we can't ask for other people's
6 advice?

7 MS. BLUE: Well, I think, every agency
8 has the authority to interpret its enabling
9 act.

10 CHAIRMAN CROSBY: Well we -- right.
11 I'm sorry.

12 MS. BLUE: So I guess what I would say
13 is, I don't think I would solicit information
14 on whether you have the authority to look at
15 this or not. You clearly do. I think you can
16 have -- solicit information on what people
17 think about our statute, or what they think
18 about the process, or who they think is
19 impacted, definitely, yes. And I think we've
20 done -- we do that all the time.

21 CHAIRMAN CROSBY: Right.

22 MS. BLUE: So I think, you know, the
23 more -- the more discrete way would be to have
24 staff take a look at it and then see what --

1 you know, what the legal staff and the IEB
2 thinks about where the parameters are. Right?

3 But in terms of public comment, I
4 would take that on things like the public
5 policy matter or, you know, what people see or
6 what they -- who they think is impacted.
7 Stuff like that.

8 CHAIRMAN CROSBY: Right. Okay.

9 COMMISSIONER CAMERON: Just,
10 Director Wells, do you have any thoughts on
11 this subject?

12 MR. BEDROSIAN: Could I interrupt and
13 exert my --

14 MS. WELLS: I sure do.

15 MR. BEDROSIAN: Yes. So let me say
16 this, and then I'll defer to Karen, which is,
17 we have -- in terms of the public policy and
18 the legal authority to address a public
19 policy, so far, because it's what we looked at
20 in the past when we talk about the past, it's
21 discrepancy between 16B and 30F has solely
22 been the legal issue we've looked at.

23 I wonder, and I'm not saying it's
24 acceptable, if there aren't other statutory

1 interpretations on this also that we might
2 look at. If the Commission -- I mean, this is
3 a decision, I think, the Commission has to
4 take.

5 You know, for example,
6 Commissioner Macdonald just used the term
7 nongaming service employee. There is no such
8 thing. Maybe, there should be. Do you have
9 the authority to that? I can't answer that
10 right now. But if the Commission direct staff
11 could take a hard look at this, I would just
12 suggest we holistically take a look at it both
13 legally and public-policywise and we not
14 solely focus on this distinction. I may be
15 wrong and it may come down to this
16 distinction, and that may be what we're all --
17 we're left with. I just hate to -- you know,
18 there may be other options here, which, in the
19 end the Commission may reject all of them.

20 CHAIRMAN CROSBY: Yeah.

21 MR. BEDROSIAN: But not to limit
22 ourselves to that -- to that one analysis
23 we're looking at. So I'm sorry. And now I
24 yield the rest of my time.

1 COMMISSIONER ZUNIGA: Yeah, no, but we
2 effectively did the de minimus exception on
3 the nongaming vendor -- or the gaming vendor
4 and nongaming vendor process that does not --
5 it's not stipulated in the statute. But, in
6 my opinion, and at least three other
7 commissioners, good policy for the
8 implementation of this chapter, of the goals
9 that are clearly embedded, et cetera, et
10 cetera.

11 Similar to that, we could take the
12 position of clarifying tiers within the
13 registration. Whether we call it the
14 nongaming service employer -- employee, or a
15 type of service employee that will not need
16 registration.

17 MR. BEDROSIAN: And, at this point, I'm
18 not advocated that. I'm just saying, let's
19 not eliminate that.

20 CHAIRMAN CROSBY: Yeah. Right.

21 MR. BEDROSIAN: If the Commission
22 thinks it's appropriate to look at. And you
23 may reject it.

24 COMMISSIONER CAMERON: Yeah, I would be

1 interested in exploring that. I think that
2 makes some sense.

3 MR. BEDROSIAN: And the other issue,
4 Mr. Chairman, and I don't want to get ahead of
5 ourselves, is, if we were going to do that,
6 then, to use Commissioner Zuniga's often-used
7 term, to do a risk assessment, obviously, our
8 licensees, I'm sure, would have a lot of
9 thoughts about who really are the type of
10 service employees, whether they're gaming
11 service employees or nongaming service
12 employees, who they say, you know what, your
13 process is actually a lot thorougher than what
14 we can get on the employment side and we would
15 like you to look at these people. And there
16 may be a category of people who you and I
17 don't anticipate aren't on the floor, who have
18 access to a casino customer base, or something
19 like that. Obviously, I don't anticipate it's
20 the dishwasher, it's some of these other
21 folks.

22 But, again, my -- my plea is just
23 let's -- if we're going to think about this,
24 let's think, holistically, about what the

1 range of options are so the Commission can
2 have, you know, a menu and can reject some,
3 whatever it is.

4 CHAIRMAN CROSBY: Yeah. Do you have
5 opinion?

6 MS. WELLS: I do. I do. And I'd just
7 like to, sort of, preface my comments by just
8 stating, I understand, sort of, the position
9 to, sort of, disregard the specific mandated
10 16B. I get that that comes from a kind heart
11 and looking to do something for people who may
12 be disenfranchised, so I recognize that and I
13 value that.

14 I think, you know, because we've
15 been working with the statute and implementing
16 and doing all this, you know, for years now,
17 and I think that I would be remiss, if I did
18 not, sort of, advise the Commission as some
19 concerns that I think that I have and got in
20 the IEB, and that there -- there may be some
21 problems for the Commission down the road, you
22 know, in taking this approach. You know, to
23 start off --

24 CHAIRMAN CROSBY: Taking which

1 approach?

2 MS. WELLS: The approach that you have
3 the discretion to really not have the reg
4 follow 16B.

5 CHAIRMAN CROSBY: Just for the record,
6 what's on the table is whether we should open
7 this up for discussion, not whether we should
8 reinterpret the statute?

9 MS. WELLS: Correct. Correct. So, you
10 know, as a basic premise, you know, statutory
11 interpretation, you know, it's not done, it
12 shouldn't be done in a vacuum. There are
13 guiding principals that are set forth in case
14 law, and they should be followed and should be
15 noted.

16 There are certain principals that, I
17 think, apply in this circumstance. One is
18 that -- nobody's perfect. Legislators aren't
19 perfect. You're never going to have the
20 perfect piece of regulation that's going to
21 have every particular word correct. And
22 that's why there -- you know, there's plenty
23 of case law saying that provisions in laws
24 should be read harmoniously and as a whole.

1 So that's, I think, something that
2 we need to look at, because we can read these
3 two provisions, 30F and 16B, harmoniously.
4 And, also, another provision is that specific
5 terms in statutory work prevail over the more
6 general terms.

7 In this case, I would suggest that
8 16B is very specific about what it means to be
9 disqualified from being able to work at a
10 casino, specifically, under a registration.

11 So I think, you know, language --
12 you know, this case law also says language
13 should be given effect consistent with its
14 plain meaning. And, you know, the term
15 disqualified, plain meaning, ineligible. So I
16 think just -- it's important to be mindful of
17 those -- those guiding principals and
18 statutory interpretation.

19 I think my concern on, sort of, the
20 analysis that you can just disregard 16B, and
21 it's very specific directive from the
22 legislature, is that given that agencies are
23 directed to read a statute harmoniously, in
24 order to, sort of, get to that point where,

1 you know what, we're just going to pick one
2 side or the other, and we'll go with, you
3 know, disregarding 16B, and we'll read it as
4 if it -- you know it isn't there because it's
5 so much in conflict.

6 I think my issue with that, just
7 having worked in the field and worked with
8 this particular statute, is that, that
9 ultimate finding is at odds with what the
10 Commission has been doing and how we've been
11 reading the gaming statute for the last three
12 years, because I would suggest we have been
13 reading those two provisions harmoniously. It
14 may not be the results you want, but when we
15 make a licensing decision, when we implement
16 the statute, what we're doing does not violate
17 either 30F or -- or 16B. The way the
18 regulation reads now, it's read harmoniously
19 with both, and that's the directive. So
20 that's, sort of, my concern.

21 I also -- you know, I don't think
22 you can genuinely look at 30F independently
23 because 16B is specifically referenced in 30F,
24 where it says -- and I think -- you know, for

1 me I focus on, you know, every word in the
2 statute. And I understand the may versus the
3 shall. I understand that that's the issue
4 here, but I also recognize that it says, you
5 know, it can deny, if the -- finds the
6 applicant or registrant, and the term is
7 disqualified, is in 30F. Is the present tense
8 of the verb. So someone is disqualified. And
9 disqualified means ineligible.

10 So even 30F talks about how there
11 are certain employee -- potential employees
12 who are disqualified from licensure. And I
13 understand that that's -- you know, as a
14 policy matter that, certainly, is debatable,
15 well, that should be how it reads. But that
16 concerns me in, sort of, the reading of the
17 statute because it -- 16 is referenced in 30F,
18 so it's in incorporated into. Where, if you
19 read it out, it talks about they shall be
20 denied and then gives the -- that 10-year
21 window.

22 You know, I think that -- you know,
23 as Gayle -- pardon me, Commissioner Cameron
24 mentioned, we do have some direct evidence of

1 legislative intent, either by, you know,
2 speaking to go legislatures -- legislators,
3 pardon me. You know, we have the testimony
4 from Senator Ross at the GPAC hearing, you
5 know, where he had said specifically, I think
6 when we had our conference committee,
7 "Senator Flanagan and I went wrong. We wanted
8 to make sure we had the best qualified people
9 for the job. I think we likewise figured
10 there are enough really truly, honest people
11 out there that don't have jobs that are going
12 to be applying for, that we'd really like
13 those people to be given the preference first.
14 Ten years doesn't seem like a long time to
15 have to be clean in a way from getting felony
16 convictions. I think that was the more
17 intent, et cetera."

18 So there -- you know, there is, even
19 in that conversation, related to the service
20 employees so that, you know, the plain reading
21 of the statute it talks about it's really
22 specific.

23 So, you know, and I think, you know,
24 the concept of the fidelity to the law, you

1 know, and that -- the integrity of following
2 the law is an important to the Commission.
3 We're in the business. Over at the IEB, you
4 know, we're passing judgment of people on
5 licensing decisions every day. And I think we
6 need to hold ourselves to a high standard as
7 well, as far as fidelity to the law.

8 And, you know, the other piece is
9 that -- I do agree that -- that, certainly,
10 there's case law giving administrative
11 agencies a wide berth and a lot of discretion,
12 but there are limbs on that discretion. And,
13 you know, we looked at some cases, you know,
14 in Illinois, Kansas and Michigan. You know, I
15 can pull those for the Commission later for
16 the more detailed analysis, where, you know,
17 there's gaming cases where the board's
18 discretion was more limited than they thought.
19 So it's not as if the concept of, you know,
20 you have wide discretion and go ahead and do
21 that. There are still guiding principals
22 around that.

23 You know, and I think to
24 Commissioner Cameron's point as well, that,

1 you know, part of -- part of our job here, you
2 know, as public servants is to ensure the
3 public confidence in our agency, and that
4 we're doing the right thing and implementing
5 the will of the people.

6 The gaming act was not an easy thing
7 to pass, as you, you know, may recall from the
8 legislative history. That may be why we have
9 one of the tougher and more restrictive gaming
10 acts in the country. And, you know, even the
11 fact that we had the referendum, and there
12 was -- you know, there was a tough vote for
13 the referendum. I can't remember the exact
14 numbers. 40 percent of the people --

15 CHAIRMAN CROSBY: 60/40.

16 MS. WELLS: Yeah, it's a tough vote.
17 There's -- there's definitely concern over
18 gaming and gaming-related operations.

19 You know, so aside from that, just
20 sort of look and, you know, my concerns over
21 the approach there, I also recognize, you
22 know, we have to look at this as a practical
23 matter and operationally. I am concerned
24 about -- and we don't have any specific

1 provision, you know, or specific change to the
2 reg, but, hypothetically, if there was some,
3 you know, change to the reg, that, you know,
4 anyone could show rehabilitation in regards to
5 the 10-year.

6 Particularily, given that we have 16B
7 in the legislation, where it says you shall
8 deny, if the Commission decides to disregard
9 that and go in a different direction, there
10 certainly would be public scrutiny, if
11 there's -- if there's problem with, or
12 circumstance with some kind of issue. So we'd
13 have to be -- you know, we'd have to be really
14 careful about making that determination about
15 rehabilitation, and that is very labor
16 intensive. We -- it's much more direct in the
17 way the legislator set it out with this
18 10-year window.

19 I would suggest, if someone hasn't
20 gotten into trouble, they've been -- you know,
21 they don't have one of those convictions over
22 the last 10 years, it's almost prima facia
23 evidence that they are rehabilitated. So it's
24 a much more -- I'm saying it's much more

1 difficult analysis, if you sort of leave it
2 wide open. And we have to think about
3 resources, staffing, how we're going to do
4 that during the wave of applications that come
5 in.

6 MGM is expecting to have about 1,200
7 service-level employees. We're probably going
8 to be getting all of those right around the
9 same time, within the month of -- last month
10 of opening.

11 So, you know, I don't -- and it's to
12 Catherine -- General Counsel Blue's point, I
13 don't know what the numbers would be. I don't
14 know if we'd get 10 folks that wanted to
15 demonstrate rehabilitation, 20, 50, a hundred,
16 300. So that's that, sort of, situation,
17 where we don't know what's coming
18 operationally, that could be problematic.

19 The other -- the other thing for the
20 Commission to consider is that the Commission
21 also has the ability to decide when to decide
22 this issue. It could be now. It could be
23 after the opening of the casinos. It could be
24 later down the road.

1 If you see from the legislative
2 history, from other jurisdictions, they have
3 waited for awhile and then implemented change
4 by legislation, but there has been time that
5 went by to really get their feet under the
6 ground and understand what's going on. So the
7 Commission can also defer when to make the
8 decision about what they want to do.

9 I think, also, you know, I'd be
10 curious from the licensees' perspective, they
11 do invest in, sort of, the analysis of -- or
12 in the hiring process. It's tough for them,
13 if they have a number of employees that go
14 through the hiring process and then have a
15 problem at licensure.

16 Certainty -- you know, I've heard
17 from the different licensees, certainty is
18 helpful for them, so they really know what the
19 criteria are. So I would suggest, whatever
20 the Commission decides to do, that it would --
21 some level of certainty is helpful, not only
22 to the licensees, but also to the Bureau.

23 I guess the other, you know, the
24 other comment I would have to

1 Commissioner Stebbins point, we talked about
2 this when we were out in Springfield, I think
3 the communication piece on what
4 disqualification is and it isn't is really
5 helpful within the community.

6 The point of, oh, you know, I was
7 arrested for larceny, but then the case was
8 dismissed when I paid court costs, that person
9 is not automatically disqualified, even
10 they -- they may have something on their
11 record.

12 And there are -- you know, for
13 those -- those of us who worked in the
14 criminal justice system, we may be a little
15 more familiar than people who haven't worked
16 in it. And there are protections and options
17 in place for people who are charged with
18 crimes or involved in the -- in the criminal
19 justice system. There's prosecutorial
20 discretion.

21 I remember being a young prosecutor
22 in district court, you get a larceny over 250,
23 you may reduce that before it pleads out to a
24 larceny under so it's no longer a felony,

1 or -- or even, you know, you may have a
2 judicial discretion on sentencing and what
3 they want to do. There are diversion
4 programs. There's a magistrate level of
5 review, a potential resolution at that level.
6 Very significantly, there's sentencing options
7 short of conviction. So there may be -- you
8 know, for example, someone comes in in a
9 larceny by check, it's very rare -- I've never
10 seen anyone with larceny by check coming in
11 with no record walk out with a conviction. I
12 would be very curious to see what the status
13 is in Springfield, in their district court,
14 because I have never worked there so I don't
15 want to speak to that court.

16 Pretrial probation, in particular,
17 continue without a finding, a lot of low-level
18 first-time offenders, they get a continue
19 without a finding. They don't get a guilty
20 finding. And only a guilty finding triggers
21 the automatic disqualification in the statute.

22 The other piece, I think we should
23 potentially talk about, is also the sealing of
24 records because by -- by regulation, which the

1 Commission put forward, a sealed record is not
2 considered for purposes of the licensing
3 evaluation. So that's another tool that the
4 community members have, if they wanted to,
5 sort of, educate the populous who might be
6 interested in these jobs, about whether or not
7 that's something they want to explore,
8 because, then, if there's something that's
9 sealed, it does not disqualify them from
10 application for a license.

11 And some of the other things the
12 Commission's considered and put forward, the
13 nature of the position is, by regulation,
14 something we're to consider in evaluating
15 suitability. And, also, you have indicated
16 and we've followed, that information is to be
17 found in the light most favorable to the
18 applicant.

19 So, I mean, there's a lot of -- you
20 know, there's a lot of information out here.
21 I think, that I can understand the concern. I
22 think, to Mr. Bedrosian's point, there's
23 certainly a litany of options that the
24 Commission could consider, as far as what they

1 want to do, given this -- this issue. All of
2 them probably have potential, collateral
3 consequences that should be considered. It's
4 a very complex issue.

5 You know off -- you know, even just
6 off the top of my head, you can do nothing,
7 you could wait, you see how it works,
8 implement the law as it is. You could lobby
9 for a legislative change. Certainly, that's
10 what other states have done. That, certainly,
11 would be preferable to having this conflict
12 even, you know, or a split among the
13 Commission.

14 I would suggest you could look at
15 the reg that yourselves passed, about
16 requiring employees of vendors at the casino
17 to register service-level employees. That's
18 not required by the law. I see, you know, no
19 bar, if the Commission wanted to do that.
20 That would be a safety valve so employees
21 would not have to go through the registration
22 process. There's going to be more of them at
23 MGM than at Plainridge, but that's something
24 the Commission could consider, and they can do

1 that easily, if they wanted to.

2 CHAIRMAN CROSBY: So what was that,
3 Karen? I didn't get -- say it again.

4 MS. WELLS: So, for example, if -- the
5 law only requires that employees of the
6 licensee have to be registered.

7 So if -- you know, for example, at
8 Plainridge there's a Dunkin' Donuts, so those
9 employees, by regulation, we are -- if the
10 Commission had them, they would have to
11 register as service-level employees.

12 So the, you know, adoption for the
13 Commission to consider, and there are pluses
14 and minuses because, you know, you've got two
15 categories of employees there, there's no
16 statutory prohibition on the Commission
17 saying, you know what, we've changed our mind
18 on that and those employees, you know, we're
19 just not going to require to register.

20 COMMISSIONER ZUNIGA: Because they're
21 employees of someone else, not the casino?

22 MS. WELLS: Correct.

23 COMMISSIONER CAMERON: Yeah, Dunkin'
24 Donuts. Interesting.

1 MS. WELLS: You know, Mr. Bedrosian
2 talked about carving out exempt categories of
3 employees. That has some advantages,
4 operationally. Particularly, you know, for
5 the IEB and the casino, it certainly
6 eliminates that -- that murky area. And what
7 are we supposed do? It says one thing in the
8 statute, but we're getting directed by the
9 Commission to do something else. It puts us
10 in terrible position. But if they're carved
11 out, it's a decision, you know, as the Chair
12 has said, you know, say the bowling alley
13 in -- at MGM, well, why should the bowling
14 alley employees be any different from the
15 bowling alley across the street? Maybe that's
16 your -- you know, the decision there. I don't
17 know.

18 It's a little tough because, you
19 know, for example, in the Maryland, I
20 recognize the statute gives the Commission
21 express authority to do that. So that's not
22 here, but as Commissioner Zuniga said, you
23 know, it's somewhat like the exemptions for
24 the nongaming vendors. And, at least, there

1 is precedent within this Commission, you've
2 already taken that tack with the -- with the
3 nongaming vendors. So that's certainly an
4 option, and it's less problematic than just
5 giving us this murky rehabilitation.

6 You could allow, you know, the
7 appeal of disqualification by the Commission.
8 You know, certainly, the IEB -- I feel very --
9 I feel very uncomfortable, you know, signing
10 off you're good on your registration when I
11 know that 16B says, you shall deny. But maybe
12 the -- you know, the resolution and the
13 tension is to create a streamlined process,
14 not some cumbersome process. Maybe there is a
15 process, some appeal to a -- you know, a body
16 or members of the Commission. And that way
17 you would see, because these can be -- these
18 can be tougher than you think, as far as
19 evaluating rehabilitation. You know, it can
20 be very difficult.

21 You know, another option for the
22 Commission to consider, you know, is
23 redefining the gaming establishment, and,
24 therefore who would be covered. I mean, there

1 are collateral issues with that regarding
2 police jurisdiction, liquor licenses,
3 litigation and all that.

4 So I'm not sure, you know, what the
5 Commission thinks there, but I think that on
6 the list, sort of, just disregarding 16B,
7 that's the least desirable option for the
8 list, and I'm concerned that's going to cause
9 some problems, but there are other things the
10 Commission can consider, given, you know, as
11 I -- as I said. I think this -- I get it,
12 that this comes from a kind heart and trying
13 to do the right thing by people.

14 So my suggestion is that, you know,
15 we, kind of, roll up our sleeves and figure
16 out, you know, what options are there that are
17 the least problematic for the Commission, for
18 the IEB, for the public, for the licensees,
19 and maybe get some data to figure out what
20 supports these different conclusions. So
21 those are my thoughts.

22 COMMISSIONER ZUNIGA: Those are all
23 excellent thoughts. Let me mention a couple
24 of things. I think, when I'm speaking about

1 this issue for myself, I never really suggest
2 that we disregard 16B in whole. There's the
3 tension that's embedded in the different
4 pieces, or the different tiers of the
5 investigation that creates this tension, but I
6 never see that as disregarding in whole.

7 I agree that some of the suggestions
8 you bring up could very well get us, you know,
9 more than where we want to be, in terms of
10 providing us certain opportunities, you know,
11 with some limit for people, but then having
12 the good conscience that we -- we're meeting
13 the intent of the regulation -- of the
14 legislation in this prohibition. I -- except
15 for one.

16 I think the notion of appeal of a
17 disqualification to the Commission, I think,
18 may sound good in theory, but the reality of
19 those people that we're talking about, is, in
20 my opinion, would be very rarely used in this
21 -- in context.

22 If we're talking about somebody
23 attempting to get employed for a dish-washing
24 job and being disqualified for some reason, I

1 find it hard to believe that they would have
2 the wherewithal to go through our appeal
3 process, for example. And I know we're
4 working towards having that as streamlined as
5 soon as possible, but it's just something that
6 I think the reality may be different. I don't
7 want to dwell on that because I think
8 everything else, I agree, we could take steps
9 towards doing that.

10 I do want to highlight that the --
11 what you suggest, in terms of doing nothing
12 from -- for now and changing later, would
13 appear that you would agree that we do have
14 the discretion of addressing this -- this
15 issue.

16 MS. WELLS: Well I -- the Commission
17 should always be talking about any issues. I
18 mean, that's your job. That's why you're
19 there.

20 I think that, for example, the
21 difference -- however, the difference between,
22 say, doing nothing and, you know, I think
23 there clearly is, you know, the authority to
24 lobby for legislative change, or change the

1 reg for vendor employees, there's no statutory
2 prohibition on that. When you get into the
3 other ones, then, you get, sort of, a
4 question. So I think that's -- that's right
5 where I draw the line, between that category,
6 and then the other categories, like, well,
7 better do some analysis.

8 COMMISSIONER ZUNIGA: No, no. And we
9 could be strategic about how we take any one
10 of those. For example, just we could, you
11 know, lobby about -- for a legislative change
12 as a first step.

13 MS. WELLS: Correct.

14 COMMISSIONER ZUNIGA: And if we hear
15 nothing, then, there's -- there could be some
16 comfort that we tried this way to be extra
17 careful, but it appears that, at least, in the
18 statehouse they might be leaving it up to us
19 by -- by doing nothing, for example.

20 MS. WELLS: Right. I mean, I think you
21 kind of hit the nail on the head. Is that,
22 it's about understanding your policy
23 objective, but also being very strategic in
24 doing this in the smartest way possible that

1 has the least collateral consequences and
2 really -- you know, and it's respectable of
3 the law.

4 I mean, we talked about how -- you
5 know, how -- just, you know, visionary the
6 gaming law in Massachusetts is. How much
7 effort went into it. How -- you know, some of
8 these provisions are unprecedented in gaming,
9 and they've been very effective. And I get
10 it, this one, maybe not so popular, but, you
11 know, it was part of the process. So it's
12 worth thinking about. And, you know, we've
13 got a lot of smart people up here that I'm
14 sure can come up with some options.

15 COMMISSIONER ZUNIGA: You know, I do
16 want to mention one other thing. That I
17 believe public confidence comes -- in this
18 area, comes from other places, in addition to
19 a thorough background check. It shouldn't go
20 unnoticed in -- in this discussion, in my
21 opinion, that we have very strict internal
22 controls implemented at casinos. We have a
23 review -- a very thorough review of those. We
24 have people who constantly look at those,

1 audit them, and we have people that watch
2 people.

3 A lot of what -- a background check
4 is a predictor, and it's an important
5 predictor, but a lot of what happens in the
6 casino, of course, or may happen, there's
7 systems in place. You know, and we have them
8 now, and we will have them with MGM and Wynn,
9 and we're learning on those systems and
10 refining them.

11 We have the fair deal that you,
12 yourself, implemented at the suggestion of
13 people like Bruce Band that complement. Our
14 presence is there, presence of the state
15 police is there, that complement a lot of what
16 ultimately results, in my opinion, that goes
17 to that optical of public-inspiring
18 confidence. So I just wanted to mention that
19 in this context.

20 CHAIRMAN CROSBY: Okay. Well, that was
21 very thoughtful, as usual. And a lot of those
22 suggestions are exactly the kinds of things
23 that I want us to be hearing and deliberating
24 on in the course of this review.

1 And, as you know, I've said many
2 times, if you guys can come up or suggest a
3 workaround that is not the nuclear option but
4 something like the de minimus, I've been
5 hoping that you guys would come up with ideas
6 like those. So those are -- those are really
7 interesting.

8 If we can get to the nub of matter,
9 the substantial part of the public policy
10 issue through those kinds of workarounds,
11 terrific. But that's what I -- what I think
12 we need to be talking about, as well as your
13 thoughts about, you know, what the pros and
14 cons are up here, of some of these issues.

15 So I don't know -- so I don't know
16 whether we need a vote. What I had originally
17 suggested was, I'd like to get this on the
18 agenda for a formal review of this reg, which
19 would involve learning about lots of things
20 that all of you have said and getting other
21 people's ideas, and seeing what we come up
22 with.

23 You know, whether -- so if -- I
24 don't know if we need to vote on -- I guess I

1 set the agenda, I guess i can put it on the
2 agenda, if I want to. But I think I'm hearing
3 that people are open to thinking about this,
4 what the outcome is -- is up in the air. Am
5 I --

6 COMMISSIONER CAMERON: Mr. Chair, if I
7 may, I just think we need to direct staff to
8 continue to explore some of these options.

9 CHAIRMAN CROSBY: Absolutely.

10 COMMISSIONER CAMERON: And some of
11 these ideas.

12 CHAIRMAN CROSBY: Both Catherine --
13 both Catherine and Karen have come up with
14 topic areas and suggestions that would be --
15 as it always is. We always say to staff,
16 please give us your advice, your thoughts, and
17 we will get public comment as well. So if we
18 have a --

19 COMMISSIONER MACDONALD: I think that
20 makes a lot of sense. I would say that,
21 number one, we would ask the legal department
22 to specifically address the -- you know, this
23 issue. And, secondly, solicit input on the --
24 on the issue from our licensees.

1 CHAIRMAN CROSBY: And others, I think.

2 COMMISSIONER MCHUGH: And others. Any
3 others that --

4 CHAIRMAN CROSBY: Right.

5 COMMISSIONER MACDONALD: And set as a
6 -- as a priority agenda item within the next
7 four to six weeks.

8 COMMISSIONER CAMERON: And I think to
9 include the entire staff, licensing, IEB is
10 important, as well as the legal input.

11 CHAIRMAN CROSBY: Anybody who wants to
12 weigh in, for that matter. Yeah, okay, so
13 we're -- we have a consensus on that.

14 I had some similar thoughts on the
15 nongaming vendor issue, but we have already
16 made a step on that, which is the \$10,000 de
17 minimus step. And this first one is so
18 complicated that I think we ought to stick
19 with that. We've already taken a big step
20 towards trying to alleviate the pressures on
21 nongaming vendors so let's stick with the
22 gaming service employees.

23 In the meantime, gaming service
24 employees are filling out a 13-page document

1 until we do.

2 MS. WELLS: Well, I've got a new one
3 that's ready -- pretty much, ready to go.

4 CHAIRMAN CROSBY: Okay. Well, at the
5 moment, they're filling out a 13-page
6 document. So we need to get on this and
7 figure out where we're going to come down, if
8 anywhere, pretty -- pretty soon. So I think
9 we've got a consensus here of how we'll go
10 forward.

11 MR. BEDROSIAN: Mr. Chairman, I think
12 I'll run point on this.

13 CHAIRMAN CROSBY: I'm sorry?

14 MR. BEDROSIAN: I think I'll run point
15 on this.

16 CHAIRMAN CROSBY: Okay.

17 COMMISSIONER CAMERON: Excellent.

18 CHAIRMAN CROSBY: So we have -- so we
19 have one other item on your agenda.

20 MS. WELLS: Oh, that's right. I
21 apologize. Now, this one is actually pretty
22 quick, so if you can indulge me.

23 CHAIRMAN CROSBY: Hang on just one
24 second, Karen. Shall we just plow through,

1 folks? I mean, we've got a few other things.
2 They're relatively short.

3 COMMISSIONER CAMERON: It's okay.

4 MR. BEDROSIAN: Yeah.

5 CHAIRMAN CROSBY: Thank you.

6 MS. WELLS: On the agenda this
7 afternoon are also the results of a
8 suitability investigation for Rubin Warren.
9 He is an applicant for a key gaming employee
10 executive license. He has extended an offer
11 by Penn National Gaming in July of this past
12 year to serve as vice president of finance at
13 Plainridge Park Casino. He was determined to
14 be a key gaming employee based on that
15 position.

16 And in accordance with proper
17 procedure, he filed the appropriate
18 application. The application was reviewed by
19 the IEB, and the investigation was conducted
20 in the general areas that I've alerted to you
21 to numerous times in the past. He was
22 interviewed in person by the IEB state police
23 and financial investigators as part of that
24 protocol. They conducted a financial

1 stability -- pardon me, a financial
2 responsibility evaluation with positive
3 results.

4 Mr. Warren graduated from the
5 University of Nevada Las Vegas in 1995 with a
6 bachelor of science degree in business
7 administration with a major in finance.

8 Prior to his position at PPC, he
9 held several other gaming-related positions.
10 He was employed by rising car -- pardon me,
11 Rising Star Casino, Hilton Lake Las Vegas as
12 the director of finance, Cannery Casino as the
13 director of special projects, assistant GM and
14 controller. Santa Fe Casino, a financial
15 controller, Fitzgerald's Casino as assistant
16 controller.

17 COMMISSIONER ZUNIGA: Director.

18 MS. WELLS: Yes.

19 COMMISSIONER ZUNIGA: Slowly for our --

20 MS. WELLS: Oh, I'm sorry. During the
21 investigation interview, Mr. Warren stated his
22 responsibilities as vice president of finance
23 at Plainridge Park consists of controlling all
24 of the finance sections, including the general

1 ledger, accounts payable and receivable
2 payroll, purchasing, warehouse, and the player
3 services and cage. He further stated, as it
4 was his responsibility, to assure that assets
5 are protected and proper audits and controls
6 are in place. He directly reports to Lance
7 George, the vice president and manager of PPC.

8 We did verify that he previously had
9 held two gaming licenses in Nevada -- in
10 Nevada, by the gaming commission. He was a
11 gaming employee. That status is now inactive.
12 And the Indiana Gaming Commission, he was a
13 level one. That's presently expired.

14 There were no significant issues
15 related to Mr. Warren's application for
16 licensure. As such, he demonstrated, by
17 clearing convincing evidence, that he's
18 suitable for licensure in Massachusetts, and,
19 therefore, the IEB is recommending that he
20 Commission vote and find him suitable.

21 COMMISSIONER STEBBINS: Mr. Chairman, I
22 read the report, I'm sure, like we all did,
23 come to the same conclusion. I would move
24 that we approve Mr. Warren VP of finance at

1 Plainridge Park for suitability as a key
2 gaming employee.

3 COMMISSIONER ZUNIGA: Second.

4 CHAIRMAN CROSBY: Further discussion?
5 All in favor? Aye.

6 MR. MACDONALD: Aye.

7 COMMISSIONER STEBBINS: Aye.

8 COMMISSIONER CAMERON: Aye.

9 COMMISSIONER ZUNIGA: Aye.

10 CHAIRMAN CROSBY: Opposed? The ayes
11 have it unanimously. Thank you.

12 MS. WELLS: Thank you, that's it for
13 me.

14 COMMISSIONER CAMERON: Thank you,
15 Director.

16 CHAIRMAN CROSBY: Alex. Do you need to
17 round up Doug?

18 MS. LIGHTBOWN: He should be right
19 outside. Good afternoon, Mr. Chairman and
20 Commissioners.

21 CHAIRMAN CROSBY: Good afternoon.

22 MR. MACDONALD: Good afternoon.

23 COMMISSIONER CAMERON: Good afternoon.

24 COMMISSIONER ZUNIGA: Good afternoon.

1 COMMISSIONER STEBBINS: Good afternoon.

2 MS. LIGHTBOWN: Today, I have
3 Bruce Barnett with Suffolk here, and
4 Doug O'Donnell's going to talk about two of
5 the Suffolk Downs' capital improvement funds.
6 So Doug...

7 MR. O'DONNELL: Okay. Good afternoon,
8 Commission.

9 COMMISSIONER MACDONALD: Good
10 afternoon.

11 MR. O'DONNELL: Once again, I am in
12 front of you with two items on the agenda
13 today regarding Suffolk Downs. The first one
14 is at request for reimbursement from RFCs that
15 have been submitted. This is for project
16 number 2012-14 for dormitory repairs. And the
17 total amount for the reimbursement is
18 \$75,882.75, which is actually short \$116.64
19 from the original RFC because they were
20 missing some documentation on materials, but
21 we will need your vote for this amount to be
22 reimbursed.

23 CHAIRMAN CROSBY: As usual, I doubt
24 there's any discussion. Do we have a motion?

1 COMMISSIONER STEBBINS: Mr. Chair, I
2 move the Commission approve the request for
3 reimbursement by Suffolk -- from the Suffolk
4 Downs Capital Improvement Trust Fund for
5 \$75,882.75.

6 COMMISSIONER MACDONALD: Second.

7 CHAIRMAN CROSBY: Second? Discussion?
8 All in favor? Aye.

9 MR. MACDONALD: Aye.

10 COMMISSIONER STEBBINS: Aye.

11 COMMISSIONER CAMERON: Aye.

12 COMMISSIONER ZUNIGA: Aye.

13 CHAIRMAN CROSBY: Opposed? The ayes
14 have it unanimously.

15 MR. O'DONNELL: The next item would be
16 a request for consideration, also with the
17 Suffolk Downs Capital Improvement Trust Fund.
18 There are a total of seven projects regarding
19 this request for consideration totaling
20 \$140,988.24. There is a balance in this,
21 which I have on this sheet. There's a balance
22 in this fund of \$1,012,722.09, so we are well
23 within the monies that are being distributed
24 on this, and we will need your vote on this as

1 well.

2 CHAIRMAN CROSBY: Commissioner
3 Stebbins...

4 COMMISSIONER STEBBINS: I love these.
5 Mr. Chairman, I move the Commission approve
6 the Suffolk Downs Capital Improvement Trust
7 Fund request for consideration of the items
8 presented in our packet, for a total request
9 of \$140,988.24.

10 COMMISSIONER CAMERON: Second.

11 CHAIRMAN CROSBY: Discussion? All in
12 favor? Aye.

13 MR. MACDONALD: Aye.

14 COMMISSIONER STEBBINS: Aye.

15 COMMISSIONER CAMERON: Aye.

16 COMMISSIONER ZUNIGA: Aye.

17 CHAIRMAN CROSBY: Opposed? The ayes
18 have it unanimously.

19 MR. O'DONNELL: Thank you. And I'll
20 probably see you again in a few weeks.

21 CHAIRMAN CROSBY: No doubt. Looking
22 forward to it.

23 COMMISSIONER ZUNIGA: On that note,
24 Doug, there's -- there's quite a bit of

1 balance left, after this vote, on the capital
2 improvement trust, and we're only getting to
3 2013 projects. You know, there's a number of
4 2014, 2015.

5 MR. O'DONNELL: It's not in the
6 sequence. They have -- they have submitted
7 2014 projects as well for RFC that have been
8 presented. We have a total -- with this
9 consideration of \$140,000, there's close to a
10 million dollars in RFCs that have already been
11 submitted. And of that, there have been
12 reimbursement approvals of about -- including
13 this one, about 260,000.

14 COMMISSIONER ZUNIGA: So are we going
15 to get to those ones one at a time, different
16 types or --

17 MR. O'DONNELL: Yes. The architect has
18 been out there. He's in the process of going
19 through all of the RFCs right now. He's been
20 out there on numerous occasions.

21 COMMISSIONER ZUNIGA: Okay.

22 MR. O'DONNELL: So he's in the process
23 of submitting those as request for
24 reimbursements.

1 COMMISSIONER ZUNIGA: Okay.

2 MR. O'DONNELL: So as the fund builds,
3 we will continue to submit our RFCs.

4 COMMISSIONER ZUNIGA: Okay. Thank you.

5 CHAIRMAN CROSBY: All right. Anything
6 else? Thank you, folks.

7 MS. LIGHTBOWN: Thank you.

8 MR. O'DONNELL: Thank you.

9 CHAIRMAN CROSBY: Thanks for waiting.

10 COMMISSIONER CAMERON: Thank you.

11 MR. BARNETT: Chip apologizes he can't
12 be here today himself.

13 CHAIRMAN CROSBY: That's all right.

14 COMMISSIONER CAMERON: You handled his
15 responsibilities brilliantly.

16 CHAIRMAN CROSBY: You did well.

17 MR. BARNETT: Thank you.

18 COMMISSIONER STEBBINS: We'll tell him
19 that.

20 MR. BARNETT: Thank you.

21 CHAIRMAN CROSBY: I think, the last
22 item is General Counsel Blue.

23 MS. BLUE: So Commissioners, you have,
24 in your packet today, and amended small

1 business impact statement and the amended
2 regulations for 205 CMR 138, 205 CMR 144, and
3 205 CMR 145. These regulations have gone
4 through the promulgation process, they've had
5 a hearing. We have, today, Deputy General
6 Counsel Grossman, Floyd Barroga and
7 John Glennon, as well as Bruce Band, to answer
8 any questions you have about the particular
9 amendments, and any changes that may have
10 considered since the last time you saw them.

11 MR. GROSSMAN: Good afternoon, once
12 again.

13 CHAIRMAN CROSBY: Good afternoon.
14 Welcome back.

15 MR. MACDONALD: Good afternoon.

16 COMMISSIONER CAMERON: Good afternoon.

17 COMMISSIONER ZUNIGA: Good afternoon.

18 COMMISSIONER STEBBINS: Good afternoon.

19 MR. GROSSMAN: Thank you. Excuse me, I
20 just wolfed down a sandwich.

21 CHAIRMAN CROSBY: Sounds good.

22 MR. GROSSMAN: Yeah, sorry to rub that
23 -- sorry to rub that right in your face.

24 In any event, we have back before

1 you, as Ms. Blue mentioned, a number of
2 amendments to existing regulations pertaining
3 to, generally, the approval of slot machines
4 and other electronic gaming devices.

5 The draft you have before you
6 reflects a collaborative effort, since you've
7 last seen this draft, between the gaming
8 technology group, the IEB, and Mr. Band,
9 Mr. Glennon, Mr. Barroga, as well as a number
10 of the gaming agents. We've also placed this
11 out informally for additional public comment
12 to the gaming licensees, as well as a number
13 of gaming manufacturers, and we've
14 incorporated a number of the comments.

15 There is a letter that, I believe,
16 is in your packet from MGM. We are prepared
17 to address a number of the issues that they
18 have raised. If it would be helpful, we're
19 prepared to walk through the draft here and
20 hit some of the high points, or we could
21 certainly just turn right to any questions
22 that the commissioners may have. But however
23 you feel most beneficial, we can proceed in
24 that fashion.

1 CHAIRMAN CROSBY: Are you -- you're
2 only discussing, at this point, 138, or you
3 talking about all three?

4 MR. GROSSMAN: It's all three. They're
5 all related.

6 CHAIRMAN CROSBY: All right. okay.

7 COMMISSIONER CAMERON: I would be
8 interested in hearing your thoughts on the
9 letter, as well as how you've addressed it.
10 And just, since we have been briefed once, I
11 think a high-level highlight would be
12 appropriate.

13 MR. GROSSMAN: Okay. Maybe I can
14 just -- I can kind of move through the regs.
15 We can move quickly and obviously pause, if
16 there are any specific questions. And we'll
17 also pause at some of the areas that MGM and
18 Plainridge Park Casino actually raised, a
19 couple of concerns/questions as well.

20 I think the best place to start is
21 on page two of the draft that gets into the
22 meat and potatoes of our slot machine and
23 other gaming device approval process are --
24 what we have attempted to do is align the

1 regulations with current practice, which
2 reflects our best judgment as to the best
3 practices in the most efficient way to oversee
4 the slot approval and modification and change
5 process.

6 You'll see here on page two, in the
7 first paragraph, what we do is just provide a
8 broad overview, general statement of the rule,
9 which is that, in order to deliver a gaming
10 device into Massachusetts, it has to be
11 certified, essentially. And Part B, that in
12 order to install it, to modify it, to operate
13 it, that it needs to be approved by the
14 Commission, and that notice of its use has to
15 be provided to the Commission as well.

16 We then, as you'll see in paragraph
17 two, go through what we consider to be
18 electronic gaming devices. We define them.
19 They're very similar to the GLI standards,
20 which the Commission has adopted.

21 The only noteworthy point here is
22 paragraph O, which we expanded. This was a
23 comment by MGM, but I think it would be worth
24 just clarifying that the reason we expanded

1 paragraph 0 was to give the Commission and our
2 gaming lab some flexibility to not require
3 that every component of a slot machine or
4 gaming device be required to undergo an
5 approval process through the Commission that
6 certain components -- and I'll let, of course,
7 Mr. Barroga and Mr. Glennon describe this
8 further, if that would be helpful, things like
9 the printers and devices that have already
10 been certified at the lab can just be changed
11 out without notice being provided to the
12 Commission and the casino having to wait for a
13 specific approval. So that was -- that was
14 the purpose for that change.

15 MR. BARROGA: So with the update to the
16 paragraph 0, over the last year-and-a-half
17 we've created efficiencies, and we're looking
18 to minimize the items as far as what each
19 casino licensee needs to notify. So that
20 anytime a change request comes into the NOC,
21 we can identify, or the casino licensee can
22 identify whether or not they have to go
23 through the five-day process with our NOC, or
24 simply update that -- that bill validator,

1 printer, or any item that we line out in
2 paragraph 0 for efficiencies on the casino
3 side.

4 MR. GROSSMAN: So just moving along in
5 the process, on page three we get into the
6 requirement that all of the devices be --
7 undergo scientific testing and technical
8 evaluation. Paragraph two in the middle
9 there, we say, for the first time, that once
10 they -- the devices have undergone that
11 testing and have been certified, that the
12 manufacturers may actually ship them into the
13 Commonwealth, whether it's to the casino or
14 other entities that are permitted to possess
15 these types of devices, upon providing notice
16 to us, but they don't have to wait for any
17 particular approval, because the approval
18 comes further on in the process before they're
19 actually allowed to use it. So, at this
20 point, just a notice is required. And we'll
21 get to the notice provision a little further
22 on in this draft.

23 On page four, there is -- there is
24 one adjustment that we'll recommend. This is

1 based upon a comment we've received from the
2 folks at Plainridge Park Casino. This is
3 paragraph four. And I'd like to -- it's not
4 in your draft, but this was a last-minute
5 adjustment, just to clarify this language.
6 And this has to do with when the gaming
7 licensee or gaming manufacturer --

8 CHAIRMAN CROSBY: This is on our page
9 five, I think.

10 COMMISSIONER CAMERON: Yeah.

11 MR. BEDROSIAN: Paragraph four?

12 MR. GROSSMAN: Paragraph four.

13 MR. BEDROSIAN: Page five.

14 COMMISSIONER CAMERON: Page five.

15 MR. GROSSMAN: Okay.

16 COMMISSIONER CAMERON: We got it.

17 MR. GROSSMAN: That's weird. Okay.

18 But in any event -- are we looking at the same
19 one. Oh, my comments may have thrown it off.

20 All right. Anyway, I'm in paragraph
21 four, where it reads "The gaming vendor and
22 gaming licensee shall promptly notify the
23 Commission," that paragraph?

24 CHAIRMAN CROSBY: Nope.

1 COMMISSIONER MACDONALD: Are you
2 talking numeric paragraph four or --

3 MR. BEDROSIAN: You know what, it's the
4 next version.

5 MR. GROSSMAN: Oh, you know what,
6 you're in the clean version there. I'm
7 working off of the marked-up version. So we
8 should also point out --

9 CHAIRMAN CROSBY: We have a marked-up
10 version.

11 MR. GROSSMAN: There's two version of
12 this draft in your packet.

13 MR. BEDROSIAN: Do you have another
14 version behind it?

15 MR. GROSSMAN: That one right there,
16 whoever's flipping that, the one with the
17 green.

18 COMMISSIONER MACDONALD: The one with
19 the green?

20 COMMISSIONER ZUNIGA: What page?

21 COMMISSIONER CAMERON: Oh, the one
22 that's on page five?

23 MR. GROSSMAN: It's page four.

24 MR. BEDROSIAN: Page four.

1 COMMISSIONER CAMERON: Oh, yep.

2 CHAIRMAN CROSBY: I don't think I've
3 got it.

4 COMMISSIONER MACDONALD: The one with
5 the green?

6 COMMISSIONER CAMERON: Yeah. So right
7 after that.

8 MR. GROSSMAN: We were trying to help
9 by putting an additional draft in that was a
10 little cleaner so we won't do that anymore.
11 This is the -- the marked-up version has a lot
12 more colors and strikeouts in it so we thought
13 it would be more difficult to navigate, but
14 we'll give it a shot.

15 So paragraph four here, this one --
16 basically, this paragraph says that if the
17 gaming licensees or gaming manufacturers
18 become aware of a problem with a particular
19 slot machine, that they have an obligation to
20 tell us about it. The language was, at least,
21 arguably unclear. So what we're -- I'm now
22 proposing, is to just modify this language to
23 read as follows:

24 "The gaming vendor and/or gaming

1 licensee shall promptly notify the Commission,
2 if it becomes aware of any negative action
3 taken in another jurisdiction relative to a
4 gaming device that has been delivered to a
5 gaming licensee, or if it becomes aware of an
6 issue that may negatively impact the reporting
7 of revenue, game outcome, or the integrity of
8 such a device." So it basically says the same
9 thing but it's just a little clearer. And I
10 think everyone should be content with that
11 language.

12 Moving on. On page five of this
13 draft, now we get into the actual installation
14 and use of the machine. So it's been -- it's
15 gone through certification, it's been shipped
16 into the Commonwealth, it's at the casino, and
17 now they want to actually use it. And that's
18 when we start talking about in paragraph one
19 here.

20 And the point I would bring to your
21 attention is, we point out here that, at least
22 five days prior notice have to be provided to
23 the Commission, before these devices can be
24 used, and before we will approve them.

1 Again, I'll turn it to over to our
2 folks to offer some comment on that. This was
3 an area that you may have observed, that MGM
4 offered some comment on.

5 MR. BARROGA: So we've created
6 efficiencies. Anytime that the property has
7 placed a request within the NOC, we have met
8 all of Plainridge's requests on time. And
9 coming from the MGM comments, there was
10 concern as far as what the NOC is capable of
11 doing within that given amount of time.

12 With the system, the system is
13 capable of operating 20,000 machines, and we
14 have the staffing to also associate with those
15 20,000 machines. So as we gain more casino
16 properties in the state of Massachusetts, we
17 have more than enough resources to cover all
18 their requests from the casino properties.
19 Whether it's a change request of five machines
20 or a hundred machines with within a day, we
21 can certainly cover that -- cover all bases.

22 And, also, we've -- we've
23 implemented processes to allow for emergency
24 requests. So if the property -- if there's a

1 revocation of software from the MGC, we'll
2 work with each casino property to adhere to
3 their business to allow them to stay compliant
4 with our standards and allow them to conduct
5 their business.

6 MR. GLENNON: So we believe the five
7 days is necessary, in order to make the
8 changes to the CMS, and to plan the use of
9 staff to effectively make the changes. And
10 that the reason why we're requiring a five-day
11 notice, in planning in advance of changes.

12 MR. GROSSMAN: The next point --

13 MR. BEDROSIAN: And I'm sorry, can I
14 just interrupt? To be clear, because I saw
15 this and asked this question, the five-day
16 notice is waivable?

17 MR. GROSSMAN: We do build an exception
18 in here. We say that the Commission may
19 approve a request on shorter notice in
20 exceptional circumstances. So it's expected
21 that we will receive five-day notice, but it's
22 understood that there are certain situations
23 that may arise, where the casino wants to do
24 something, they want to move a machine, they

1 want it install a new machine and it needs to
2 be done tomorrow, and in that case, of course,
3 we will accommodate those requests where
4 possible.

5 COMMISSIONER ZUNIGA: Is that the
6 emergency basis that you just mentioned,
7 Floyd?

8 MR. BARNETT: Correct.

9 COMMISSIONER STEBBINS: Who's the
10 designee that you --

11 CHAIRMAN CROSBY: Who's what?

12 COMMISSIONER CAMERON: Executive
13 Director, I presume?

14 COMMISSIONER STEBBINS: Who's the
15 Commission designee?

16 COMMISSIONER ZUNIGA: The executive
17 director.

18 MR. BEDROSIAN: Me.

19 COMMISSIONER CAMERON: That's what I've
20 thought.

21 MR. BEDROSIAN: And I've heard
22 situations where they have a -- their term is
23 Whale (phonetically), or someone coming in who
24 wants a particular machine in a particular

1 place. And, obviously, if it works within the
2 NOC and our ability to do it, I just want to
3 make sure that we had the flexibility,
4 understanding five days is the standard rule.

5 COMMISSIONER STEBBINS: Right. No, I
6 think that's good.

7 MR. GROSSMAN: The next provision is --

8 CHAIRMAN CROSBY: I've heard -- I've
9 gone through all this with you so I'm going to
10 excuse myself for a second.

11 MR. GROSSMAN: Okay. And we can fast
12 forward here, if that's helpful to anyone. We
13 don't have to go through all this stuff, but
14 it seems interesting to me, anyway.

15 COMMISSIONER CAMERON: No, that's fine.

16 COMMISSIONER STEBBINS: So does lunch.

17 MR. GROSSMAN: Right, right. So --
18 well, we can cut to the end, if you'd like.

19 COMMISSIONER CAMERON: You're going
20 through quickly.

21 MR. GROSSMAN: All right. Right --
22 we'll go to the red paragraph there. It talks
23 about the modification, and there is some
24 language that includes a change of

1 denomination of a machine as a modification.
2 That's in paragraph B, right in all red there.

3 COMMISSIONER MACDONALD: B on page
4 five?

5 COMMISSIONER CAMERON: Page five?

6 MR. GROSSMAN: Page five, yes. That
7 was one of the MGM comments, that we shouldn't
8 include changes of denomination as a
9 modification. Our folks are of the opinion
10 that we should. If we want to get into that a
11 little more, we can.

12 COMMISSIONER ZUNIGA: I think I asked
13 you this question, when I got a briefing on
14 this -- a prior briefing this. But these
15 denomination changes, we see them with some
16 variability, but they don't overwhelm our
17 staff on site or at the NOC, or at the lab; is
18 that a fair statement?

19 MR. BAND: Not on site. Be honest with
20 you, there aren't that many denomination
21 modifications that come across. I would think
22 it would probably be some special
23 circumstances that would cause that to come
24 in, but the majority of these things, maybe

1 90 percent, are not going to involve
2 denomination changes.

3 COMMISSIONER ZUNIGA: And if I remember
4 correctly, it needs to be reflected in our CMS
5 because, when we don't get those figures,
6 there's discrepancies and that ends up
7 resulting in more troubles down the line, so
8 the current setup is what we're going with G.

9 MR. BAND: Yes.

10 MR. GROSSMAN: That one -- the next
11 paragraph down, 2A, I just recognized that we
12 left out the word movement, in the initial
13 list approval -- approval for installation
14 operation movement or modification, so I'd
15 like to just add in the word movement into
16 that list as well, to make it consistent with
17 the rest of the language.

18 Flipping over to page six, this is
19 where we get into the final approval, where we
20 talk about the inspection by the IEB. One of
21 MGM's comments here, it was suggested that,
22 perhaps, we don't need inspections, not for
23 new installations, but for any movements or
24 modifications. And, again, we are of opinion

1 that would be beneficial in some
2 circumstances.

3 So we're proposing some new language
4 here that reads, at the end of that paragraph,
5 "At the election of the IEB, a gaming device
6 may be approved for use without an inspection.
7 And that way, if, for certain garden-variety
8 adjustments, the IEB may elect not to utilize
9 the inspection process. They would still
10 approve it and whatnot. And I think that,
11 that would address the concern that MGM raised
12 in their letter.

13 Just to close that loop, in the next
14 paragraph, we would also need to add language
15 that upon satisfactory completion of the
16 inspection adding in or review by the IEB, and
17 recognizing that there might not be an
18 inspection.

19 So I guess we can -- we can probably
20 flip to page 15. This was the last comment we
21 received. This is a different section, but
22 this is where we discussed what's referred to
23 as the slot machine master list, where the
24 list of all the slot machines inside the

1 casino, both on the gaming floor and in
2 storage and off the premises are maintained.
3 It was suggested that we not require a manual
4 list of the slot machines that are on the
5 gaming floor be submitted to us, because of
6 the functionality of our CMS.

7 And, again, I'd ask -- I turn it
8 over to our staff to explain why it is that we
9 think that that is an important component.

10 MR. BAND: For one, we use it to
11 actually go out on the floor and check what it
12 has. What happens is, sometimes the ACSC
13 entry, which is the casino's system, isn't
14 reflected in what we have on the CMS. We've
15 been given the wrong information or wrong
16 input, so we will do that on a regular basis.

17 I know Floyd uses it on a monthly
18 thing to -- I'll let you cover that.

19 MR. BARROGA: So not only for physical
20 audits on the casino floor, but we also use it
21 to verify the information that the property
22 provides so that we ensure it's identical to
23 each CMS.

24 And not only the -- while yes our

1 CMS displays the live machines at the casino
2 property, the list provided by each casino
3 licensee will also include any machines in
4 storage, any machines, as far as equipment for
5 maintenance on -- on the machines' fourth
6 floor.

7 MR. GLENNON: And I would add that we
8 did take out devices, such as bill validators
9 and printers from that inventory, so it's not
10 necessary for them to provide information on
11 those devices, making the process somewhat
12 easier.

13 MR. BAND: I should add that this list
14 probably takes three minutes to send. It's a
15 click of a couple buttons on your keyboard in
16 ACSC, and they send it to us electronically so
17 they don't have to print anything. It's not
18 that big of a deal, you know.

19 COMMISSIONER ZUNIGA: It's another good
20 form of reconciliation, if we need to.

21 MR. GLENNON: Absolutely.

22 MR. BARROGA: As opposed to a gaming
23 agent going out, physically going out on casino
24 floor and running an audit, we can have that

1 in minutes. So it saves the gaming agent, the
2 casino licensee, literally, hours a month, as
3 opposed to running and curing this report, in
4 minutes.

5 COMMISSIONER ZUNIGA: Sounds good.

6 MR. GROSSMAN: The final comment was
7 sent in, not reflected here, by a keen
8 observer. This is relative to the last
9 sentence on Page 15. This involves the time
10 frame, the five-day time frame that is
11 required prior to shipping slot machine and
12 other devices into the Commonwealth.

13 On further reflection, it appears as
14 though we don't need five-day advanced notice,
15 so I think we would propose reducing that down
16 to one day advance notice, just to give us an
17 opportunity to see what's coming in.

18 COMMISSIONER CAMERON: Okay.

19 MR. GROSSMAN: And with that, unless
20 there are any further comments, I think we've
21 gone through all the points we wanted to make.

22 CHAIRMAN CROSBY: Was there any -- was
23 there any substantial delta between where you
24 ended up in this draft and our licensees? Are

1 there any major issues where you couldn't come
2 to -- I'm seeing shaking heads in the back so
3 that's a good sign.

4 MR. GROSSMAN: Aside from the ones
5 we've pointed out, I think we've attempted --
6 we've attempted to address them. I think the
7 inspection question was a big one. And I
8 mean -- so no. I think the answer to your
9 question is no, I don't think there are any
10 major deltas.

11 This, basically, reflects present
12 practice. That was the initial purpose for
13 reviewing these, was to kind of try to bring
14 the regs into alignment with the best practice
15 we've developed over time. So that's why
16 there probably aren't too many concerns.

17 MR. GLENNON: I would also point out
18 that we eliminated a fee. In eliminating the
19 permitting process, we eliminated a fee in the
20 process, and that was part of the
21 streamlining, so we believe that's a positive
22 for our licensees well.

23 CHAIRMAN CROSBY: Great.

24 COMMISSIONER ZUNIGA: There were a

1 couple of comments from Scientific Games in
2 the packet; did we address them in general,
3 throughout all this?

4 MR. GROSSMAN: We did -- there was one
5 comment, and I don't remember if it made it
6 into the packet, that we've determined should
7 actually be included elsewhere. So it wasn't
8 disregarded. It has to do with
9 electronic-type table games?

10 COMMISSIONER ZUNIGA: Yeah, the hybrid
11 thing?

12 MR. GROSSMAN: The hybrid thing. so
13 that is really, I think, more of a gaming
14 equipment question that we plan to incorporate
15 into the gaming equipment regs that you'll be
16 seeing shortly. There were a number of other
17 comments from Sci Games that we did look at,
18 and I can't remember them offhand. But I know
19 we addressed them, or at least, certainly,
20 considered them.

21 COMMISSIONER ZUNIGA: And remind me,
22 and you may have said this at the beginning,
23 but what stage -- at what stage of the
24 promulgation process are we in; is this final?

1 MR. GROSSMAN: So this is it.

2 COMMISSIONER ZUNIGA: This is final?

3 MR. GROSSMAN: When you are comfortable
4 with the final draft, and I would suggest with
5 some of the adjustments that I've mentioned on
6 the fly here, they are teed up for final
7 adoption. So any motion that may follow
8 should include an approval of the amended
9 small business impact statement as well.

10 CHAIRMAN CROSBY: Is everybody okay
11 with what we have here?

12 COMMISSIONER CAMERON: Yes.

13 CHAIRMAN CROSBY: So someone have a
14 motion?

15 COMMISSIONER MACDONALD: I'll move
16 to -- that we approve the amended -- the
17 regulations in the amended small business
18 impact statement, and the regulations are
19 those at 205 CMR 138.00, 205 CMR 144.00, and
20 205 CMR 1.4500.

21 COMMISSIONER CAMERON: Second.

22 CHAIRMAN CROSBY: Further discussion?
23 All in favor? Aye.

24 MR. MACDONALD: Aye.

1 COMMISSIONER STEBBINS: Aye.

2 COMMISSIONER CAMERON: Aye.

3 COMMISSIONER ZUNIGA: Aye.

4 CHAIRMAN CROSBY: Opposed? The ayes
5 have it unanimously.

6 MR. GROSSMAN: Thank you.

7 MR. GLENNON: Thank you very much,
8 Commissioners.

9 COMMISSIONER CAMERON: Thank all of
10 you. Thanks for working together on this.

11 CHAIRMAN CROSBY: That's a lot of work.
12 Good job.

13 MR. GLENNON: Thank you.

14 MR. BARROGA: Thank you.

15 CHAIRMAN CROSBY: The only thing
16 between us and some food is Commissioner
17 Updates. Does anybody have anything?

18 COMMISSIONER MACDONALD: They better
19 not.

20 CHAIRMAN CROSBY: We had -- we had the
21 on-line gaming commission meeting a couple of
22 days ago, and most people have heard, I think,
23 that Justin and Paul comported themselves with
24 distinction. They did a great job. And I

1 think the Commission -- the legislature is,
2 obviously, still back in the DFS world but
3 understand, now, the points that we're making
4 that, you know, what used to be hot, which is
5 DFS, really isn't anymore. And these things
6 keep changing, and a regulatory environment
7 has to be adaptable to that. And I think
8 there's progress. We've still got many more
9 months to go, many more meetings to go, but I
10 think -- I think the message is getting
11 across. And Paul and Justin did a terrific
12 job in helping the committee pivot from DFS to
13 the broader superset of on-line gaming.

14 COMMISSIONER MACDONALD: And I did ask
15 Justin for a copy of the slide deck, the
16 PowerPoint, and I was very, very impressed,
17 you know, by that. And one of the, I gather,
18 themes of their presentation was that while --
19 parenthetically, while DFS may not be hot, you
20 know, any longer, it's very useful at this
21 point in time on a going-forward basis to
22 provide a kind of template for other kinds of
23 games that are under development or are
24 otherwise, you know, competing for a place in

1 the legitimate marketplace.

2 CHAIRMAN CROSBY: Right. And the other
3 point that I think -- Attorney General Coakley
4 mentioned this, and then Justin and Paul kind
5 of reinforced it, and I tried to too, this is
6 an economic development committee. You know,
7 the committee that chairs this is the chairs
8 of the Joint Committee on Economic Development
9 and Emergent Technologies. And this has the
10 potential, if we can get our act together and
11 really distinguish ourselves by setting up a
12 stable regulatory environment for innovation,
13 then, I think we will encourage people to come
14 here -- and it already fits with our software
15 industry and so on and so forth. So -- and I
16 think that piece is beginning to get across
17 too, so that was good. So it was well done.

18 COMMISSIONER CAMERON: Great.

19 CHAIRMAN CROSBY: Anything else?

20 COMMISSIONER CAMERON: No.

21 CHAIRMAN CROSBY: Do I have a motion?

22 COMMISSIONER ZUNIGA: Move to adjourn.

23 COMMISSIONER MACDONALD: Second.

24 CHAIRMAN CROSBY: All in favor? Aye.

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MR. MACDONALD: Aye.

COMMISSIONER STEBBINS: Aye.

COMMISSIONER CAMERON: Aye.

COMMISSIONER ZUNIGA: Aye.

CHAIRMAN CROSBY: It is unanimous.

(Proceeding adjourned 2:06 p.m.)

1 GUEST SPEAKERS:

2 Mark Nichols, University of Nevada Reno

3 Rachel Volberg PhD, SEIGMA

4 Carl Sottosanti, General Counsel, Penn National

5 Lance George, General Manager, Penn National

6 Bruce Barnett, General Counsel, Suffolk Downs

7

8

9 MASSACHUSETTS GAMING COMMISSION:

10 Catherine Blue, General Counsel

11 Edward Bedrosian, Executive Director

12 Todd Grossman, Deputy General Counsel

13 Bruce Band, Deputy Director, IEB

14 Floyd Barroga, Gaming Technology Manager

15 Derek Lennon, CFAO

16 John Glennon, Chief Information Officer

17 Karen Wells, Director, IEB

18 Michael Sangalang, Digital Communications

19 Coordinator

20 Alex Lightbown, Director an Chief Veterinarian,

21 Racing Division

22 Doug O'Donnell, Sr. Financial Analyst

23

24

C E R T I F I C A T E

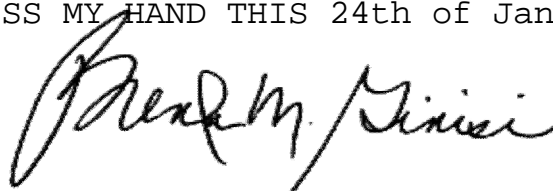
I, Brenda M. Ginisi, Court Reporter, do hereby certify that the foregoing is a true and accurate transcript from the record of the proceedings.

I, Brenda M. Ginisi, further certify that the foregoing is in compliance with the Administrative Office of the Trial Court Directive of Transcript Format.

I, Brenda M. Ginisi, further certify that I neither am counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken and further that I am not financially nor otherwise interested in the outcome of this action.

Proceedings recorded by verbatim means, and transcript produced from computer.

WITNESS MY HAND THIS 24th of January 2017.



BRENDA M. GINISI

My Commission expires:

Notary Public

June 18, 2021