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THE COMMONWEALTH OF MASSACHUSETTS  
MASSACHUSETTS GAMING COMMISSION  
201 PUBLIC HEARING

CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

Lloyd Macdonald

Bruce W. Stebbins

Enrique Zuniga

Gayle Cameron

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October 13, 2016, 10:01 a.m. to 1:21 p.m.

Massachusetts Gaming Commission

101 Federal Street, 12th Floor

Boston, Massachusetts

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PROCEEDINGS

CHAIRMAN CROSBY: We are now calling to order public meeting 2,000 -- Number 201, not 2,001, of the Mass. Gaming Commission on October 13th, at our offices in Boston. First issue, the first topic is the approval of minutes. Commissioner Macdonald.

COMMISSIONER MACDONALD: Yes. With respect the minutes of September 8 of 2016, I move they be approved to subject corrections --

MR. BEDROSIAN: Commissioner, your microphone.

COMMISSIONER MACDONALD: I move to the minutes of September 8th, 2016 be approved subject to corrections, typographical errors, or other nonmaterial matters.

CHAIRMAN CROSBY: Second?

COMMISSIONER CAMERON: Second.

CHAIRMAN CROSBY: Any discussions?  
All in favor? Aye.

COMMISSIONER CAMERON: Aye.

COMMISSIONER MACDONALD: Aye.

1 COMMISSIONER ZUNIGA: Aye.

2 COMMISSIONER STEBBINS: Aye.

3 CHAIRMAN CROSBY: Opposed?

4 The ayes have it anonymously.

5 COMMISSIONER MACDONALD: And as to  
6 the minutes of the September 22nd, 2016  
7 meeting and of the Commission, I similarly  
8 move that they be approved subject to  
9 corrections of typographical errors or other  
10 nonmaterial matters.

11 CHAIRMAN CROSBY: Second?

12 COMMISSIONER CAMERON: Second.

13 COMMISSIONER STEBBINS: Second.

14 CHAIRMAN CROSBY: Any discussion?

15 All in favor? Aye.

16 COMMISSIONER CAMERON: Aye.

17 COMMISSIONER MACDONALD: Aye.

18 COMMISSIONER ZUNIGA: Aye.

19 COMMISSIONER STEBBINS: Aye.

20 CHAIRMAN CROSBY: Opposed?

21 The ayes have it unanimously.

22 Go to Item number 3, administrative  
23 update, Director Bedrosian.

24 MR. BEDROSIAN: Good morning,

1 Commissioners.

2 COMMISSIONER CAMERON: Good  
3 morning.

4 COMMISSIONER MACDONALD: Good  
5 morning.

6 COMMISSIONER ZUNIGA: Good morning.

7 COMMISSIONER STEBBINS: Good  
8 morning.

9 MR. BEDROSIAN: Under my first item  
10 (a.), I have two items, one is that we have a  
11 new employee who joined us in the  
12 investigations. Shara Bedard is present.  
13 She's a paralegal. She started on September  
14 19th. I wasn't present at the last meeting  
15 to introduce her, so we are welcoming her to  
16 our team.

17 CHAIRMAN CROSBY: Welcome.

18 COMMISSIONER CAMERON: Welcome.

19 COMMISSIONER MACDONALD: Welcome.

20 COMMISSIONER ZUNIGA: Welcome.

21 COMMISSIONER STEBBINS: Welcome

22 aboard.

23 MR. BEDROSIAN: The second item is  
24 one just I want to inform you under the

1 Expanded Gaming Act, Section 21 as part of a  
2 license application, our licensees have an  
3 ongoing duty to reinvest a certain amount of  
4 their net proceeds back in their capital  
5 expenditures. We have been calling it sort  
6 of a cap. ex. requirement, and I just wanted  
7 to let you know they are supposed to do that  
8 on a yearly basis.

9 Our current operational licensee,  
10 Penn, indeed has contact with us about that  
11 and contacted me somewhat early on in my  
12 tenure as executive director. Other things  
13 sort of got in the way, but we are fully back  
14 engaged with Penn on that and on what the  
15 statute and the regulations call for, and I  
16 will be working with Penn, with our legal  
17 staff on that. And our other licensees my  
18 comment and get involved just because it may  
19 affect what will happen for them in the  
20 future, but I have a goal of getting that  
21 resolved by the end of the calendar year and  
22 presented before the Commission before then.  
23 But I wanted to let you know they're not  
24 shirking their duty, and we've been in

1 contact with them on that issue.

2 COMMISSIONER CAMERON: Okay.

3 CHAIRMAN CROSBY: Okay.

4 MR. BEDROSIAN: On Item (b.), I'm  
5 going to turn it over --

6 CHAIRMAN CROSBY: Excuse me, is  
7 there anything else in the whole compliance  
8 committee -- I know there's sort of a major  
9 project going on. I'm trying to make sure  
10 that we've got our arms around everything.  
11 Is there anything else to report on or  
12 mention about that whole project?

13 COMMISSIONER ZUNIGA: Well, yeah.  
14 I was about to.

15 MR. BEDROSIAN: As I said, my  
16 segue, Mr. Chairman, I'm going to turn it  
17 over to Commissioner Zuniga.

18 CHAIRMAN CROSBY: Sorry.

19 COMMISSIONER ZUNIGA: Let me take  
20 the stab on the larger, higher level, and you  
21 know, we can answer any questions you may  
22 have or, of course. Director Bedrosian and  
23 Director Lennon can help he out from their  
24 perspective.

1                   A few months ago, we started  
2                   meeting, talking around the topic of three  
3                   major areas of focus that could be summarized  
4                   under this notion of a compliance and  
5                   internal audit group. I want to, just for  
6                   clarification purposes, clarify that this is  
7                   not a committee of the Commission, so it's  
8                   not subject to the open meeting. It's a  
9                   group that I formed as the treasurer, and I  
10                  invited Directors Bedrosian, Counsel Blue,  
11                  Director Lennon, and Karen Wells and others  
12                  to start talking at a high level and on three  
13                  major areas.

14                  One is compliance, both external  
15                  and internal; meaning, what we are required  
16                  to do by statute. That was the internal  
17                  compliance. What we require by regulation,  
18                  what we require by good practice. And  
19                  external meaning what licensees are required  
20                  to do. And there are very, very large -- a  
21                  large number of requirements, license  
22                  conditions, statutory obligations, reports,  
23                  that are due to us. We have been doing them,  
24                  but the general thrust of this group is to

1 start looking at them in a coordinated way.

2 The second area of this group that  
3 is, I believe, a major area of focus is a  
4 risk assessment. We started doing risk  
5 assessment since the first year. Every  
6 agency in the Commonwealth is required to do  
7 a risk assessment usually annually and answer  
8 an internal control questionnaire, among  
9 other things, and it's also a best practice  
10 by any large organization.

11 We've been doing them, in my  
12 opinion, in a way by necessity in a sort of  
13 by department way, residing mostly with  
14 Director Lennon and his shop. I think we are  
15 now in a position where we need to be  
16 thinking about them much more in a  
17 coordinated way and look at areas of risk,  
18 not just internal, which has been the focus  
19 initially, but external now that there's  
20 operations in Penn and forthcoming in the  
21 other two licensees.

22 So the risk assessment, we have a  
23 nice little template. The next steps is for  
24 us to feel them out by department, but



1 discuss them as a group. The template in  
2 general terms identifies the risk and has a  
3 rating, if you will, of how likely that risk  
4 is to occur and the impact of such risk, you  
5 could have a very unlikely to occur risk with  
6 a very unlikely or very minimal impact and  
7 that should be identified, in my opinion, and  
8 then they'll do it in some other way. But  
9 where you have a high impact, high likelihood  
10 risk is where we really need to observe and  
11 consider the current mitigation steps that we  
12 have or the future mitigation processes that  
13 we need to contemplate.

14 So again, the idea is for the group  
15 in coordinated and structured way to look at  
16 risks. I could give you examples, but you  
17 know, I don't want to be talking a lot about  
18 this. We, of course, have a lot of existing  
19 processes that mitigate those risks, but the  
20 idea is as we learn, as we evolve to continue  
21 doing this periodically and always thinking  
22 about what might -- what new risks might  
23 appear and so forth.

24 So I mentioned compliance and risk

1 assessment. The third area of focus is one  
2 that I would just in general call audit. We  
3 need to start thinking about an audit plan.  
4 We have been doing lot of auditing by virtue  
5 of what we have in our financial side and  
6 operations side. We have presence in the  
7 casino, we have the state police, but we need  
8 to be thinking more structured as to what and  
9 how we're going to be doing our annual  
10 audits.

11 I don't mean that in the financial  
12 audit sense. These licensees will be audited  
13 financially. We need to understand those  
14 procedures and those results and those ratios  
15 and that happens quite a bit already. But as  
16 we develop our audit plan, it's important for  
17 us to tackle different areas at different  
18 times and continue to be thinking about our  
19 audit program.

20 So this group is now going to be  
21 meeting monthly, also to ensure and create a  
22 culture of compliance and continuous  
23 improvement. We'll discuss different things  
24 at different times. If a particular area is

1 going to be discussed that includes directors  
2 that don't normally come to these meetings,  
3 they will be invited accordingly. And in the  
4 same sort of fashion, we discussed this  
5 recently, and there's also a good case to be  
6 made to invite a commissioner periodically  
7 with a maximum of two commissioners at a time  
8 because this is not a process that we want to  
9 be violating or subject to the open meeting  
10 law. And I've invited -- you will be coming  
11 to our next meeting, Chairman, if nothing  
12 else to get a little bit more up to speed to  
13 the details of what we're doing.

14 I can answer any questions, ask  
15 Director Bedrosian or Director Lennon to  
16 supplement any of those comments if you think  
17 I missed something that should be  
18 articulated.

19 MR. BEDROSIAN: No. I'd say from  
20 staff's part, the benefit of this and with  
21 Commissioner Zuniga's leadership in staying  
22 on a monthly cycle is it keeps the issue at  
23 the forefront. It exercises that portion of  
24 our brain in thinking about we will

1           constantly be thinking about this and able to  
2           raise these issues hopefully on a timely  
3           basis. Much like a compliance committee for  
4           a public company, I think it's important for  
5           us to stay on top of this.

6                         CHAIRMAN CROSBY: Anybody else?  
7           That's great. I think it's really good that  
8           you've taken this on. This is sort of a  
9           technicality, but the general counsel office  
10          has a list or keeps a list of all the things  
11          in our various agreements and as well as our  
12          statute and everything and filings that have  
13          to be made. Is that within your purview,  
14          Commissioner Zuniga?

15                        COMMISSIONER ZUNIGA: Yeah.  
16          Absolutely. That's within the area of  
17          compliance, both internal and external. They  
18          actually, as you mentioned, have done a lot  
19          of work recently, Carrie and Todd and Cecelia  
20          and others, everybody, in the legal  
21          department in terms of looking at the long  
22          list of statutory regulatory requirements,  
23          all of the license conditions. And you'll  
24          remember, we incorporated as a license

1 condition a lot of the host and surrounding  
2 communities, a lot of -- And indeed, the  
3 licensees have these, we're told, multiple,  
4 multiple column and matrices in which they  
5 are tracking each of these items. Because,  
6 of course, the idea is that with so many  
7 requirements, we don't want to lose track of  
8 anything to be falling through the cracks.

9 CHAIRMAN CROSBY: Do we have some  
10 sort of a mechanism of tracking --

11 COMMISSIONER ZUNIGA: Yes.

12 CHAIRMAN CROSBY: -- each of the  
13 commitments in the host and surrounding  
14 community agreements as well as our own  
15 obligations?

16 COMMISSIONER ZUNIGA: We're  
17 developing that, right. And obviously, the  
18 big area in terms of commitments resides on  
19 the licensees. We corroborate what we have  
20 and how they track things and what they owe  
21 us, but it's important for us to understand  
22 that something is not slipping through the  
23 cracks or nobody's looking at it or it came  
24 in and we haven't acted on it as we need to.

1 That's a big area for us to focus.

2 CHAIRMAN CROSBY: Right.

3 COMMISSIONER ZUNIGA: So again,  
4 it's a process and that's the big idea here  
5 in which in a coordinated way, we understand  
6 what others are doing or not doing, and  
7 there's no risks of falling through the  
8 cracks, if you will.

9 CHAIRMAN CROSBY: Anybody else?  
10 Great.

11 COMMISSIONER CAMERON: Thank you.

12 CHAIRMAN CROSBY: Thank you.

13 COMMISSIONER MACDONALD: I might  
14 just add one thing following up on the two  
15 occasions of my recently having attended  
16 programs out in Las Vegas, University of  
17 Nevada Las Vegas, and then in the G2E  
18 convention and related programs.

19 Amongst the operational issues that  
20 I was most struck by that I hadn't really  
21 focused on before was the anti-money  
22 laundering obligations that our licensees are  
23 under, and this was emphasized in both of  
24 those programs as something that is

1 particularly current in terms of enforcement  
2 on a federal level with the Department of the  
3 Treasury's obligation to enforce the Bank  
4 Secrecy Act. And the federal agency called  
5 FinCEN within the Department of Treasury has  
6 been particularly aggressive recently in  
7 bringing enforcement actions against casinos.  
8 And with the assistance of the legal  
9 department upon my return and inquiring as to  
10 what our current regulations provide in this  
11 regard and in discussing it further with  
12 Director Wells, I've begun to develop some  
13 knowledge of this area, and thanks to  
14 Director Wells, I was placed on an invitation  
15 list for an anti-money laundering program  
16 that's being sponsored at the United States  
17 Attorney's Office in Westover Field out in  
18 the western part of the state tomorrow.

19 So I hope that my knowledge base  
20 will continue to develop here, and I think it  
21 would fold into the subject matter of what  
22 you, Commissioner Zuniga, are doing with  
23 regard to the external focus of your  
24 compliance committee.

1                   CHAIRMAN CROSBY: That's great. I  
2                   didn't know about that. I'm glad to hear  
3                   about that. And when we've been talking, one  
4                   of the reasons for doing this review of our  
5                   regulatory environment is to make sure that  
6                   we're putting our investigative and  
7                   enforcement resources on the right  
8                   priorities, and AML is one of them,  
9                   anti-money laundering is one of them.

10                  That was actually something I was  
11                  going to raise too with Director Wells just  
12                  one on one about what we are doing there. I  
13                  didn't know really know how much we're paying  
14                  attention. It's the big casinos where it's  
15                  really an issue, not so much the little slots  
16                  parlor. So I'm glad to hear that's a  
17                  priority.

18                  COMMISSIONER CAMERON: The IEB team  
19                  will be attending a session tomorrow as well.

20                  CHAIRMAN CROSBY: Right.

21                  COMMISSIONER CAMERON: So they're  
22                  up to date on the latest issues.

23                  CHAIRMAN CROSBY: Great.

24                  COMMISSIONER MACDONALD: Well,



1 she's one of the headliners.

2 COMMISSIONER CAMERON: Yes.

3 COMMISSIONER ZUNIGA: You reminded  
4 me of another area that I would just mention.  
5 It is quite possible that we -- given how  
6 this group evolves that we might need to  
7 designate or even perhaps hire a compliance  
8 officer at some point. Where that person --  
9 you know, how we get to that, we'll see.  
10 We'll get you updates on that, but depending  
11 on how we evolve, structure, and divide some  
12 of the work that we have to do in this area,  
13 we'll have to continue thinking about  
14 resources.

15 CHAIRMAN CROSBY: Things like this  
16 AML conference and our participation in it  
17 would be great things to have if not on your  
18 report, on somebody's report. It came up  
19 sort of inadvertently, but it's apparently  
20 Commissioner -- a couple of the commissioners  
21 knew about it, others didn't. It sounds like  
22 a big deal, something I certainly would be  
23 interested to have known about.

24 MR. BEDROSIAN: Okay. We'll do

1 that.

2 CHAIRMAN CROSBY: Anything else on  
3 (b.)? You're up still.

4 MR. BEDROSIAN: I think (b.) is  
5 over with so I will step up on the Region C  
6 update. I just want to remind the  
7 Commissioners something they've probably seen  
8 and read and heard about themselves.  
9 Obviously, the term Region C can encompass a  
10 lot of things, both the commercial side, the  
11 potential licensing side, and the triable  
12 science.

13 On the commercial licensing side,  
14 obviously, you all know what happened in  
15 Brockton. We're familiar with that. On the  
16 triable side, obviously, there's been a lot  
17 of activity, too. Just to remind the  
18 Commission, on July 28th in a federal court,  
19 Judge Young issued his ruling reversing the  
20 land in trust determination by the federal  
21 government. That July 28th date triggered, I  
22 believe, a 60-day period during which the  
23 federal government had to file an appeal to  
24 the first circuit.

1                   During that time frame on  
2                   August 24th, the Government filed what is  
3                   called a motion for reconsideration basically  
4                   going back to the judge and asking him based  
5                   on various arguments to reconsider his  
6                   decision. The effect of that motion for  
7                   reconsideration tolled that 60-day period,  
8                   and according to the document, Judge Young  
9                   still has that motion for reconsideration  
10                  under advisement.

11                  So hypothetically, if he issued a  
12                  decision and denied the motion for  
13                  reconsideration -- I have no idea what he  
14                  will do -- that will then start the clock  
15                  over, the tolling period. So the balance is  
16                  60 days. In that period, the federal  
17                  government would have to decide formally  
18                  whether to appeal to the circuit.

19                  The other legal action that  
20                  happened this time is the Mashpee tribe filed  
21                  a motion with the judge which he allowed to  
22                  intervene. That then means that they become  
23                  a party to the litigation also subjected them  
24                  potentially -- and I'm not an expert on this

1 -- but to the jurisdiction of the court,  
2 which sometimes can be a big issue in  
3 sovereignty.

4 So that really does leave the  
5 triable scenario a bit in limbo. If  
6 hypothetically the motion for reconsideration  
7 was denied and there was a formal appeal to  
8 the first circuit within the statutory time  
9 frame, you could speculate or I could  
10 speculate or a legal analyst could speculate  
11 that the First Circuit could take anywhere  
12 from eight to nine months to a year to issue  
13 a formal decision. So that does sort of put  
14 that Region C triable aspect into limbo for a  
15 period of time.

16 Could Judge Young reconsider and  
17 change his mind? Of course, he could.  
18 Anything is possible. So that's sort of  
19 the -- You may all know this, but that's sort  
20 of the legal update in terms of the triable  
21 process.

22 CHAIRMAN CROSBY: When Judge  
23 Young's decision first was made, came down,  
24 we talked about it briefly at the next

1 meeting, and we decided at that point  
2 basically to sit tight, I think was the word  
3 we used, while the legal situation played  
4 out. We decided not to do anything further  
5 in terms of like reconsidering whether we  
6 were going to open it up for commercial  
7 applications again, but I wanted to have this  
8 on the agenda just so we had a chance to  
9 think this through.

10 There's some interest in the press  
11 and, obviously, there's a tremendous interest  
12 in Southeastern Mass. about what's going to  
13 happen, and I thought it was important we  
14 rethink it, and are we still comfortable  
15 basically waiting, not doing anything more  
16 than seeing how the legal situation plays  
17 out? Does anybody have thoughts or comments  
18 on that?

19 COMMISSIONER ZUNIGA: You know, I  
20 have a question. I do have a couple of  
21 thoughts, but I have a question first for  
22 clarification. So when is the next milestone  
23 typically?

24 MR. BEDROSIAN: The next milestone

1 will be when the judge issues his decision on  
2 the motion for reconsideration. I would  
3 suggest that's the next milestone when the  
4 judge issues his decision on the motion for  
5 reconsideration.

6 COMMISSIONER ZUNIGA: But we have  
7 no way of knowing how long could it take.

8 MR. BEDROSIAN: I'm going to defer  
9 to someone who's actually practiced in that  
10 area and sat with a robe on, but you don't  
11 know.

12 COMMISSIONER MACDONALD: I don't  
13 think there's any way of being able to  
14 predict that. The entry of the tribe as a  
15 party through the motion to intervene is  
16 actually a very significant development, and  
17 I would anticipate that the Court would be  
18 very attentive to any new perspectives that  
19 the tribe brings to bear here that was not  
20 advanced by the Department of Justice lawyers  
21 who were the ones who ran with the case  
22 beforehand.

23 COMMISSIONER ZUNIGA: I think that  
24 the same -- operating the same way is perhaps

1 even more of a case right now. If the  
2 joining, as the Commissioner states, is  
3 significant, there may be quite a bit to  
4 learn very soon.

5 CHAIRMAN CROSBY: Yes. Basically  
6 prior to the land in trust decision, we spent  
7 a lot of time waiting to find out whether or  
8 not there would be land in trust because that  
9 would inform what else we did or contribute  
10 to informing what else we did. There was  
11 land in trust, and now land in trust is back  
12 at risk, so I think we're back where we were,  
13 which is sort of waiting to see how that  
14 plays out. So I'm certainly comfortable with  
15 that. We're very much in touch with the  
16 tribe to try to stay as current in this as we  
17 can. I talked with German Cromwell to get a  
18 status report when out in Las Vegas at the  
19 conference. Our staffs are in touch all the  
20 time.

21 So we'll do everything we can to  
22 stay as abreast of developments as we can,  
23 but I think we're restating the consensus  
24 that for now, there's nothing more for us to

1 do than to see how the legal situation plays  
2 out. Okay.

3 COMMISSIONER MACDONALD: If I could  
4 add one thing, which perhaps does not need to  
5 be said, but I'll say it anyway. I'm totally  
6 in favor of waiting for the judge's decision  
7 on the motion for reconsideration. I don't  
8 think it gains anything by us doing anything  
9 else affirmatively at this point in time, but  
10 the obvious point is that Region C, which  
11 coincidentally I came from, came and come  
12 from, is one of the most economically  
13 disadvantaged and challenged regions in the  
14 Commonwealth, and while we have been thrilled  
15 to see the incredible economic activity in  
16 Springfield and in Everett which our  
17 licensing decisions have precipitated, that  
18 Region C is dead in the water economically on  
19 this issue.

20 So I hope that once the legal  
21 landscape is further clarified by the judge's  
22 ruling on the motion for reconsideration,  
23 that we diligently respond to the interest of  
24 that region to get the economic and workforce



1 development benefits of operating a casino  
2 there, triable or otherwise.

3 CHAIRMAN CROSBY: Yes. I mean,  
4 that's really important for us not to forget,  
5 you know, and it's worth raising it.

6 Springfield, you know, the casino project,  
7 not just the casino, but the whole casino  
8 project in Springfield seems to be in the  
9 midst of being a really critical factor in  
10 rejuvenating an entire city. And we all know  
11 what's happening in the Everett area. There  
12 are thousands of jobs involved, revenue to  
13 the Commonwealth for Region C under either  
14 scenario, the standalone Indian casino or a  
15 commercial casino, would be 50 to 100 million  
16 dollars a year, probably something like that.

17 So the local benefits are enormous,  
18 as you've just described. The initiative for  
19 getting diverse peoples and companies  
20 involved in economic development are very  
21 substantial and significant, each place where  
22 we have one of these facilities. So there's  
23 absolutely an argument for trying to figure  
24 out how to make something happen in Region C,

1 and I appreciate your bringing that up.

2 That's exactly the tension that  
3 we've been wrestling with all along between  
4 the triable opportunity and the region not  
5 lying fallow for too long.

6 Anything else on that? Okay.

7 MR. BEDROSIAN: For my last item,  
8 Mr. Chairman, I am going to turn it over to  
9 Director Lennon.

10 MR. LENNON: Good morning,  
11 Mr. Chairman and Commissioners.

12 CHAIRMAN CROSBY: Good morning.

13 COMMISSIONER STEBBINS: Good  
14 morning.

15 COMMISSIONER MACDONALD: Good  
16 morning.

17 COMMISSIONER CAMERON: Good  
18 morning.

19 MR. LENNON: I just wanted to back  
20 up to Item (b.) for a quick comment on how  
21 important it is that this compliance  
22 committee came together, and it's actually  
23 sitting under the Commission. Originally, it  
24 was parsed out in different areas, and we had

1 consultants come in, take a look at it, and  
2 say it was ripe for change and ripe for  
3 problems.

4 So we had a day with senior staff,  
5 and Commissioner Zuniga lead it, and the fact  
6 that it's sitting under the leadership of  
7 Commissioner Zuniga and Director Bedrosian  
8 made sure that staff are engaged is just a  
9 huge, huge success for us, especially in such  
10 a young agency.

11 You get -- this usually happens  
12 seven, eight years down the line when  
13 something blows up. We're doing it in a  
14 proactive manner. And we get a baseline  
15 started, but then you can kind of -- you're  
16 going to have things slip through, as  
17 Commissioner pointed out and Director  
18 Bedrosian pointed out, but there are so many  
19 things in these licenses and so many  
20 commitments that were made, the small things  
21 jump through, but to have the baseline and  
22 then keep adding those little things that  
23 come up is very important. So I just want to  
24 stress how big of a deal that is.

1 CHAIRMAN CROSBY: Great.

2 MR. LENNON: And now on to this  
3 issue. I'm here to discuss the memo in your  
4 packet titled Wynn approved slot machines and  
5 gaming positions. I'll try to summarize the  
6 memo so we can get to any talking points or  
7 concerns you may have.

8 Just for reference, the  
9 Massachusetts Gaming Commission regulatory  
10 control budget is derived from a combination  
11 of reimbursements for investigative costs per  
12 slot machine annual fees, licensing division  
13 fees, and assessment on each licensee for its  
14 proportional share of the difference between  
15 the Commission's anticipated expenditures and  
16 the aforementioned revenues.

17 Chapter 23K Section 56(a) through  
18 (c) provides a statutory authority for MGC to  
19 fund its annual cost, and this chapter was  
20 further defined and implemented through 205  
21 CMR 121.

22 The MGC approved an annual budget  
23 that required an assessment of 22.39 million  
24 in slot machine fees and 4.52 million which

1 left an approximately \$200,000 gap which  
2 licensing fees filled in.

3 Licensees' annual fees for the slot  
4 machines are based on a \$600 per approved  
5 machine cost, and licensees' annual share of  
6 the assessment is based on their approved  
7 gaming position proportional to the total  
8 number of gaming positions.

9 The Region A licensee Wynn Resorts  
10 submitted payment for a slots fee which was  
11 229,000 less than it was billed. Its  
12 rationale for changes in the amount was based  
13 on the design of the floor changing from the  
14 initial application to the current stage of  
15 design.

16 Changes in slot machines and gaming  
17 positions, in my opinion, require Commission  
18 approval. On March 19th, 2015, the first  
19 report I gave that required additional  
20 billings and assessments on licensees, I  
21 recommended in the memo and it's included in  
22 the packet an excerpt from it, that gaming  
23 positions remain constant until an operations  
24 certificate is approved by the Commission,

1 and then the operations team would take over  
2 changing those games and approving those  
3 gaming position.

4 This recommendation has been in  
5 practice since that date and was utilized to  
6 derived the slot machine totals as well as  
7 the gaming position totals for the fiscal  
8 years '15, '16, and '17 budgets.

9 Since the gaming control budget is  
10 mainly funded through the slot machine fee  
11 and assessment fee, a decrease in one would  
12 need to be offset by an increase in the  
13 other, thus the assessment would increase  
14 from \$22.39 million to \$22.26 million if this  
15 were to go to through. However, the  
16 assessment is allocated across licensees  
17 which is different than how the slot machine  
18 is. The slot machine is directly to each  
19 licensee based on the number of slot  
20 machines.

21 The impact of decreasing the slot  
22 machines count in Wynn's case by 382 machines  
23 and only increasing the number of gaming  
24 positions by 32 would result in Wynn Resorts

1 paying \$81,500 less approximately than they  
2 were initially anticipated to. That 81,500  
3 would be picked up by Wynn and MGM with --

4 COMMISSIONER ZUNIGA: Penn and MGM,  
5 you mean.

6 MR. LENNON: Penn and MGM, yes.  
7 With Penn taking twenty-two point six  
8 thousand of it and MGM taking on fifty-eight  
9 point nine thousand of it.

10 I recommend that Wynn Resorts make  
11 a formal request to this Commission to change  
12 their plan rather than me just accepting that  
13 money moving forward and sending out  
14 additional bills to the licensee if that is  
15 how the Commission wants to move forward.  
16 There are positives and negatives to each.  
17 We can discuss those positives and negatives.  
18 We decided at the beginning that we would try  
19 keep it constant so we weren't constantly  
20 shifting money around and having the  
21 licensees have to change their approvals and  
22 what they anticipate budget. It gave them  
23 some flexibility. But there's also the other  
24 side of it. I'm hearing from Wynn that our

1 floor has changed. We shouldn't be paying on  
2 the higher amount, and it's at a substantial  
3 point right now where we don't think it's  
4 going to change again.

5 CHAIRMAN CROSBY: Where we don't  
6 think what's going to change?

7 MR. LENNON: Their floor  
8 composition. So number of table games and  
9 that's what I heard from the CFO.

10 CHAIRMAN CROSBY: Okay.  
11 Discussion?

12 COMMISSIONER CAMERON: So your  
13 recommendation is to?

14 MR. LENNON: Have them come forward  
15 and make a pitch to you.

16 COMMISSIONER CAMERON: Yes. And I  
17 think that makes perfect sense.

18 COMMISSIONER ZUNIGA: I think, if I  
19 may, just further comment on Director  
20 Lennon's remarks. It's important to try to  
21 fix to a point, and the best fix per  
22 regulation was to what was approved by the  
23 Commission, because there will be variability  
24 between what they might want to do on the



1 floor from time to time, even when they open.

2 So we don't want to create the  
3 perhaps reverse incentive to lower them down  
4 in theory so that they could save money,  
5 however little or whatever the amount, and  
6 then change them back, you know, as they  
7 become, you know, closer to opening time for  
8 example.

9 CHAIRMAN CROSBY: So that suggests  
10 that if they did come in and make a  
11 presentation, you would be inclined not to  
12 permit it?

13 COMMISSIONER ZUNIGA: No. No. No,  
14 I wouldn't. You know, one way or another, I  
15 mean, I would ask questions as to what  
16 prompted their revision perhaps, but without  
17 the approval, there's a little bit high risk  
18 for anybody to start saying now we're  
19 thinking more machine, less machines. Or now  
20 MGM revised their floor based on what Wynn  
21 said so they could offset certain costs, and  
22 we really don't want that.

23 So I think the recommendation is  
24 very solid, see, you know -- I recognize that

1 the number of machines change from time to  
2 time as their business evolves and as the  
3 drawings get better ironed out and so on and  
4 so forth. And you know, just in recognition  
5 of that, have them come, and if we agree with  
6 the approval, that's the new number as  
7 opposed to letting them just change it.

8 COMMISSIONER CAMERON: And it's not  
9 an onerous process.

10 COMMISSIONER ZUNIGA: It's not.

11 MR. BEDROSIAN: The one thing I  
12 might add is we went -- I think we went  
13 through a fairly rigorous budgeting process,  
14 Director Lennon, myself, many of the  
15 Commissioners. This is certainly a variable  
16 that if we knew was subject to fluctuation  
17 before our budgeting process, we might say to  
18 the licensee, look, if you're going to seek a  
19 different approval, try and do that before  
20 our budgeting process because they're now  
21 collateral consequences.

22 And I'm not prejudging what the  
23 outcome here should be, but I do endorse the  
24 fact that the practice and the procedure

1 should be come before the Commission, explain  
2 the rationale, and then the Commission can  
3 totally accept it or not accept it, but there  
4 are collateral budgeting consequences of  
5 either we cut our budget or we assess our  
6 other licensees a different amount.

7 So maybe in the future we can also  
8 have discussion about talking to our  
9 licensees during our budgeting process about  
10 fixing that variable. If you're going to  
11 change this, let's figure it out now before  
12 we do our next fiscal year budget.

13 COMMISSIONER ZUNIGA: Absolutely.

14 MR. LENNON: And that is how we're  
15 doing it with Penn. We snapshot them right  
16 before July 1st and that's what we used for  
17 their gaming positions. So as you know,  
18 they're approved, even though they only have  
19 1,250 slot machines, they're approved for up  
20 to 1,500 seats. They're only using 1,383.  
21 That was what was approved for their  
22 operations certificate at the time of the  
23 budget, so that's what we snapshot them with.  
24 If they go up or down, we don't let them

1 change their piece of the assessment. So  
2 that would be a good rule to put in place.

3 CHAIRMAN CROSBY: They're assessed  
4 on the 1,358 as opposed to the 12?

5 MR. LENNON: 1,383, yeah. Because  
6 that's how many they're using.

7 CHAIRMAN CROSBY: Okay. So I  
8 thought they were assessed on the machines,  
9 not on the seats.

10 MR. LENNON: No. The machine is  
11 \$600 slot fee.

12 CHAIRMAN CROSBY: Right.

13 MR. LENNON: The assessment is on  
14 gaming.

15 CHAIRMAN CROSBY: Oh. I'm sorry.  
16 Okay. Right. Got it. The only -- it seems  
17 absolutely clear to me that there should be a  
18 process for changing your number of -- you  
19 know, you shouldn't just willy-nilly be able  
20 to send in a handwritten note saying, sorry,  
21 we're changing. That seems clear to me.  
22 What I'm not clear on is exactly how we avoid  
23 -- so the playing, gaming system.

24 If I were MGM, I might very well

1           decide now that, well, I don't think I'm  
2           going to have quite as many either and get  
3           back to where I was. What are we supposed to  
4           say, yes or no? Maybe should we think about  
5           saying yes between the time you make your  
6           application and we sign off on your number of  
7           machines and the time you open, you can  
8           change once or something like that. And not  
9           -- so we don't run the possibility of having  
10          people, you know, gaming the system.

11                        COMMISSIONER ZUNIGA: I think  
12           that's one of those we'll recognize it if the  
13           trend --

14                        CHAIRMAN CROSBY: If it happens.

15                        COMMISSIONER ZUNIGA: If it  
16           happens, if there's enough of a trend. You  
17           know, I think context explains a lot. Wynn  
18           is just going through the design development  
19           that we all expected and, you know, was  
20           talked in one of these conference calls about  
21           how they're rethinking their business bubble  
22           and the nominations of the machines and  
23           having less at times.

24                        So if it happened every so often,

1           you know, and we see it always trending down,  
2           you know, it could easily be one area of  
3           asking them when they come for that approval  
4           what is it that's changing.

5                       MR. BEDROSIAN: Yes. And I am  
6           assuming a level of, first, good faith, and  
7           second, the fact that they will have an  
8           ongoing regulatory relationship with the  
9           Commission.

10                      CHAIRMAN CROSBY: Right.

11                      MR. BEDROSIAN: And it's really not  
12           in the long-term best interest to sort of  
13           game the system.

14                      COMMISSIONER STEBBINS: No. I  
15           agree with Derek's approach. I'm also  
16           mindful that both of our Category 1 licensees  
17           are looking at every dollar until they  
18           actually open their doors and that's been  
19           made clear as we've gone through the  
20           budgeting process. But just looking at the  
21           numbers, there's significant savings that we  
22           accrued last year that became a credit to  
23           them.

24                      So I mean, we're helping them out,

1 I would like to think, on both ways. I like  
2 the approach, coming back to us and  
3 explaining as opposed -- You know, that would  
4 be me telling the energy company that I don't  
5 want to pay the full bill.

6 COMMISSIONER CAMERON: And we're  
7 also looking at a changing industry. Just  
8 being out in Las Vegas for a couple of days,  
9 you realize just how much change is  
10 happening, so they need to anticipate that.  
11 A couple of years from now, frankly, it will  
12 be changed.

13 CHAIRMAN CROSBY: That's why I was  
14 wondering whether we would want to have a  
15 series of changes or should we say you have  
16 to wait until six months before you open or  
17 something when you really know.

18 I agree with you. The likelihood  
19 that the world will change maybe dramatically  
20 in terms of skill-based games or e-sports  
21 theaters or whatever between now and the time  
22 they open could very well in good faith put  
23 back to another position of change. That's  
24 sort of what I was getting at.

1                   But I think your point is right,  
2                   that we'll know if we're being played. So  
3                   I'm okay with that. Let me make sure I -- So  
4                   how many gaming positions do we assign to  
5                   each table game?

6                   COMMISSIONER ZUNIGA: It depends on  
7                   the table.

8                   MR. LENNON: So the way we did it,  
9                   and it's the same way HLT did it in their  
10                  assessment. We initially assigned six. I  
11                  think Wynn has come back with some more  
12                  refined numbers, whether it may not add up  
13                  perfectly to the six. But that was a  
14                  footnote I've had and I had with each one of  
15                  it.

16                  Table games, if you look at the  
17                  first tab on the first chart on page 2, table  
18                  gaming positions, slots are derived by using  
19                  the HLT figure games, proposed for estimating  
20                  gaming positions from table games to  
21                  multiplier of six for each game is used.  
22                  It's in the fine print.

23                  CHAIRMAN CROSBY: This is really  
24                  just -- I'm sure I'm reading this wrong. But



1 on page 2 of your memo where the charts  
2 are --

3 MR. LENNON: Yes.

4 CHAIRMAN CROSBY: -- under the F17,  
5 FY17 revised assessment, the last column,  
6 change, looks like MGM goes up 58, Wynn goes  
7 up 147, and Penn goes up 22.

8 MR. LENNON: Correct. But that 147  
9 is offset by the decrease of 229.

10 CHAIRMAN CROSBY: Okay. So this is  
11 --

12 MR. BEDROSIAN: That's the  
13 reassessment.

14 MR. LENNON: That's the additional  
15 229, and who gets what share of that 229.

16 CHAIRMAN CROSBY: That's just the  
17 assessment, not the table game assessment.

18 MR. LENNON: Yeah.

19 CHAIRMAN CROSBY: I mean not the  
20 slot machine assessment.

21 MR. LENNON: Correct.

22 CHAIRMAN CROSBY: Okay. Got it. I  
23 see. Yeah. Right. So do we need a vote on  
24 this?

1 MR. BEDROSIAN: I don't think so.  
2 I think we understand that the Commission  
3 would want us to have Wynn come in and  
4 explain.

5 COMMISSIONER ZUNIGA: And seek  
6 approval.

7 MR. BEDROSIAN: Yes.

8 MR. LENNON: And they're willing to  
9 do that.

10 CHAIRMAN CROSBY: Great. Is that  
11 all for you?

12 MR. BEDROSIAN: Yes, it is. Thank  
13 you very much.

14 COMMISSIONER CAMERON:

15 CHAIRMAN CROSBY: Thank you.

16 COMMISSIONER ZUNIGA: Thank you.

17 CHAIRMAN CROSBY: Ombudsman Ziemba.

18 MR. ZIEMBA: Thank you,  
19 Mr. Chairman. Chairman and Commissioners,  
20 earlier this year we announced the community  
21 mitigation fund awards pursuant to the 2000  
22 --

23 (Is your mic on?)

24 MR. ZIEMBA: It sounds it. Nope.

1           That is sort of green.

2                       COMMISSIONER STEBBINS: I could  
3           hear you.

4                       MR. ZIEMBA: As I was saying, so  
5           earlier this year, we announced the awards  
6           based on the 2016 community mitigation fund  
7           guidelines. The item before you today is the  
8           beginning of the process for approving the  
9           guidelines for the 2017 community mitigation  
10          fund program. And by statute, applications  
11          by communities and other governmental  
12          entities are due to the Commission no later  
13          than February 1st of each year. In order to  
14          give communities time to put together their  
15          applications, we plan to issue the final  
16          guidelines for the 2017 program no later than  
17          the beginning of December. That would give  
18          applicants approximately two months to put  
19          together applications after the final  
20          guidelines have been issued. Applicants can  
21          also use the period between now and the  
22          issuance of the guidelines to determine what  
23          applications they may file.

24                       It's possible that we may not need

1 to make dramatic changes to the guidelines  
2 for next year. The largest change to our  
3 guidelines may be warranted when your  
4 Category 1 facilities are operational and  
5 potentially causing operational impacts.  
6 We're a little under two years from the  
7 projected opening date from MGM Springfield,  
8 and over two and a half years for the  
9 projected opening date for the Wynn Boston  
10 Harbor facility. The schedule for the  
11 potential triable facility remains unclear at  
12 this point as noted earlier.

13 In order to solicit input and  
14 advise on these guidelines in advance of  
15 their issuance, we are reconvening meetings  
16 of the local community mitigation advisory  
17 committees and plan to convened meetings of  
18 the subcommittee and community mitigation all  
19 under the auspices of the gaming policy  
20 committee.

21 These committees include appointees  
22 of the host and surrounding communities  
23 regional planning agencies, the Massachusetts  
24 Municipal Association, the

1 Department of Revenue Division of Local  
2 Services, and others who will be able to  
3 provide valuable advice to the Commission.  
4 We're planning to have two meetings each of  
5 the local community mitigation advisory  
6 committees and two meetings of the  
7 subcommittees prior the issuance of the  
8 guidelines.

9 In order to make these meetings as  
10 useful as possible, we recommend that we  
11 develop a list of items that these committees  
12 would discuss. In your packets, we have  
13 included a list of some of the questions that  
14 the Commission has had and staff have had  
15 about the community mitigation fund over this  
16 past year. In addition to the questions that  
17 we have listed, it is very likely that the  
18 participants at these meetings will have  
19 their own items for discussion.

20 My goal for today is to understand  
21 if there are additional questions that the  
22 Commission would like to explore as we  
23 develop the guidelines for the 2017 program  
24 or if the Commission would like to add,

1 delete, or change any question on the list.  
2 We anticipate coming before the Commission at  
3 least twice more on these guidelines by the  
4 beginning of December, once to report back on  
5 the input we have received and to get  
6 approval of a working draft and once to  
7 finalize such guidelines.

8 Today is designed just to get  
9 consensus on a list of questions which, as  
10 noted, will likely grow and change as those  
11 local discussions continue. We do not  
12 anticipate trying to answer any of these  
13 questions today. But with that, I welcome  
14 any questions you may have about any  
15 particular item on the list or any comment  
16 you may have further discussing any of these  
17 particular items.

18 COMMISSIONER STEBBINS: John, just  
19 from my review looking at some of the  
20 questions you put out there for discussion,  
21 some of those have emanated from what we saw  
22 on the FY2016 round. In particular, I note  
23 some are actually related to questions,  
24 discrepancies that arose from the

1 applications that we got in 2016.

2 So I think they're a good starting  
3 point and a good discussion point for the  
4 local community mitigation folks to address.

5 Just for information purposes, I  
6 asked that John include Question No. 12, a  
7 question I helped formulate with Director  
8 Griffin's assistance and some of our  
9 workforce stakeholders. This is specifically  
10 designed just to put the question out there  
11 again to start the conversation on  
12 constraints and programs that help folks  
13 either obtain a GED or high set or work  
14 readiness credential and in looking at some  
15 of how those programs might be impacted by  
16 the opening of either MGM or Wynn Casino in  
17 Everett. Again, more of a discussion starter  
18 and seeing what folks at the local level,  
19 what their viewpoints on that might be.

20 COMMISSIONER CAMERON: I was  
21 wondering why there was no background on that  
22 question.

23 COMMISSIONER STEBBINS: John didn't  
24 ask me for background. That's the

1 background.

2 CHAIRMAN CROSBY: Anybody else?

3 COMMISSIONER MACDONALD: I would  
4 just say that I have begun to, you know, work  
5 with John on the largest subject matter of  
6 mitigation and I reviewed this. He provided  
7 this list of -- this draft list of questions  
8 to me, and I had a chance to review it and  
9 did not have any independent suggestions for  
10 changes.

11 CHAIRMAN CROSBY: It's clear this  
12 is just a discussion point, right, not only  
13 just for us but also for the LMATs.

14 MR. ZIEMBA: That's rights.

15 CHAIRMAN CROSBY: There's no  
16 constraints on them. They come up with  
17 whatever questions they want.

18 MR. ZIEMBA: That's correct.

19 CHAIRMAN CROSBY: This is just to  
20 stimulate. I think you're doing a great job,  
21 John, on trying to organize these committees.  
22 It's hard for a lot of reasons that we know  
23 about, but our wish has been to try to make  
24 these committees real, and you're really



1           doing that which is great. I really  
2           appreciate it.

3                       MR. ZIEMBA: By biggest concern is  
4           I just hope I can get a quorum for these  
5           meetings.

6                       CHAIRMAN CROSBY: I know.

7                       MR. ZIEMBA: One of the  
8           difficulties when the statute was written, it  
9           anticipated a lot of different things, three  
10          regions, et cetera. And so when you're  
11          counting heads, it's difficult to get enough  
12          bodies at a meeting to legally meet.

13                      CHAIRMAN CROSBY: I know. But  
14          you've done everything in your power to try  
15          to do that. You've been incredible, so thank  
16          you.

17                      COMMISSIONER ZUNIGA: I agree with  
18          that, and I think it's a great process to  
19          first have us think through the big policy  
20          questions and then come back with a revision  
21          of the guidelines and so on after the input  
22          from local mitigation committees, et cetera.

23                      One question that occurred to me  
24          that I don't know is very explicit here is

1 something we have effectively not done, but  
2 we could ask ourselves in terms of policy  
3 whether we should limit or create a path by  
4 region in this area of -- specifically for  
5 this period in which we have a set pool of  
6 money that can -- that has to last us until  
7 the first casino Category 1 operates. And I  
8 say that with a very big wild card which is  
9 obviously Region C. What transpires there,  
10 and we had just had a good discussion as to  
11 the uncertainty of that region, is very much  
12 in a state of flux.

13 And so I just want to put that as a  
14 question. In my mind, there's a bigger case  
15 to be made once we become -- once these  
16 properties become operational to think about  
17 the notion of moneys that come from that  
18 region for that region in a proportional way.  
19 But it is during this period that we gave  
20 ourselves conditionally the flexibility to  
21 not do that because there were so many  
22 unanswered questions and that may still be  
23 the case, but I wanted to throw it out there  
24 as a policy question.

1                   CHAIRMAN CROSBY: We have sort of  
2 talked about that in various ways. I think  
3 that is really important. I can imagine it's  
4 going to be hard for local committees to talk  
5 about doing anything more than -- but then  
6 letting another region get more than their  
7 pro rata share, but still, I think it's a  
8 important topic.

9                   COMMISSIONER ZUNIGA: But we don't  
10 want to create a race, right, that the first  
11 ones to get there get money. Because  
12 there's -- And that's a reason for us to  
13 consider that.

14                  CHAIRMAN CROSBY: It's also hard to  
15 remember for us as -- I mean, that happens  
16 with every one of our bits of work. This is  
17 a long, long game. You know, we're in Day 1,  
18 and they aren't even open yet. There will be  
19 commissioners sitting here in 15 years  
20 talking about what to do with the community  
21 mitigation fund that each year is probably  
22 going to have \$15 or \$20 million in it.

23                         So you know, we want to try to  
24 member to try to help us and everybody else

1 think long term. You know, this isn't just  
2 about today's bucket. It's trying to set  
3 thoughtful standards that will fit for the  
4 long haul here.

5 COMMISSIONER CAMERON: And creating  
6 this record will be very helpful. I mean,  
7 this is very helpful, John. Just reading the  
8 background just jogs your memory as to why  
9 these questions and what has been done to  
10 date. So I find this to be very helpful, and  
11 I agree that you do a tremendous job with the  
12 committee work.

13 MR. ZIEMBA: Thank you.

14 COMMISSIONER CAMERON: Having one  
15 in particular that we worked together,  
16 excellent work. So I just want to commend  
17 you for that. And this is really a good  
18 process and just helps you understand why we  
19 make decisions. Because it is hard from  
20 three years ago sometimes to say, what was  
21 the background there? So thank you for that.

22 MR. ZIEMBA: Mr. Chairman, great  
23 point. One of the things that we try to  
24 impress upon our members is that the program

1 is probably not going to be perfect in the  
2 first year, but we're going to have maybe  
3 18 years or if we revise this program and  
4 extend these licenses 30 years to get things  
5 right. So we'll take hopefully some big  
6 steps now and fix things as we go along and  
7 adapt things as we go along. But we try to  
8 make mention to the members that, hey, let's  
9 all work on this together in the long haul.  
10 And hopefully that's the approach we can  
11 take.

12 CHAIRMAN CROSBY: I have just a  
13 couple of informational questions on the  
14 mitigation fund guidelines. On page 3, you  
15 start the list of everybody who got the  
16 reserves. Do they all still have all their  
17 reserves except for the one, West  
18 Springfield?

19 MR. ZIEMBA: No. As part of the  
20 process that we awarded this past year, we  
21 allocated other reserves, for example. We  
22 had a couple of requests for reserves. We  
23 had one from Lynn. They asked for  
24 transportation studies, and so we have

1 allocated the reserve for transportation  
2 studies. Chelsea asked for a -- So this was  
3 actually at the time. This was the 2016  
4 guidelines that we had and since that time --

5 CHAIRMAN CROSBY: Oh, I see.

6 MR. ZIEMBA: -- we've made since  
7 awards. So this is where it was last  
8 December.

9 CHAIRMAN CROSBY: Got it. I  
10 couldn't understand that. And then on  
11 page 4, your question is can you use the  
12 reserve and apply it -- can a community apply  
13 for a use of the reserve even if it had --  
14 for a special impact even if it hasn't used  
15 its reserve. And the answer is yes, but  
16 we'll use 50 of the reserve first essentially  
17 for a specific impact. I don't remember  
18 where that came from. How did we come to  
19 that?

20 MR. ZIEMBA: So at issue there,  
21 what we're trying to do is not have reserves  
22 languish and just sit up there, and then  
23 communities would apply for the annual  
24 funding rounds and say, for example, hey, I

1 would like to use my -- I'd like to apply for  
2 \$100,000 for this specific impact, but I'm  
3 going to keep the reserve out here and not  
4 utilize it.

5 So what we came to a determination  
6 is that if somebody applied for a specific  
7 impact, we would take half of the reserve and  
8 apply that to the specific impact, but we  
9 would try to leave half there for planning  
10 purposes so that the communities would have  
11 some of these dollars to plan, because  
12 there's no other place in our guidelines for  
13 planning.

14 And actually Mr. Chairman, that's a  
15 very good point. Some of these communities  
16 have already utilized their full reserves, so  
17 there is no money for sort of general  
18 planning. We created the transportation  
19 planning grants last year noting that that is  
20 the primary area that people want to plan,  
21 but some of these communities have now  
22 utilized their full reserves for other  
23 purposes.

24 CHAIRMAN CROSBY: But the -- where

1 is that other tab? But the transportation  
2 planning grants are in addition to the  
3 reserves or does that have to come out?

4 MR. ZIEMBA: That's exactly right.  
5 So on those, we had a rule last year that  
6 said if you are applying for a transportation  
7 planning grant, which is a planning activity,  
8 a hundred percent of your reserves would have  
9 to be utilized towards that planning  
10 activity.

11 CHAIRMAN CROSBY: If your reserve  
12 is gone, you can still apply for a  
13 transportation grant?

14 MR. ZIEMBA: Exactly. Yeah.

15 CHAIRMAN CROSBY: So there is  
16 planning grants, but only for transportation  
17 at this stage in the game.

18 MR. ZIEMBA: Exactly right. For  
19 those communities that have used their  
20 reserves.

21 CHAIRMAN CROSBY: Right. Got it.

22 COMMISSIONER STEBBINS: John, do  
23 you need Jill and I to help you fill in the  
24 background section under my question so the



1 document can be shared?

2 MR. ZIEMBA: Yeah. We can  
3 certainly amend that.

4 COMMISSIONER STEBBINS: Something  
5 beyond what I just espoused here this  
6 morning.

7 CHAIRMAN CROSBY: Just lift it out  
8 of the transcript.

9 COMMISSIONER STEBBINS: That may  
10 not be appropriate.

11 MR. ZIEMBA: So I will add the  
12 question about the regional split to this  
13 list and further background.

14 CHAIRMAN CROSBY: Yes. Anything  
15 else for Item 4(a.), Ombudsman Ziemba? All  
16 right. We're all set.

17 MR. ZIEMBA: Thank you.

18 CHAIRMAN CROSBY: We're going to  
19 Item Number 5. This may take a while. Why  
20 don't we take a break. I need to get  
21 something I forgot upstairs, so we'll be back  
22 in a few minutes.

23 (Break taken.)

24 CHAIRMAN CROSBY: All right. We

1 are reconvening public meeting number 201 at  
2 about 11:10. Next item is Racing Division,  
3 Director Lightbown.

4 DR. LIGHTBOWN: Good morning,  
5 Commissioners.

6 CHAIRMAN CROSBY: Good morning.

7 COMMISSIONER MACDONALD: Good  
8 morning.

9 COMMISSIONER STEBBINS: Good  
10 morning.

11 COMMISSIONER CAMERON: Good  
12 morning.

13 COMMISSIONER ZUNIGA: Good morning.

14 DR. LIGHTBOWN: Doug O'Donnell, our  
15 senior financial analyst will start with Item  
16 (b.)

17 MR. O'DONNELL: Good morning,  
18 Commission.

19 CHAIRMAN CROSBY: Good morning.

20 COMMISSIONER MACDONALD: Good  
21 morning.

22 COMMISSIONER STEBBINS: Good  
23 morning.

24 COMMISSIONER CAMERON: Good

1 morning.

2 COMMISSIONER ZUNIGA: Good morning.

3 MR. O'DONNELL: I am in front of  
4 you to present a request for consideration  
5 from Suffolk Downs capital improvement trust  
6 fund. These projects were performed back in  
7 2013 and are a total of 20 projects. We will  
8 need your approval on these. The total  
9 request for this is \$365,619.19. This is  
10 changed from what is on the memo. Someone  
11 that is very close in watching these capital  
12 improvement trust funds alerted me this  
13 morning there was a discrepancy on Number 7.  
14 The architects submitted a letter stating it  
15 was \$1,930 when in actuality the invoice was  
16 for \$1,920. So the total amount --

17 CHAIRMAN CROSBY: I've got to ask  
18 you, who picked that up, Doug?

19 MR. O'DONNELL: You really want to  
20 know?

21 CHAIRMAN CROSBY: Yeah.

22 COMMISSIONER STEBBINS: Careful,  
23 Doug. Careful, Doug.

24 MR. O'DONNELL: Someone up on the

1 table. We'll leave it at that.

2 CHAIRMAN CROSBY: Unbelievable.

3 MR. O'DONNELL: He's good. I  
4 received an e-mail this morning at about  
5 7:00 a.m. regarding that.

6 CHAIRMAN CROSBY: I looked at this  
7 88 pages of invoices and said I'm not  
8 touching it. I think there's somebody else  
9 who will do it for me.

10 MR. O'DONNELL: Well, someone did.

11 CHAIRMAN CROSBY: All right. Good  
12 job.

13 MR. O'DONNELL: So we will need  
14 your approval on that. And just to let you  
15 know, currently, there is in the capital  
16 improvement trust fund, there is \$900,757.04.  
17 With this RFC going in, it'll be a total this  
18 year of \$565,738 which will leave a balance  
19 of \$335,019. Last year, the capital  
20 improvement trust fund at Suffolk, they had  
21 \$604,077 in. And the year to date this year,  
22 the capital improvement trust fund has  
23 \$503,792.

24 CHAIRMAN CROSBY: Questions?

1                   COMMISSIONER ZUNIGA: Doug, could  
2 you just remind me what kind of review we and  
3 the architect do for the following. And some  
4 of these projects go back to 2013.

5                   MR. O'DONNELL: Correct.

6                   COMMISSIONER ZUNIGA: And you're  
7 here often asking for these kinds of  
8 approvals for projects, you know, 2015 and  
9 et cetera. What might be the likelihood be  
10 that we've already approved a project like  
11 this before?

12                   CHAIRMAN CROSBY: We're double  
13 paying.

14                   COMMISSIONER ZUNIGA: And we're  
15 double paying, that we're not double paying.

16                   MR. O'DONNELL: These come in to  
17 the -- the architect goes out and he  
18 physically visits the plant as the request  
19 for consideration as to what's going to be  
20 done. He reviews it and he approves it and  
21 submits that to us. Once the work is  
22 performed, he will then go out again and  
23 review everything that has been done and  
24 submit that to us. So that project is wiped

1 out. That project is completed, and we show  
2 it as complete. So we won't be able to  
3 double up on specific areas of work that are  
4 being done.

5 COMMISSIONER ZUNIGA: So that  
6 review's happening by two people, the  
7 architect and yourself?

8 MR. O'DONNELL: Correct. We review  
9 it. The architect reviews it with Suffolk  
10 management. Then he will come to us, the  
11 architect. Then we review it once again once  
12 the financials come in for the request for  
13 reimbursement.

14 COMMISSIONER ZUNIGA: And there's a  
15 reconciliation, because many of these  
16 requests are for projects at different times  
17 for partial amounts; is that correct?

18 MR. O'DONNELL: Yes, that's  
19 correct. What happened is we're playing  
20 catch up at Suffolk Downs with the cap. fund  
21 because they had a huge project back in 2011  
22 for the storm drainage. They had a EPA issue  
23 that was \$4,000,000. As money would come in,  
24 it would go towards that project. And that

1 got paid off last year, so now we're getting  
2 caught up from work from 2012. The past two  
3 RFCs went in for 2012. This one is for 2013.  
4 And we will have another one shortly for  
5 2014.

6 CHAIRMAN CROSBY: That's  
7 interesting. I didn't quite realize that.  
8 So the costs that were associated with the  
9 EPA, I guess it was, consent order, were  
10 costs which all come theoretically under the  
11 capital improvement funds, but there wasn't  
12 enough money, so they fronted the money and  
13 are now being paid back or all those  
14 expenses.

15 COMMISSIONER ZUNIGA: Yes.

16 MR. O'DONNELL: Correct.

17 CHAIRMAN CROSBY: Okay. I didn't  
18 get that.

19 COMMISSIONER MACDONALD: Doug, do  
20 you actually go out and check the premises  
21 that the work is being proposed on either  
22 before or after or both?

23 MR. O'DONNELL: Well, I have met  
24 with the architect out at Suffolk Downs to

1 review -- we don't go over every single item.  
2 On this particular request for consideration,  
3 there's 20 different items from bathroom  
4 renovations to a tent purchase to new A/C.  
5 So we don't physically go over and review  
6 every single item that's purchased or  
7 repaired. But for the most part, I will sit  
8 with the architect and Suffolk management to  
9 review this.

10 CHAIRMAN CROSBY: But the architect  
11 does?

12 COMMISSIONER ZUNIGA: The architect  
13 does.

14 DR. LIGHTBOWN: The architect does.

15 MR. O'DONNELL: The architect  
16 reviews every single thing, yes.

17 CHAIRMAN CROSBY: The architect's  
18 working for us, right?

19 MR. O'DONNELL: Yes.

20 CHAIRMAN CROSBY: So the architect  
21 goes out.

22 COMMISSIONER MACDONALD: And the  
23 architect is our --

24 CHAIRMAN CROSBY: Is our agent.



1 MR. O'DONNELL: We contract with  
2 the architect firm.

3 COMMISSIONER MACDONALD: I see.

4 CHAIRMAN CROSBY: Anything else on  
5 this item? Do we have a motion?

6 COMMISSIONER STEBBINS: Mr. Chair,  
7 I move the Commission approve the request for  
8 consideration from Suffolk Downs for a total  
9 of \$365,619.99 from the Suffolk Downs Capital  
10 and Improvement Trust Fund.

11 CHAIRMAN CROSBY: Second?

12 COMMISSIONER MACDONALD: Second.

13 CHAIRMAN CROSBY: Further  
14 discussion? All in favor? Aye.

15 COMMISSIONER CAMERON: Aye.

16 COMMISSIONER MACDONALD: Aye.

17 COMMISSIONER ZUNIGA: Aye.

18 COMMISSIONER STEBBINS: Aye.

19 CHAIRMAN CROSBY: Opposed? The  
20 ayes have it unanimously.

21 MR. O'DONNELL: Thank you.

22 DR. LIGHTBOWN: So the next item on  
23 the racing agenda is the request by  
24 Plainridge Park Casino to add three days to

1           replace three days that they canceled for  
2           various reasons this past season. This will  
3           bring them up to their required 115 days.  
4           They want to replace it with November 25th,  
5           which is the Friday after Thanksgiving. And  
6           they were scheduled to run the next Monday  
7           and Tuesday. And now they've added the  
8           December 1st and 2nd, which will be the  
9           Thursday and Friday. So they'll complete  
10          that week and it will fit right in the  
11          schedule. And Steve O'Toole is here today if  
12          you have questions.

13                    COMMISSIONER CAMERON: I recall why  
14           those days were canceled. He is always  
15           looking at the health and safety issues. So  
16           this is a legitimate request, and I move that  
17           we as a Commission approve this request by  
18           Plainridge Park Casino to replace the three  
19           canceled days with live racing on November  
20           25th, December 1 and 2nd with a post time of  
21           1:00 o'clock.

22                    COMMISSIONER ZUNIGA: Second.

23                    COMMISSIONER MACDONALD: Second.

24                    CHAIRMAN CROSBY: Further

1 discussion? All in favor? Aye.

2 COMMISSIONER CAMERON: Aye.

3 COMMISSIONER MACDONALD: Aye.

4 COMMISSIONER ZUNIGA: Aye.

5 COMMISSIONER STEBBINS: Aye.

6 CHAIRMAN CROSBY: Opposed?

7 The ayes have it unanimously.

8 MR. O'DONNELL: Thank you.

9 CHAIRMAN CROSBY: Thank you.

10 COMMISSIONER STEBBINS: Thanks,

11 Steve.

12 COMMISSIONER CAMERON: Thank you.

13 COMMISSIONER ZUNIGA: Thank you.

14 CHAIRMAN CROSBY: I guess General  
15 Counsel Blue is taking Item (a.).

16 MS. BLUE: We're just going to  
17 change seating arrangements. If Mr. Morizio  
18 and Mr. Dinardo would join Mr. Barnett at the  
19 table, that will be helpful.

20 Commissioners, we have here  
21 Mr. Barnett representing Suffolk Downs. We  
22 have Mr. Dinardo and Mr. Morizio representing  
23 Raynham. As you recall from our prior  
24 meeting and the documents in the packet,

1 Suffolk has filed a petition requesting the  
2 Commission to review payment of certain  
3 moneys that it believes is due to it from  
4 Raynham.

5 Both sides have submitted briefs on  
6 the matter. They are in your packet. We  
7 also received a comment letter from counsel  
8 for the NEHBPA and that's included in the  
9 packet as well.

10 Each party has been advised that  
11 they have 15 minutes to present to you, and  
12 then they are here for questions. Alex and I  
13 are also here to answer any questions that  
14 you may have. I think if it's okay with the  
15 Commission, we'll let them start with their  
16 presentations, unless you have something for  
17 me and Alex before that. Okay. So  
18 Mr. Barnett, you can go first.

19 MR. BARNETT: Good morning,  
20 Commissioners.

21 CHAIRMAN CROSBY: Good morning.

22 COMMISSIONER MACDONALD: Good  
23 morning.

24 COMMISSIONER STEBBINS: Good

1 morning.

2 COMMISSIONER CAMERON: Good

3 morning.

4 COMMISSIONER ZUNIGA: Good morning.

5 MR. BARNETT: A pleasure to be  
6 before you again. I almost hesitated saying  
7 this. I don't think I'm going to use my 15  
8 minutes. I've said that before, to use it  
9 all, but I think it will be true today.

10 Let me start by saying Chip Tuttle  
11 apologizes for not being able to be here  
12 today. He's out of town on business, but  
13 sends me as a stand-in, and given the subject  
14 matter, it seems appropriate.

15 To set the stage, we have  
16 petitioned the Commission to enforce the  
17 premium obligation of Raynham Park from  
18 October 4th or maybe the 5th of 2014 through  
19 June 23rd, I think it is, of 2015. And the  
20 reason for the time limit there is that they  
21 have paid premiums through October 4th of  
22 2014, and the legislature suspended their  
23 obligation to pay premiums to Suffolk Downs  
24 as of the opening of Plainridge Park Casino,

1           which was the 23rd or 24th of June, I think,  
2           2015.

3                         During that time period, the  
4           statute that governs simulcasting says that  
5           Raynham Park, the greyhound meeting licensee  
6           in Bristol County, shall pay to the running  
7           horse meeting licensee in Suffolk County,  
8           which is and always has been Suffolk Downs, a  
9           three percent premium with respect to  
10          interstate running horse simulcasts received.  
11          So these are not premiums on Suffolk Downs's  
12          own race. Those would be intrastate  
13          simulcasts. These are thoroughbred  
14          simulcasts received from outside of  
15          Massachusetts.

16                        The obligation to pay the premiums  
17          is a condition of Raynham's right to  
18          simulcast as set forth in Section 2. And as  
19          I said, Suffolk Downs has always been the  
20          running horse racing meeting licensee in  
21          Suffolk County at all relevant times and  
22          indeed through today.

23                        For 2014 it was the racing meeting  
24          licensee in Suffolk County pursuant to a

1 license granted by this Commission. We have  
2 submitted with our supplemental filing a copy  
3 of that license, which says on its face that  
4 it is in effect through December 31st, 2014.  
5 There's no basis for the contention of  
6 Raynham Park that somehow that license  
7 expired or became a nullity as of the end of  
8 the racing season, which was that October 4th  
9 date in 2014.

10 The licenses are granted on a  
11 calendar year basis as it says on its face  
12 and as it's provided in the statute. The  
13 calendar year is divided into a racing season  
14 and a dark season, and that Suffolk Downs was  
15 in a dark season between the end of the  
16 racing season and end of the calendar year  
17 doesn't affect it's standing as the racing  
18 meeting licensee in Suffolk County during  
19 that time period.

20 And so starting on January 1st,  
21 2015, the Suffolk Downs has been the racing  
22 meeting licensee pursuant to statute, two  
23 different statutes. First, Chapter 436 of  
24 the Act of 2014, Chapter 10 of the Acts of

1 2015, was the second one. The first was in  
2 effect from January 1st, 2015 to March 31st.  
3 The second one picked up -- Chapter 10 picked  
4 up on March 31st through July 31st of this  
5 past year. Most of that time period is  
6 irrelevant because, like I said, the  
7 legislature suspended their obligation to pay  
8 premiums as of the opening of the Plainridge  
9 Park.

10 That is my presentation on the  
11 first of the two issues that we were invited  
12 to present on, that being the source of the  
13 obligation. The second was the Commission's  
14 authority to enforce it.

15 And I have to say that as a general  
16 matter, Raynham Park's claim that it's not  
17 subject to discipline by the Commission for  
18 violating the statutory obligations and  
19 conditions of simulcasting set forth in 128C  
20 is fairly extraordinary. Clearly the  
21 Commission is directed by the statute by 23K  
22 to administer and enforce the racing  
23 statutes, Chapter 128A and Chapter 128C.

24 In suggesting that the Commission



1 doesn't have authority to suspend or revoke  
2 their license for violation of the statutory  
3 premium obligation, they point to a statement  
4 of legislative finding, I guess you call it,  
5 in Section 1 of Chapter 23K which says  
6 something to the effect of the legislature  
7 determines that licenses granted by the  
8 Commission will be subject to revocation and  
9 suspension, and that their license, they say,  
10 was not granted by the Commission because  
11 currently they are and for some time have had  
12 a racing license pursuant to the statute.  
13 And that's true that they have since before  
14 the relevant time here had a racing license  
15 pursuant to the statute, but the wording of  
16 that introductory provision of Chapter 23K is  
17 irrelevant to Suffolk Downs's petition  
18 because it is based not on that provision or  
19 any other provision of Chapter 23K, but  
20 rather on the racing statutes, Section 11 of  
21 Chapter 128A, which says that the Commission  
22 shall have full discretion to refuse to grant  
23 the license to any applicant for a license or  
24 to suspend or revoke the license of any

1 licensee.

2 There's no restriction  
3 qualification in Chapter 11 of 128A that as  
4 to a license granted by the Commission as  
5 opposed to the statutory form of license that  
6 Raynham Park and Suffolk Downs and Wonderland  
7 now have.

8 I don't think there was any dispute  
9 that they have a 128A license. They  
10 acknowledge it in their papers and, in fact,  
11 it's the only way that Raynham Park is  
12 entitled to be simulcasting now. The  
13 legislature established that they shall be a  
14 licensee, a racing licensee, even though they  
15 can't race live, that they are entitled under  
16 128C to conduct simulcasting. So that's the  
17 second piece, the Commission's authority.

18 And at this point, I think I'll  
19 suspend my presentation, certainly open to  
20 any questions you have now or after Raynham  
21 Park presents their presentation.

22 COMMISSIONER CAMERON: Mr. Barnett,  
23 what's your understanding of why the  
24 legislation chose to suspend premiums?

1 MR. BARNETT: I have only  
2 speculation, by which I mean that sometime  
3 after that legislation was passed and signed,  
4 we looked at it and said, oh, look, it looks  
5 like Raynham got a suspension of the premium  
6 obligation. But I think whatever motivated  
7 them to request it or the legislature to pass  
8 it, I think that it's clear that as of 2015,  
9 Racehorse Development Fund money was  
10 available to fund purses in addition to other  
11 elements of purse money existing in the  
12 racing statutes, and it may be that the  
13 legislature decided that it wasn't necessary  
14 anymore.

15 COMMISSIONER CAMERON: Could it be  
16 that they -- Raynham made a successful  
17 argument that one to three days of racing --  
18 or three days of racing wasn't what the  
19 original intent of those premiums was all  
20 about? Could that have been part of the  
21 factor? So in other words, they changed  
22 legislation in favor of Suffolk, which  
23 allowed you to race for far fewer days, but  
24 possibly didn't look at this in totality and

1 looking at premiums at that time, but when it  
2 came before them the next year, they took a  
3 look and said, yeah, we're going to suspend  
4 these?

5 MR. BARNETT: Since we weren't  
6 involved in the lobbying for or passage as  
7 far as I'm aware or asked to comment on the  
8 provision when it was before the legislature,  
9 I have no ability to say one way or the other  
10 what may or may not have been motivating  
11 them.

12 COMMISSIONER CAMERON: Okay.

13 MR. BARNETT: I believe -- I would  
14 have to check. I believe that it was at the  
15 same -- I think this was in Chapter 10 of the  
16 acts of 2015, which was the same bill -- one  
17 of the bills that gave Suffolk Downs its  
18 racing license with the condition that it  
19 race at least one day in each year to be able  
20 to simulcast. I don't know -- So I think  
21 there was a contemporaneousness to those two  
22 events, but I have to sort of check the  
23 statute.

24 COMMISSIONER CAMERON: Thank you.

1 CHAIRMAN CROSBY: Anything else for  
2 Mr. Barnett? Okay.

3 MR. DINARDO: Thank you,  
4 Mr. Chairman, Commissioners. Good morning.

5 CHAIRMAN CROSBY: Good morning.

6 COMMISSIONER MACDONALD: Good  
7 morning.

8 COMMISSIONER STEBBINS: Good  
9 morning.

10 COMMISSIONER CAMERON: Good  
11 morning.

12 COMMISSIONER ZUNIGA: Good morning.

13 MR. DINARDO: This is actually my  
14 first time before the Commission, so I'm  
15 happy to be here.

16 CHAIRMAN CROSBY: Introduce  
17 yourself.

18 MR. DINARDO: Patrick Dinardo from  
19 Sullivan & Worcester representing Massasoit  
20 Greyhound Association, and with me is Michael  
21 Morizio, attorney on brief together.

22 I think it's important to step back  
23 for a minute and be a little more precise in  
24 terms of what Suffolk Downs is asking the

1 Commission to do. Its petition was to  
2 commence an adjudicatory proceeding in order  
3 to revoke or suspend Raynham Park's license  
4 for its failure to pay a disputed claim. We  
5 think the issue on that claim is more  
6 properly brought in the Superior Court where  
7 we have an opportunity to do discovery under  
8 the rules of civil procedure.

9 And the reason why we think that's  
10 very important is because in the petition and  
11 in the position statement, Suffolk Downs said  
12 nothing about the fact that about 90 percent  
13 of what its seeking here is going to be New  
14 England Horsemen's Benevolent and Protective  
15 Association. I'm learning this morning that  
16 the NEH filed a position statement. I don't  
17 see a copy of that.

18 I think it's important to  
19 understand what was going on here in terms of  
20 how the claim was divided up between Suffolk  
21 Downs and the NEH. And certainly, if Suffolk  
22 Downs or NEH wants to bring an action in  
23 Superior Court for declaratory relief and  
24 they think they have an entitlement to this

1 premium, then we can address that issue in  
2 the court where it's a question of  
3 interpretation of the statutory scheme that  
4 the legislature had set forth here.

5 Now, we don't dispute that the  
6 Commission has the power to administer or  
7 enforce the racing laws. There's no question  
8 about that. But this is a petition seeking  
9 ultimately to revoke or suspend the license  
10 which is mandated by the legislature. It's a  
11 simulcast license that Raynham Park has a  
12 special mandate from the legislature. And if  
13 this Commission takes on an adjudicatory  
14 proceeding which ultimately is determined to  
15 find cause to revoke a license for failure to  
16 pay a premium, that's going to put the  
17 Commission at odds with the legislative  
18 mandate. We think that's jurisdictionally  
19 something that this Commission shouldn't take  
20 on.

21 We think also the adjudicatory  
22 proceedings as outlined in the Commission's  
23 own regulations don't contemplate this kind  
24 of revocation or suspension hearing, at least

1 with respect to a greyhound licensee.

2 When I look at 205 CMR 101.01, I  
3 don't see any reference to this type of  
4 petition there as the nature of an  
5 adjudicatory proceeding that the Commission  
6 should be taking on.

7 Now, we find out in our reply brief  
8 that was found a week or two ago, they  
9 acknowledged that about 90 percent of the  
10 moneys, something on the order of 50,000 plus  
11 of the 2014 claim, which is 87,000, is going  
12 to be paid over to New England Horsemen. We  
13 find that all of the 2015 premiums that  
14 they're seeking, something on the order of  
15 220,000, is going to be paid over to New  
16 England Horsemen.

17 So New England Horseman is the real  
18 party at interest here, and Suffolk Downs is  
19 trying to collect these premiums for its  
20 benefit, when the statute says that these  
21 premiums are supposed to be paid into purses.  
22 And I think Commissioner Cameron is actually  
23 right on when she's talking about the point  
24 of the premiums was to augment the purses of



1 the winning horsemen or dogmen. And if  
2 you're not having a racing operations, then  
3 there are no purses to pay into.

4 From the period in question,  
5 October 4th, 2014 through June of 2015, there  
6 were no races at Suffolk Downs and therefore  
7 no purses. And so they're trying to collect  
8 this money for their own account. It's a  
9 matter which should be referred to the  
10 Superior Court. And ultimately, it will end  
11 up in the Superior Court one way or the  
12 other, and I think it's a much more efficient  
13 use of resources to just have the issue be  
14 adjudicated in the court where it belongs.  
15 It's a legal question as to whether or not  
16 they have a right to these premiums. We  
17 think as a matter of law they don't have a  
18 right to it. And I think that's better  
19 addressed in the Superior Court where, I  
20 said, we'll get discovery into what the  
21 communications were between Suffolk Downs and  
22 New England Horsemen.

23 New England Horsemen knows how to  
24 file a lawsuit. They brought a lawsuit

1           against the owners of the Brockton racing  
2           operation, which is an affiliate of Raynham  
3           Park, over the summer under the  
4           Interstate Horseracing Act. Judge Saylor  
5           dismissed that case for failure to state a  
6           claim at the end of September.

7                        So the court is better suited to  
8           deal with these legal arguments, and there's  
9           no reason for an adjudicatory proceeding  
10          here. That's our position.

11                       COMMISSIONER CAMERON: Can I ask  
12          the same question of your understanding of  
13          why the legislature chose to suspend  
14          premiums?

15                       MR. MORIZIO: I think I could --

16                       MR. DINARDO: Go ahead.

17                       MR. MORIZIO: It's important to  
18          note that in the same piece of legislation in  
19          the same bill that was enacted in March 31st,  
20          2015, the legislature said to Suffolk Downs  
21          you have a simulcast license. This is -- I  
22          think we need to focus on this. Suffolk  
23          Downs is misrepresenting the nature of these  
24          licenses. There is no racing license that

1 Raynham Park has and that special legislation  
2 did not grant a racing license to Suffolk  
3 Downs. To believe that, you have to  
4 disregard about one-third of the language  
5 that's in that particular special  
6 legislation.

7 So the legislature recognizes that  
8 in 2011 when the Expanded Gaming Act was  
9 passed, the funding of purses for horseracing  
10 and to really energize the industry is  
11 supposed to come from the slot machine  
12 revenue, not from simulcast payments. And if  
13 you look at the Expanded Gaming Act, the  
14 whole idea of simulcast premiums is not  
15 there. It goes away.

16 So if this initial statutory scheme  
17 has been continued without extension, the  
18 128A and 128C laws were to sunset a couple of  
19 years -- or I think it was around 2012. The  
20 2011 Gaming Act and the casino, at least the  
21 slot parlor casino would be in operation, and  
22 the funding for purses would come from the  
23 slot machines.

24 So the legislature recognized in

1           2015 when they passed this law that that time  
2           table had changed and recognized that Raynham  
3           Park, among others, are in need of their own  
4           economic relief, that we create jobs, we paid  
5           taxes. And so legislature decided to do what  
6           it originally intended to do, save the jobs,  
7           help the economics of Raynham Park and  
8           Wonderland, for that matter -- Wonderland is  
9           part of that -- and have the Racehorse  
10          Development Fund horseracing starting March  
11          of 2015.

12                        COMMISSIONER ZUNIGA: But  
13          Mr. Morizio, if the legislature intended to  
14          relieve Raynham of its past obligations, they  
15          could have easily stipulated that on  
16          March 15th or July 31st, couldn't they?

17                        MR. MORIZIO: That's a great  
18          question, because Suffolk Downs is  
19          intentionally misreading the existing law.  
20          The legislature didn't have to change the law  
21          when Raynham Park, in fact, had no obligation  
22          in the past.

23                        Let's take a look for a moment or  
24          the Commission should look very carefully at

1 the statutory definition of a racing meeting  
2 licensee. That's in Chapter 128C, Section 1.  
3 It says a person licensed by the Commission  
4 under Chapter 128A, the racing statute, to  
5 conduct live races.

6 So a racing meeting licensee under  
7 the simulcast statute is someone who has a  
8 live racing license from the Commission, not  
9 from the legislature, to conduct live racing.  
10 And that's why in our brief we spent a great  
11 deal of time explaining to the Commission why  
12 as a matter of law it is impossible for this  
13 Commission to give a calendar year license.  
14 It's impossible. It's the statute that  
15 controls, not the license document itself.

16 And let me add one additional  
17 review. I don't want to go over our brief  
18 that we already covered, but the Commission  
19 should look at Section 2 of 128A. Now,  
20 Section 2 is the application section that  
21 tells the applicant what it must do and what  
22 it can apply for in terms of a live racing  
23 license.

24 The applicant must set forth the

1 specific days and hours that it intends to  
2 race live. And the Commission then either  
3 approves or disapproves that application.  
4 Suffolk Downs never applied for a racing  
5 license for 365 days of live racing in 2014.  
6 It never happened. It's not part of their  
7 application. And the Commission never asked  
8 and never considered such an application.

9 But what's also very important to  
10 understand is when you go to Section 2, that  
11 part of the law, the legislature has already  
12 prescribed what happens if a racing meeting  
13 licensee asks for additional race days during  
14 the same calendar year which we're already  
15 licensed to race. The legislation says that  
16 they shall apply for and, if approved,  
17 receive an additional license for those  
18 additional days.

19 So if Suffolk Downs receives a  
20 hundred days of racing in 2014, the license  
21 for specifically a hundred days of racing and  
22 they want to race 110 days, you don't amend  
23 that existing license. They have to apply  
24 for a brand new license. That's what the

1 statute says.

2 COMMISSIONER ZUNIGA: I don't read  
3 it that way. There's only one license.  
4 There's really just one license. We actually  
5 just went through approving additional days  
6 to the same license on Plainridge.

7 MR. MORIZIO: Yeah, you approve it,  
8 but you're supposed to -- if you comply with  
9 the statute, you're supposed to issue a new  
10 license. Here's what it says. It's the  
11 second to the last --

12 COMMISSIONER ZUNIGA: We've never  
13 done it, and it was never done before us.

14 MR. MORIZIO: It's the second to  
15 the last paragraph.

16 MS. BLUE: No. And I don't agree  
17 with that. It's a supplemental application  
18 for additional days or whatever changes. So  
19 the license -- I mean, as we've always read  
20 the statute, the license is for a year. They  
21 can file for a supplemental application. We  
22 have done that the last two or three years in  
23 a row with many placeholder licenses that  
24 came in and were not entirely complete. So I

1 respectfully do not agree with Mr. Morizio's  
2 reading of the statute.

3 MR. MORIZIO: I would say this.  
4 There's a difference between whether an  
5 initial application is complete or not and  
6 some additional work is being done on that  
7 application. The statute is very clear, and  
8 references Section 4 of Section 2 which talks  
9 about the number of race days, and it says  
10 that supplementary applications by a licensee  
11 for additional licenses under Section 4 -  
12 that's talking about race dates -- may be  
13 filed with the Commission at any time prior  
14 to the expiration of said calendar year for  
15 which the licensee had heretofore been issued  
16 a license. And there is other language that  
17 precedes that.

18 So the point is -- And we didn't  
19 even add this particular section in our  
20 brief, but if you take the totality of the  
21 legislation and you read it all harmoniously,  
22 it is legally impossible to have a calendar  
23 year license. It just doesn't happen.

24 COMMISSIONER ZUNIGA: We've always



1 had it. I mean, what do you have to say to  
2 the notion of the dark days? There's always  
3 been a calendar year license to simulcast,  
4 and you will have live racing in some of  
5 those days tied to the ability to simulcast  
6 and dark days where you're not going to be  
7 able to -- where you don't conduct live  
8 racing. Isn't that really what we're talking  
9 about here?

10 MR. MORIZIO: No. Let me give you  
11 a short brief synopsis of the legislative  
12 history. The live racing statute is enacted  
13 in 1934. From 1934 to 1983, the racetracks,  
14 all of them, opened for the days only in  
15 which they were licensed to conduct racing  
16 and closed. There was no calendar year  
17 license, only license for specific race dates  
18 on specific hours and with an annual cap and  
19 a total number of race dates. You can't have  
20 in Massachusetts a license for 365 days of  
21 racing. That's a 200 day maximum cap.

22 In 1983, there was no simulcast  
23 statute, 128C, there was only 128A.  
24 Section 5 of 128A was amended to allow

1           televised wagering, what we call today  
2           simulcasting. It was amended again in 1985.  
3           But essentially, under that scheme, you could  
4           only simulcast while you were open and  
5           racing, because the racetracks didn't operate  
6           for a year.

7                         There was a great debate about  
8           whether that was taken away from purse money,  
9           as to whether or not that right should be  
10          expanded. What ultimately happened was the  
11          Simulcast Statute was passed in 1992. The  
12          Simulcast Statute 128C does not provide for  
13          licensing. You do not get a simulcast  
14          license from the Commission under 128C. The  
15          statute specifically says that a licensee, a  
16          live racing licensee under 128A, that license  
17          carries with it the right to simulcast on a  
18          day you actually race, on a dark day, and  
19          during the dark season.

20                        Now, why is that? Because the  
21          legislature structured it that way because it  
22          recognized that live racing statutes aren't  
23          for calendar year. So how will we allowed  
24          simulcast to happen when there is no live

1 racing being conducted or no live racing  
2 licensee? And so they created this defined  
3 term of a dark season that says if you  
4 have -- if you're a racing meeting licensee  
5 is only for the year 2013 and you have  
6 specific days, and then you're a racing  
7 meeting licensee sometime in 2014, then the  
8 time period in between is the dark season and  
9 you can simulcast. But that only works if  
10 you recognize that there isn't a calendar  
11 year live racing statute or live racing  
12 license, because if there was a calendar year  
13 live racing license, you wouldn't need the  
14 language of dark season, dark days, or any of  
15 that. It would simply say if you've got a  
16 calendar year license to a -- a live race,  
17 then along with it comes a calendar year  
18 right to simulcast.

19 So the legislature recognized that  
20 no one has ever had a racing license for a  
21 full calendar year. They created a statutory  
22 scheme to fit into that fact and it does in  
23 the way that we've described. But I'd ask  
24 one -- I would make one other additional

1 comment. Suffolk Downs is saying that in  
2 2014, they have the right to take simulcast  
3 premiums that are statutorily earmarked for  
4 purses and no other purpose whatsoever, and  
5 use it to buy a settlement agreement with the  
6 Horsemen's Association and put some of it in  
7 their own pocket as well.

8 They haven't disclosed that  
9 dispute. Obviously, it -- to be a dispute  
10 that was a disagreement. Suffolk Downs must  
11 have said to the Horsemen's Association,  
12 those monies aren't yours, they're not to be  
13 paid. That's why they had a dispute, but  
14 they settled that dispute by saying, well,  
15 what we'll do now is we'll throw the whole  
16 thing on the Commission.

17 COMMISSIONER MACDONALD: But,  
18 Mr. Morizio, what does that have to do with  
19 your obligation to pay?

20 MR. MORIZIO: Because --

21 COMMISSIONER MACDONALD: The issue  
22 here is whether or not Raynham has the  
23 obligation to pay the three percent premium.  
24 It's not -- the issue is not what Suffolk

1 Downs did with it.

2 MR. MORIZIO: The obligation is  
3 also tied to what their claim, Suffolk  
4 Downs's claim is.

5 COMMISSIONER MACDONALD: Suffolk  
6 Downs's claim is that Raynham was supposed to  
7 have paid a three percent premium during the  
8 period, period.

9 MR. MORIZIO: That's their stated  
10 claim, but that's not what the claim actually  
11 is.

12 COMMISSIONER MACDONALD: That is  
13 what the claim is.

14 MR. MORIZIO: But the --  
15 Commissioner, their claim is a private claim.  
16 They want this Commission to order money to  
17 go to them to be used for a private purpose  
18 and they argue --

19 COMMISSIONER MACDONALD: They're  
20 asking for us to enforce a statute.

21 MR. MORIZIO: And by so enforcing,  
22 since all horse race -- there's been no horse  
23 racings, all purses have been paid in 2014.

24 COMMISSIONER MACDONALD: Do you

1 agree that Section -- I mean, Section 128 --  
2 Chapter 128C, Section 2 obliges the greyhound  
3 dog racing meeting licensee located in  
4 Bristol County, which is Raynham, to pay  
5 three percent premium with respect to any  
6 interstate horse racing simulcast received by  
7 Raynham? Do you agree with that?

8 MR. MORIZIO: Yes, but they are not  
9 a racing --

10 COMMISSIONER MACDONALD: Then why  
11 didn't you do it? Why has your client not  
12 done it?

13 MR. MORIZIO: Because there are not  
14 a racing meeting licensee, as defined in  
15 Section 2. A racing meeting licensee is  
16 someone who holds a live racing license under  
17 128A from the Commission.

18 COMMISSIONER MACDONALD: General  
19 Counsel Blue, do you agree with that?

20 MS. BLUE: No. I mean, in calendar  
21 year 2014, Suffolk had a live racing meeting  
22 license from the Commission. They raced  
23 roughly, I don't know, 65 days or something  
24 of that nature. When the legislature

1 extended their license, the legislature  
2 referred to them as the -- that they will  
3 remain licensed. So I would take the  
4 legislature as knowing what it's discussing  
5 when it assumes that they were already  
6 licensed and they remained licensed into the  
7 first 90 days of 2015 on a simulcast only  
8 basis.

9 In March of 2015, the legislature  
10 then enacted further legislation that  
11 required Suffolk to race between one and  
12 50 days live to keep their simulcasting  
13 license. So, you know, at my review of the  
14 statute, Suffolk has been a racing licensee.  
15 They have filed when it was appropriate. And  
16 I will say that Mr. Barnett reminds me every  
17 year that he files a supplemental racing  
18 application and that is correct because they  
19 remain licensed as the race meeting licensee  
20 in Suffolk County.

21 MR. MORIZIO: The special  
22 legislation that they're working on that  
23 they're speaking of in 2015 expressly states  
24 that they -- that Suffolk Downs shall not be

1 a racing meeting licensee as defined in the  
2 simulcast statute, because it expressly  
3 states in about one-third of the language  
4 that Suffolk Downs shall not hold a license  
5 unless and until -- a racing license unless  
6 and until they apply to this Commission and  
7 receive a license.

8 You cannot be a racing meeting  
9 licensee as defined in Chapter 128C, which  
10 says you have a license when the legislature  
11 enacts special legislation that says you do  
12 not have that particular live racing license  
13 unless you apply for it and receive it. This  
14 Commission could have denied Suffolk Downs'  
15 application in which case they would have  
16 been still simulcasting.

17 COMMISSIONER ZUNIGA: But we  
18 didn't.

19 MR. MORIZIO: But that happened  
20 after Plainridge was open. So they became,  
21 as defined in Chapter 128C, Section 1, a  
22 racing meeting licensee with a live racing  
23 license in August of 2015 after the -- we  
24 were excused from paying those fees.



1                   COMMISSIONER ZUNIGA: Okay. I  
2 really want to hear from Mr. Barnett, because  
3 he has been very patient here and it looks  
4 disagreeing with --

5                   MR. BARNETT: Thanks. I appreciate  
6 that. On the most recent point that  
7 Mr. Morizio was making, the Commission can  
8 read Chapter 10 of the acts of 2015, and I  
9 know it has on numerous occasions for  
10 numerous purposes as has its legal  
11 department. And what it says is that Suffolk  
12 Downs is the racing meeting licensee --  
13 running horse racing meeting licensee in  
14 Suffolk County.

15                   One-third of the words go on to  
16 say, but all your days are dark days until  
17 you come to the Commission and make a  
18 supplemental application. And so that's what  
19 we did in 2015. That's what we did in 2016.  
20 That's what we did last week, the week before  
21 for 2017. That supplemental application,  
22 which under Section 2 of Chapter 128A, only  
23 makes sense, is only possible if you are  
24 already a racing meeting licensee.

1           If I might, I'll maybe use the  
2 balance of my time from the beginning to  
3 respond quickly to a few of the points.

4           Mr. Dinardo suggests this claim  
5 belongs in Superior Court, not here. I'm not  
6 sure if he and Raynham Park are still of the  
7 position that the Commission doesn't have  
8 authority to take up this claim, but just  
9 that it's their opinion that it's better  
10 suited in Superior Court.

11           I'll have to say that I don't  
12 think whether or not it could be brought  
13 there at all affects the Commission's  
14 authority which for the reasons I've stated  
15 and are on our papers is plain in the  
16 statutes. I think on the Superior Court's  
17 question, there should -- there would be and  
18 I would expect Raynham Park to raise as  
19 defenses notions of whether there is a  
20 private right of action to enforce this  
21 statute, which is not expressed in the  
22 statute and is usually an issue when someone  
23 goes to court.

24           I would expect there to be an issue

1 as to whether Suffolk Downs had exhausted its  
2 administrative remedies. Another issue that  
3 has frequently arisen. I also think -- I  
4 think I heard Mr. Dinardo suggesting that a  
5 superior court judge rather than this  
6 Commission is in a better position to  
7 interpret the racing statutes.

8 I know that you do not have the  
9 experience with racing statutes that the  
10 prior racing Commission did in terms of  
11 longevity, but certainly you've been living  
12 with them for a number of years now. You  
13 have the institutional knowledge, the notion  
14 that a superior court judge is better  
15 positioned, certainly at least in the first  
16 instance, to interpret the racing statute  
17 strikes me as odd. And that is certainly no  
18 aspersion cast upon superior court judges,  
19 who -- but they run a wider gamut of  
20 substantive law than even this Commission.

21 The notion of the use of the money  
22 has come up, and I want to spend just a  
23 minute to address that, although my initial  
24 point is in line with the question that

1 Commissioner Macdonald raised, which is how  
2 the money is used, I don't think, goes at all  
3 to the authority of the Commission to enforce  
4 the obligation to pay it. I also wanted to  
5 say that there was nothing hidden about how  
6 the money is going to be used. It wasn't  
7 that we copped to something in our reply  
8 brief.

9 In fact, in Raynham Park's initial  
10 brief, they provided the Commission our 2016  
11 purse agreement, which says expressly how  
12 it's going to be divided. It's something the  
13 Commission has had for a long time, that  
14 purse agreement. What happened in our reply  
15 brief is we explained why it was that the  
16 money was being allocated in the way that it  
17 is and it goes in two pieces. The first was  
18 -- and with the necessary background that I  
19 think the Commission has heard on multiple  
20 occasions when talking about what purse  
21 monies can be used for what purposes.

22 Putting aside the Racehorse  
23 Development Fund purse money, it has long  
24 been the recognized practice that statutory

1       purse money can be used to support the  
2       horsemen in ways other than directly paying  
3       winnings to horse races. And so the purse  
4       agreements that Suffolk Downs has had with  
5       its horsemen for years have included some  
6       portion of purse fund money to go to medical  
7       benefits trust that the NEHBPA keeps for it's  
8       members, to a horsemen's assistance fund for  
9       maybe nonmedical benefits, but for horsemen  
10      who need assistance, and also for operating  
11      expenses of the HBPA.

12                 In 2014, as the year went on and  
13      well before the end of the racing season,  
14      Raynham Park had stopped paying amounts that  
15      it owed for not only premiums, which would go  
16      the purse fund, but also other operating  
17      expenses. There was 100 and -- Well, the  
18      exact number is in my papers. 140,000, I  
19      think \$150,000 accrual that had built up.  
20      And so there were payments contemplated by  
21      the 2014 purse agreement from Suffolk Downs  
22      to the horsemen for these various purposes  
23      that weren't made because -- from purse  
24      funds, because the purse funds hadn't come

1 in. And so what the \$50,000 allocation of  
2 the 2014 money to the horsemen does is it  
3 makes those payments. And the balance of the  
4 2014 money, \$37,000 or so, is an offset, a  
5 drop in the bucket, of the 860 or 50 thousand  
6 dollars of premiums that Suffolk Downs paid  
7 in 2014 in excess of what was required to be  
8 paid under the statutes.

9 And then with respect to 2015, yes,  
10 the agreement which was reached late in the  
11 year in 2015 provides that the -- to the  
12 extent premiums are received, they would be  
13 paid to the horsemen, but again, there's  
14 nothing wrong, improper, or contrary to  
15 long-established practice of using purse  
16 funds to support the horsemen through the  
17 NEHBPA for reasons other than what we call  
18 overnight purses, actually paying money to  
19 particular owners who won races.

20 The Commission well knows the flux  
21 that the racing -- thoroughbred racing  
22 industry has been in since the award of the  
23 gaming license to Wynn and not to Mohegan  
24 Sun, and it well knows the efforts that the

1 HBPA has been making to find a new home for  
2 racing. And so -- but it also, I think, saw  
3 that it wasn't proper to fund all those  
4 efforts from the Racehorse Development Fund.  
5 And so some HBPA funding has come from the  
6 Resource Development Fund each year and other  
7 amounts have not. And so whether the money  
8 is ever recovered or not, which was seriously  
9 in doubt at the time that we reached that  
10 agreement, because we didn't know whether  
11 Raynham would pay or the Commission or what  
12 we were going to do about trying to get it  
13 enforced, that is the allocation and there's  
14 nothing wrong with it.

15 MR. MORIZIO: I think it's  
16 important to note that Attorney Barnett's  
17 outline of the purse agreement and the  
18 history is not accurate. The 2014 purse  
19 agreement incorporated the 2013 purse  
20 agreement with some minor changes. And we've  
21 included in the 2013 purse agreement in our  
22 exhibit package and we discuss it.

23 Program purses, the purse money,  
24 operates in this fashion. There are two

1 components that Suffolk Downs and the  
2 Horsemen's group have negotiated. The first  
3 is defined as earned purses and earned purses  
4 are all the funds that are statutorily  
5 earmarked to be paid to the winning horseman  
6 as purses, no exceptions. Especially, we're  
7 talking 2014. The purse agreement says that,  
8 especially at Exhibit F to the 2013  
9 agreement.

10 It says 100 percent of all  
11 simulcast premiums that are received from all  
12 tracks will be part of the earned purse money  
13 and that earned purse money shall be paid to  
14 the winning horsemen as purses. Period.

15 COMMISSIONER ZUNIGA: Before you  
16 continue, why does it matter, the purse  
17 agreement? We're still on the question of  
18 the obligation to pay the premiums, that it's  
19 not contingent on what happens to that purse  
20 agreement.

21 MR. MORIZIO: It does, because the  
22 statutes, the statutory obligation is in two  
23 parts essentially to simplify it. One, there  
24 has to be a racing meeting licensee that



1 holds a live racing license from this  
2 Commission. That condition didn't exist.  
3 And second, there has to be live races that  
4 are paid with purse money from the simulcast  
5 purses.

6 If we had paid the money, 2014  
7 money, to Suffolk Downs, this disputed money,  
8 and Suffolk Downs decided one day that they  
9 would never race again, that it was going to  
10 turn Suffolk Downs into some other type of  
11 development, we would have paid someone money  
12 that they, one, weren't entitled to receive;  
13 and two, cannot put to the use that the  
14 statute requires it to be used for because  
15 there'd be no racing and no purses.

16 COMMISSIONER ZUNIGA: But there  
17 wouldn't be a purse account that's being  
18 funded by the regular simulcasting  
19 operations.

20 MR. MORIZIO: No. What I'm saying  
21 is the simulcast premiums are not for  
22 simulcast operations. They're only --  
23 they're earmarked statutorily for purse money  
24 to be paid directly to the horsemen, no other

1 reason, and so --

2 COMMISSIONER ZUNIGA: Well, they  
3 have to go to the purse account.

4 MR. MORIZIO: Well, that's just the  
5 mechanics of it. It goes into the purse  
6 account and then to the horsemen as purses.  
7 But the money can only be used to pay  
8 horsemen. Not Suffolk Downs, not the  
9 Horsemen's Association, only the horsemen  
10 that win the race and are entitled to purse  
11 money. It never happened. And when they say  
12 --

13 COMMISSIONER MACDONALD: But the  
14 issue, Mr. Morizio -- and you don't seem to  
15 be responding to the substance of my earlier,  
16 you know, comment and question, or  
17 Commissioner Zuniga's -- is not what Suffolk  
18 is doing with the money, but whether or not  
19 your client is obliged to pay the money over.

20 MR. DINARDO: I think there's a key  
21 factor issue that we haven't talked about  
22 here, which is the fact that Suffolk Downs  
23 didn't file its renewal application by  
24 October 1 of 2014. So by not filing that

1 renewal application at the time, it was in  
2 effect abandoning racing operations.

3 COMMISSIONER MACDONALD: Yeah, but  
4 that's a separate -- No. That's a separate  
5 issue. You're switching the subject matter  
6 of the point.

7 MR. DINARDO: No. I think it's  
8 relevant to the issue of whether or not they  
9 were holding a valid license, because when I  
10 look at the 2000 --

11 CHAIRMAN CROSBY: But he wasn't  
12 asking about whether they were holding a  
13 valid license. He's asking whether or not  
14 there's an obligation to pay.

15 MR. DINARDO: But the obligation to  
16 pay is to someone who holds a valid racing  
17 license.

18 COMMISSIONER MACDONALD: And our  
19 general counsel has advised that they had a  
20 valid license.

21 MR. MORIZIO: Well, with all due  
22 respect to the general counsel, I think if  
23 one would follow our brief and read the  
24 statute, it's a conclusion that you can't

1 reach, as a matter of law.

2 MR. DINARDO: And so the real  
3 question for today is whether or not it's  
4 appropriate for the Commission to be making  
5 this legal determination, or whether or not  
6 it should be referred to the Superior Court.  
7 The petition, again, here is to commence an  
8 adjudicatory proceeding to revoke or suspend  
9 the license. And our position on  
10 jurisdiction, I was just -- and I'll sum up  
11 our position on that just so it's clear.  
12 This is not a type of adjudicatory proceeding  
13 that's addressed in the regulations. There's  
14 no reference to this type of proceeding.

15 COMMISSIONER ZUNIGA: We've had  
16 proceedings -- we've had adjudicatory  
17 proceedings before. They're actually quite  
18 interesting. Well, we could do it under our  
19 current --

20 MS. BLUE: If I may speak to that.  
21 The argument from Raynham is that because our  
22 regulation number 205 101 doesn't  
23 specifically mention horse racing, that 205  
24 101 doesn't apply. I would agree with that.

1 205 101 is a gaming regulation. It's not a  
2 racing regulation. And under the racing  
3 statute and the racing regulations, there  
4 isn't anything that particularly talks about  
5 how to hold an adjudicatory proceeding. So  
6 it would be a 30A question, and this  
7 Commission has the ability to hold  
8 adjudicatory proceedings under Chapter 30A.

9 So, I mean, I appreciate what they  
10 said, and I am grateful that they pointed  
11 that out to us, because we will certainly  
12 address that in the next regulatory change,  
13 but the reality is the Commission can have an  
14 adjudicatory proceeding.

15 I think the question of whether  
16 there is another forum for the remedy that  
17 they're discussing in terms of the use of the  
18 money, that may in fact be true. Maybe the  
19 Superior Court is a better forum if they're  
20 contesting the use of the money. But right  
21 now, before the Commission, the question  
22 really is, is the money due and then what  
23 steps the Commission wants to take after  
24 that.

1 MR. DINARDO: Right. So our  
2 jurisdictional argument had two parts. One  
3 was the fact that it wasn't addressed in any  
4 of the regulations as an appropriate  
5 adjudicatory proceeding, but the second part  
6 to it which deals with the revocation and  
7 suspension issue, the statutes appear to say  
8 that the Commission has the power to revoke  
9 or suspend licenses that it awards, and we've  
10 been taking the position all along the  
11 statute, the legislative action mandated the  
12 simulcast license that Raynham Park has.

13 Now, we don't dispute that the  
14 Commission has the power to administer and  
15 enforce. And if there was a realtime  
16 violation which somehow had impact on a  
17 current operation, perhaps the administering  
18 force powers of the Commission would apply  
19 here, but this is a stale claim.

20 It accrued two years ago, and it  
21 started on October 5, 2014, and the accrual  
22 period ended over a year ago in June of 2015.  
23 This has no current impact on any racing  
24 operations whatsoever.

1                   And so we believe that  
2                   jurisdictionally, the Commission shouldn't be  
3                   using its administration and enforcement  
4                   power to deal with a stale claim like this,  
5                   which has no current impact.

6                   And it's pointed out by the fact  
7                   that administration and enforcement, if I use  
8                   an example, if a state trooper pulls you over  
9                   for speeding, that's administering and  
10                  enforcing speeding laws. And if she issues a  
11                  citation, that's administering and enforcing  
12                  the laws. But the state trooper doesn't have  
13                  the power as a police officer to revoke or  
14                  suspend the license. That's something that  
15                  should be address in a judicial proceeding.

16                  And so where the Commission has not  
17                  awarded the license at issue here, it  
18                  shouldn't be taking on an adjudicatory  
19                  proceeding to revoke or suspend. And that's  
20                  what this petition is all about. They keep  
21                  talking about a petition to enforce a claim.  
22                  It's not. It's a petition to commence an  
23                  adjudicatory proceeding to revoke or suspend  
24                  the license and thereby use that police power

1 to enforce a claim.

2 CHAIRMAN CROSBY: Just out of  
3 curiosity, so your opinion is that we don't  
4 have -- no matter what Raynham did, we don't  
5 have the right to revoke or suspend that  
6 license.

7 MR. DINARDO: Not a stale claim  
8 like this on a license that's legislative --

9 CHAIRMAN CROSBY: So we do have the  
10 right to suspend or revoke their license. It  
11 just depends on which case we're talking  
12 about?

13 MR. DINARDO: Well, it depends on  
14 what's happening. If there's a current  
15 violation --

16 CHAIRMAN CROSBY: Okay. That's my  
17 point, though. What -- we do have the  
18 authority to suspend or revoke under the  
19 statute. It just depends on the  
20 circumstances.

21 MR. MORIZIO: I don't think so,  
22 Mr. Chairman.

23 CHAIRMAN CROSBY: I was talking,  
24 actually, to your partner lawyer there.



1 MR. DINARDO: Well, that's fine.  
2 And I think the issue is really whether  
3 there's a current ongoing violation which has  
4 impact on current operations, which is not  
5 the case here.

6 COMMISSIONER ZUNIGA: So the -- You  
7 kept saying the stale or ongoing, because  
8 it's now in the past that you're relieved of  
9 that obligation? Is that your contention?

10 MR. DINARDO: No. I'm saying that  
11 as a matter of law they don't have a right to  
12 it. But for this court to -- for this  
13 Commission to take on the adjudicatory  
14 proceeding, there would have to be a realtime  
15 violation that has an impact on current  
16 operations, I believe.

17 COMMISSIONER ZUNIGA: That doesn't  
18 make any sense.

19 COMMISSIONER CAMERON:  
20 Dr. Lightbown, did you want to -- you had  
21 something to add earlier.

22 DR. LIGHTBOWN: I just had on the  
23 money owed in the election 2014. The way the  
24 horse tracks have always run is on a calendar

1 year, as we know with -- you know, the fiscal  
2 year. It always -- it's difficult now that  
3 we're with the Gaming Commission, because the  
4 horse running is always run and dog racing on  
5 a calendar year.

6 So what they do is they anticipate  
7 how much money is going to come in for  
8 simulcasting premiums, anything, that would  
9 go into the purse pool for the entire year,  
10 and then the tracks pay that money out ahead  
11 of time. So if they -- their last race is in  
12 October, they've already figured into, to  
13 their best knowledge, what they're going to  
14 have coming in for November and December and  
15 they pay that ahead of time.

16 And also, as has been stated,  
17 Suffolk has always traditionally way paid  
18 over the amount -- the statutory amount that  
19 was owed towards purses.

20 COMMISSIONER CAMERON:

21 Dr. Lightbown, Mr. Barnett points out that  
22 the former racing Commission had more  
23 experience and -- but it is my understanding  
24 that they chose not to engage in these kinds

1 of procedures and chose to leave those  
2 matters to the Court; is that correct?

3 DR. LIGHTBOWN: Not necessarily to  
4 the Court, but to the parties to work them  
5 out among themselves.

6 COMMISSIONER CAMERON: And do you  
7 have any understanding of why that was the  
8 decision of the former racing Commission?

9 DR. LIGHTBOWN: There's different  
10 premiums owed and different things that go  
11 on, and it was a matter of trying to keep  
12 track of all those numbers and everything for  
13 the whole thing. Some of these automatically  
14 come out in the financial system that we have  
15 set up so that these amounts come out and we  
16 know. But -- And they're audited that way.  
17 But the tracks traditionally will each --  
18 they'll owe each other different amounts of  
19 money, and to get involved at a particular  
20 time over who owes what, could become very  
21 cumbersome.

22 MR. BARNETT: Commissioner, if I  
23 may, on that point. I think reaching back to  
24 the state racing Commission experience is

1 something we should do with some caution  
2 without knowing exactly what the nature of  
3 any claimed or disputes were going on, and  
4 here's what I mean. This is a statutory  
5 obligation that is a condition of the right  
6 to simulcast.

7 There are other relations and  
8 monies that go back and forth between racing  
9 meeting licensees, and in the past there were  
10 more relating to the money room shift and  
11 there used to be a literal -- as I understand  
12 it, signal hub. Where signals came in  
13 through Suffolk Downs and went out to other  
14 licensees in the Commonwealth that, because  
15 of satellites, we don't have that issue  
16 anymore, I guess. But anyway.

17 There are some issues between  
18 tracks that are private contractual matters,  
19 and whether a Commission would be hesitant to  
20 get into adjudicating those, as opposed to a  
21 public statutory obligation, I could see that  
22 being a point to discuss. But here, there's  
23 none of that private contractual nature to  
24 this obligation which is strictly in the

1 statute.

2 COMMISSIONER MACDONALD: I wanted  
3 to go back to the --

4 CHAIRMAN CROSBY: I just wanted to  
5 say, on this point just for the record, you  
6 know, I completely think that by far the best  
7 place for this to be worked out is between  
8 the parties. And I made that very clear when  
9 we said we would consider taking this on. It  
10 would be far better if the parties could work  
11 this out. At the moment, I don't see any  
12 option of that happening, therefore, it comes  
13 to us.

14 COMMISSIONER MACDONALD: Yeah. I'd  
15 like to go back to the jurisdictional point.  
16 Mr. Dinardo, have you, yourself, practiced  
17 before the Superior Court in matters of  
18 enforcement of administrative agency  
19 obligations?

20 MR. DINARDO: Not in this  
21 particular type of issue.

22 COMMISSIONER MACDONALD: Any other?

23 MR. DINARDO: Well, I've practiced  
24 for 34 years. Most of my practice has been

1 before the Superior Court.

2 COMMISSIONER MACDONALD: Okay.

3 MR. DINARDO: I have not dealt with  
4 this particular type of issue before. As I  
5 said, this is my first time before the -  
6 racing -- before the Commission, the Gaming  
7 Commission.

8 COMMISSIONER MACDONALD: Okay.  
9 Well, regardless of whether you practiced  
10 before the Superior Court on a racing  
11 commission issue, have you practiced before  
12 the Superior Court on any other  
13 administrative agencies, you know, decisions,  
14 or subject matter?

15 MR. DINARDO: None come to mind  
16 right now, Commissioner. It's been a long  
17 30 years, definitively.

18 COMMISSIONER MACDONALD: Okay. In  
19 your 30 years, have you been exposed to the  
20 doctrine of exhaustion of administrative  
21 remedies as a condition that needs to be  
22 fulfilled before a court will exercise  
23 jurisdiction over a matter?

24 MR. DINARDO: I'm familiar with

1 that doctrine.

2 COMMISSIONER MACDONALD: And what's  
3 your understanding of the substance of that  
4 doctrine?

5 MR. DINARDO: I think they would  
6 have met their exhaustion requirement by  
7 coming to the Commission and asking for an  
8 adjudicatory proceeding. And if the  
9 Commission says no, then I think they would  
10 have met that exhaustion requirement.

11 COMMISSIONER MACDONALD: But I  
12 thought that your point was that we shouldn't  
13 make a decision at all, but rather defer to  
14 the Superior Court because we don't have  
15 jurisdiction.

16 MR. DINARDO: No, that's not my  
17 point. As I've been saying all along, the  
18 petition here is to commence an adjudicatory  
19 proceeding, and I think the vote should be to  
20 deny that, and then I think they would have  
21 exhausted their administrative remedies and  
22 then they would be able to proceed in  
23 Superior Court on whatever claim they think  
24 they have.

1                   COMMISSIONER ZUNIGA: But an  
2 adjudicatory proceeding would be an  
3 administrative proceeding.

4                   CHAIRMAN CROSBY: But he --

5                   MR. DINARDO: Well, the vote for  
6 today is whether or not to grant their  
7 petition to comment an adjudicatory  
8 proceeding. And so I'm respectfully  
9 submitting that the vote should be to deny  
10 that and refer them to their own devices in  
11 the Superior Court, where I'm sure they  
12 can -- they know how to file an action if  
13 they think they have a right to this claim.

14                   I'm just saying I don't think this  
15 is appropriate jurisdictionally. I don't  
16 think, as a matter of Commission's own  
17 regulations it's a type of adjudicatory  
18 proceeding the Commission should be taking  
19 on. It's a private claim. It's not about  
20 purse money and ongoing racing activities.  
21 It's about monies that are going to be  
22 wrapped up between Suffolk Downs and the New  
23 England Horsemen and that's not the type of  
24 thing that I believe the Commission should be



1 exercising its powers.

2 As I said, the power to administer  
3 and enforce is very different from the power  
4 to revoke and suspend. I think there's a  
5 serious question about whether or not the  
6 Commission has the ability to revoke or  
7 suspend a legislative mandated simulcast  
8 license. I don't think that's an issue we  
9 should be addressing here. I think it's  
10 better addressed in Superior Court. It's an  
11 interpretation of a statute.

12 COMMISSIONER ZUNIGA: So if we  
13 wanted to --

14 COMMISSIONER MACDONALD: If I  
15 could, Commissioner Zuniga. Mr. Dinardo, I  
16 spent ten years on the Superior Court.

17 MR. DINARDO: I know that, Your  
18 Honor.

19 COMMISSIONER MACDONALD: And a good  
20 portion of that time was in the civil  
21 sessions. And particularly when I was  
22 sitting in Suffolk County that a regular part  
23 of our business was reviewing actions of the  
24 administrative agencies or inactions of

1 administrative agencies. And I mean, I can  
2 share with you that if this matter came  
3 directly to the Superior Court when I was  
4 sitting there, that it would take maybe five  
5 minutes, if that, before allowing a motion to  
6 dismiss upon the basis of the fact that this  
7 was a matter that ought to be first disposed  
8 of by the administrative agency that has the  
9 statutory authority and responsibility to  
10 interpret the statutes within their domain.

11 And since apparently you and  
12 Mr. Morizio do not take issue with the fact  
13 that this subject matter falls within the  
14 statutory authorization for the exercise of  
15 our jurisdiction, I don't think that you have  
16 any plausible entitlement to Superior Court  
17 relief without a decision on the merits by  
18 this Commission.

19 MR. MORIZIO: Commissioner, if I  
20 may. I think we've spent too much time  
21 thinking on the issue of whether or not the  
22 Commission should address this claim based on  
23 whether or not it's stale or not.

24 As we've said in our brief, the

1 Commission doesn't have the jurisdiction to  
2 hear this claim because of the plain and  
3 clear language of the special legislation  
4 that's at issue, which says notwithstanding  
5 any other law -- it cites various laws --  
6 including any other special or general law,  
7 the greyhound meeting licensees, Wonderland  
8 and Raynham, shall remain licensed as racing  
9 meeting licensees until the date certain.

10 So for this Commission to say that  
11 it has the power to revoke the license is to  
12 say that this Commission has the power to  
13 ignore that unambiguous language that says we  
14 shall remain licensed, and I think that is  
15 something that we haven't talked about.

16 COMMISSIONER ZUNIGA: So that  
17 license comes with no obligations?

18 MR. MORIZIO: Oh, it comes with  
19 obligations.

20 COMMISSIONER ZUNIGA: So what  
21 happens then? And if we're trying to  
22 enforce -- your colleague was saying we have  
23 the ability to enforce, not revoke -- how  
24 could we enforce your obligations?

1 MR. MORIZIO: The way in which  
2 99 percent of other state agencies and cities  
3 and towns enforce. If you get a fine or  
4 something, you don't comply or an order from  
5 a building inspector or something, you don't  
6 comply, the agency takes you to court and a  
7 court of law orders you to comply. That's  
8 the way it's done.

9 COMMISSIONER ZUNIGA: We'll be  
10 taking you to court?

11 MR. MORIZIO: If the Commission  
12 were to find that we were supposed to make  
13 these payments and we didn't, that would be  
14 one way of doing it. Or as we've suggested,  
15 this is not a statutory claim. It's a  
16 private claim. It's a claim to put money in  
17 their pocket, in consistent with the statute,  
18 Suffolk Downs, they think it's correct,  
19 should bring the action in court and let a  
20 judge issue a declaratory judgment.

21 It's not really a matter of  
22 exhausting administrative remedies so much as  
23 it is what does the statute mean. Is there  
24 an obligation on Raynham Park under statutory

1 law to pay the money to -- simulcast premiums  
2 to Suffolk Downs for their own personal use?  
3 Is there a statutory obligation to do that or  
4 not? I think the language is very clear,  
5 it's not, but let the Court decide.

6 MR. BARNETT: I give Mr. Morizio  
7 credit for taking his position to its logical  
8 end, which is that the Commission has no  
9 authority to suspend or revoke Raynham's  
10 ability to simulcast for any violation of  
11 128C. That is, the unambiguous result of  
12 that position and it cannot be. Not only as  
13 a matter of general administrative law, but  
14 also because the Gaming Act, Chapter 194,  
15 2011, says that Raynham and Wonderland must  
16 continue to abide by 123-K -- I'm sorry.

17 CHAIRMAN CROSBY: Or at a  
18 minimum --

19 MR. BARNETT: By 128C.

20 CHAIRMAN CROSBY: Right. Or at a  
21 minimum, if there is apparently or possibly  
22 conflicting language, it would still be in  
23 our authority to -- at least at first blush,  
24 reconcile that and determine what these

1 conflicting languages says. So even assuming  
2 that that one view is the one you cited from  
3 that section, there is another view from  
4 another section and that's what we do  
5 frequently is try to resolve ambiguities like  
6 that.

7 MR. BARNETT: If I might say two  
8 sentences on the staleness point. One is  
9 it's a little hard to hear them saying that  
10 the Commission shouldn't take it up because  
11 they've been recalcitrant in paying for so  
12 long despite repeated demands.

13 Second is I don't see there's any  
14 staleness to it that -- since 2015 premiums  
15 received have been able to be used not only  
16 for purse funds but also for the operating  
17 and the horse racing expenses of the  
18 licensees; that is, Suffolk Downs.

19 There's nothing -- there's a  
20 suggestion in their papers that if the money  
21 were to be paid now, it could only be used  
22 for purses that -- for races that were run  
23 between October and -- of 2014 and June of  
24 2015. There's nothing in the statute that

1 requires the money to be used in that time  
2 period or that would prevent it from being  
3 used for overnight purses, NEBPA expenses or  
4 benefits or now for horse racing and  
5 administrative expenses of the licensee.

6 CHAIRMAN CROSBY: Could I ask a  
7 question of General Counsel Blue? Counsel  
8 for Raynham has said that the issue before  
9 the table for us today is whether or not to  
10 commence an adjudicatory proceeding and that  
11 that is what the vote I -- here refers to.  
12 Is that your understanding as well?

13 MS. BLUE: No. I think the issue  
14 before the Commission today is, one, to  
15 determine if you're comfortable you have  
16 jurisdiction. Two, to determination whether  
17 the obligation to pay the money exists. I  
18 think once you make those determinations,  
19 then you can determine if you want to have an  
20 adjudicatory proceeding.

21 My suggestion would be that if you  
22 decide both in the affirmative, that you  
23 would advise Raynham to make payments within  
24 a certain amount of time. If they fail to do

1 that, then an adjudicatory proceeding on  
2 revoking or suspending their license could  
3 occur. But I think that their -- you know,  
4 once you determine whether you have  
5 jurisdiction and you determine the monies are  
6 due, then I think there is some opportunity  
7 for the parties to perhaps continue speaking  
8 to make other -- you know, other  
9 determinations between themselves.

10 But I don't think the question  
11 before you today is whether you're going to  
12 commence an adjudicatory proceeding. I don't  
13 think we're there quite yet and that's not  
14 exactly what you asked the parties to brief  
15 you on either.

16 CHAIRMAN CROSBY: Right. Okay.

17 MR. DINARDO: Now, Mr. Chairman, if  
18 I could just refer to the May 16, 2016  
19 petition which started these proceedings,  
20 says at the bottom of the first page, Suffolk  
21 Downs hereby petitions the Massachusetts  
22 Gaming Commission to commence a proceeding to  
23 suspend the license and simulcasting rights  
24 of Raynham Taunton until it comes into



1 compliance with the statutory premium  
2 obligation.

3 So the petition is to commence a  
4 proceeding to suspend the license. That's  
5 what the petition is all about.

6 CHAIRMAN CROSBY: Do you see any  
7 inconsistency with that reading and what you  
8 just got through saying?

9 MS. BLUE: I think there's more  
10 issues before the Commission than just  
11 whether to begin an adjudicatory proceeding.  
12 And I think the Commission is entitled under  
13 its jurisdiction to consider the issues that  
14 it sees before it under its statute.

15 So I don't think you have to  
16 address that today. I think Suffolk has  
17 requested that. That's true. But I do not  
18 think the Commission is limited to  
19 considering only that which is in Suffolk's  
20 petition.

21 CHAIRMAN CROSBY: Correct.

22 COMMISSIONER ZUNIGA: Yeah. What  
23 we determined last time was to answer those  
24 two questions, submit briefs, they did, and

1 we wanted them to explain that.

2 MS. BLUE: That's correct.

3 CHAIRMAN CROSBY: Okay. I think  
4 we've heard exhaustive discussion and there's  
5 time for more if anybody wants it. We --  
6 maybe we should -- Well, there are the two  
7 issues on the table, and I think the sequence  
8 is, as General Counsel Blue said, first, do  
9 we think we have the authority; and then  
10 second, as best we understand the merits, do  
11 we think there is an obligation to pay. My  
12 suggestion is that we talk about those one by  
13 one. And I guess, do we have to vote on each  
14 one of those?

15 MS. BLUE: Yes.

16 CHAIRMAN CROSBY: Probably. Yeah.  
17 Anybody want to speak up or need further  
18 information on the first issue about whether  
19 or not we have the authority?

20 COMMISSIONER CAMERON: Yeah. I, as  
21 I usually do, I had a chance to discuss in  
22 detail with our legal staff and really  
23 understand the issues. I do believe we have  
24 the authority to, you know, handle this

1 matter in whichever way we see fit. I do  
2 believe we have that authority.

3 COMMISSIONER ZUNIGA: I do, too.  
4 And I believe that we have the authority to  
5 ultimately suspend or revoke a license like  
6 the statute says. Whether we want to do that  
7 is an entirely different matter, but I view  
8 our authority as unequivocal. With a history  
9 of 128A and C and 23K that put us in the  
10 administration of those statutes directly for  
11 the overseeing of those statutes, including  
12 the amendments to those statutes that  
13 happened subsequently.

14 CHAIRMAN CROSBY: Just to be clear,  
15 if we do go forward on each of these, if we  
16 answered each of these two questions in the  
17 affirmative and then we do proceed to an  
18 adjudicatory hearing, at that point, we would  
19 decide amongst ourselves whether or not we  
20 felt we had the authority to suspend or  
21 revoke. That is a question for another day,  
22 although you've made your opinion.

23 Anybody else want to speak to this  
24 or have further point?

1 Commissioner Macdonald?

2 COMMISSIONER MACDONALD: I'm  
3 prepared to make a motion.

4 CHAIRMAN CROSBY: Okay.

5 COMMISSIONER MACDONALD: I move  
6 that we vote to approve or acknowledge that  
7 the Commission does have the authority to  
8 revoke or suspend Raynham's license if the  
9 Commission determines that there is reason  
10 for such suspension or revocation.

11 CHAIRMAN CROSBY: Wait a second.  
12 Now that's --

13 COMMISSIONER CAMERON: A different  
14 question.

15 CHAIRMAN CROSBY: That was  
16 different from what I just got through  
17 saying. You know, I think the question that  
18 we -- we can change this, but the question at  
19 the moment on the table was do we have the  
20 authority to undertake to resolve this. Do  
21 we have the authority to be involved in this  
22 and to ultimately come to an determination on  
23 the merits.

24 If the answer to that is yes, and

1           then we discuss that -- the merits and decide  
2           the, yes, there is an obligation to pay, then  
3           we would have an adjudicatory hearing and  
4           we'd be figuring out what is our conclusion  
5           there, what is the appropriate relief, and at  
6           that point, we would debate amongst ourselves  
7           whether it was within our range of authority  
8           to suspend or revoke.

9                        COMMISSIONER MACDONALD: I was just  
10           quoting from General Counsel Blue's  
11           memorandum as to the first question here, but  
12           whatever. Do you have suggested language,  
13           General Counsel?

14                      MS. BLUE: I think the first motion  
15           would be that you make a determination that  
16           have the authority and the jurisdiction to  
17           take this matter on.

18                      COMMISSIONER MACDONALD: So moved.

19                      CHAIRMAN CROSBY: Okay. Second?

20                      COMMISSIONER ZUNIGA: Second.

21                      CHAIRMAN CROSBY: Any further  
22           discussion? Is that sufficiently clear for  
23           the record now so -- what we said? I don't  
24           want there to be any ambiguity about what

1 we're voting on. The words were basically  
2 that we have the authority to take this  
3 matter under consideration. Is that --

4 MS. BLUE: That's correct.

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

7 COMMISSIONER CAMERON: Aye.

8 COMMISSIONER MACDONALD: Aye.

9 COMMISSIONER ZUNIGA: Aye.

10 COMMISSIONER STEBBINS: Aye.

11 CHAIRMAN CROSBY: Opposed?

12 The ayes have it unanimously.

13 Okay. So the second question is,  
14 as best we are able to determine, do we  
15 believe that Raynham has an obligation to  
16 pay, under the statutes that govern our  
17 operations, this premium to Suffolk Downs as  
18 discussed in the paperwork?

19 COMMISSIONER CAMERON: And I have  
20 more concerns with this question, frankly.  
21 It concerns me that the legislature chose to  
22 suspend them. And as we know, sometimes  
23 when -- and it's -- so many pieces of the  
24 legislation have been added, subtracted in

1 the last couple of years, what is the intent?  
2 I'm not clear that the intent, with such  
3 limited racing, was for these premiums to be  
4 paid. And I just -- this one is a harder one  
5 for me frankly, you know, especially with a  
6 remedy of suspending a license over this  
7 finite period of time and putting 81 people  
8 out of work.

9 CHAIRMAN CROSBY: Well, we haven't  
10 decided --

11 COMMISSIONER CAMERON: I  
12 understand.

13 CHAIRMAN CROSBY: That's not on the  
14 table --

15 COMMISSIONER CAMERON: I do. I do  
16 know that. I'm just saying this one is  
17 harder for me because it is not as clear cut  
18 as I'm hearing from everyone. In my mind, it  
19 is not, anyway. Because of, like I say, the  
20 -- choosing to suspend those premiums a year  
21 later and not understanding, I didn't hear  
22 definitively why that was done. Did they  
23 look at the idea that racing is so limited  
24 and make a determination or was it strictly

1           that there's another funding mechanism. I  
2           mean, I'm just not sure.

3                       CHAIRMAN CROSBY: Why would they  
4           suspend them -- and this is not a rhetorical  
5           question. Why would they suspend them if  
6           they thought they were already suspended?

7                       COMMISSIONER CAMERON: Well, was it  
8           an oversight, that they -- when they came  
9           back to them a second year and said, look,  
10          yes, we changed this legislation, but in  
11          doing that, now we're looking at the premium  
12          piece and don't think we need to pay those  
13          any longer.

14                      CHAIRMAN CROSBY: But it was going  
15          forward. It wasn't -- like we made a  
16          decision -- and again, this -- I appreciate  
17          your point here and I want to try to  
18          understand. We made a decision on the split  
19          issue that there was -- in effect, there had  
20          been a mistake for nobody's fault. We  
21          decided to have a split occur retroactively.

22                      COMMISSIONER CAMERON: Yes.

23                      CHAIRMAN CROSBY: Apparently, when  
24          the legislature dealt with this and decided,



1 for whatever the reasons were, not to -- to  
2 suspend premiums, they did not do it  
3 retroactively.

4 COMMISSIONER ZUNIGA: Yeah. That  
5 was my question. The fact that they were  
6 suspending does not relieve their obligation  
7 retroactively. It only does -- perhaps makes  
8 it a finite and a stale. You know, I might  
9 concede that claim. But if the legislature  
10 wanted to suspend them retroactively, they  
11 could have easily done that.

12 I think the heart of the matter is  
13 whether the obligation was there and that's  
14 the part that I am not persuaded at all by  
15 the claims from Raynham. Simply because the  
16 dark days that they ceased to be licensed by  
17 some time when they ceased to conduct live  
18 racing. The license has always been for the  
19 entire calendar year which then was extended  
20 by the legislature, I believe in this case  
21 even retroactively, to make sure that there  
22 was no gap in those -- in fact, there were  
23 two extensions. There was the, you know,  
24 January to March and March to July of next

1 year.

2 COMMISSIONER CAMERON: I guess my  
3 point is that I don't know that there was any  
4 overall look at racing in which the  
5 legislature could have said, okay, we do this  
6 and this is the consequence. Instead, it was  
7 one group coming in and saying, you know,  
8 allow us to simulcast, since we can't race.  
9 Okay. We do that. And then another group  
10 going in and saying, okay, you did that, but  
11 look how that leaves us. And then saying,  
12 okay, you don't have to pay those premiums.

13 So I just -- I guess I'm a little  
14 concerned that this was not, as many issues  
15 are not, handled in totality. So it leaves  
16 us trying to -- again, I'm looking at  
17 fairness issues. I guess if we look -- if I  
18 look at the strict reading of it, you're  
19 correct, Commissioner, that it was not  
20 retroactively. I guess I'm just concerned  
21 that we're going down a path, and we need to  
22 be prepared to take a step and that's for a  
23 later time, so I'll hold until that later  
24 time.

1                   COMMISSIONER ZUNIGA: Yes. If  
2                   we're answering the question of -- you know,  
3                   whether there is an obligation, the remedies  
4                   we can discuss later. But I really believe  
5                   that there is an obligation, you know, by  
6                   Raynham to pay those premiums. They were in  
7                   effect. Again, the arguments that they make,  
8                   first the use I think is irrelevant to the  
9                   obligation. And secondly, whether the  
10                  license is in place because there's live  
11                  racing and dark days, that doesn't conform  
12                  with what the history had been.

13                  And you know, to use an example  
14                  that I think I heard from some of the  
15                  submissions, when you're given a license, a  
16                  driver's license, you could drive sometimes  
17                  and -- but the license is still valid, and  
18                  that was the case here for their live racing,  
19                  which is again tied to --

20                  COMMISSIONER CAMERON: Well, those  
21                  were changed over a period. It's not -- I  
22                  mean, we've made changes and allowed  
23                  provisional licenses and temporary. I mean,  
24                  we've done that to try to help the industry.

1 But they're, you know, placeholders. So  
2 there's many things that have changed in  
3 racing that it's hard to quantify and not as  
4 cut and dry as a driver's license.

5 COMMISSIONER ZUNIGA: Well, there's  
6 placeholder applications, but there's been a  
7 license in effect for Suffolk Downs without  
8 any days interrupted. There's been --

9 COMMISSIONER CAMERON: With a  
10 change in legislation.

11 COMMISSIONER ZUNIGA: Yes. Yes, of  
12 course.

13 COMMISSIONER MACDONALD: But you  
14 know, Commissioner Cameron, I think that  
15 fairness issues, as you used that phrase, are  
16 always something that should be before --  
17 should always be before us when we make a  
18 decision, but what's unfair here about  
19 requiring Raynham to comply with the plain  
20 meaning of the statute?

21 COMMISSIONER CAMERON: Well, when  
22 you say the plain meaning of the statute --

23 COMMISSIONER MACDONALD: Three  
24 percent -- three percent premium.

1                   COMMISSIONER CAMERON: Well, I hear  
2                   you and I've heard your argument, but I'm  
3                   looking at this in totality that the law was  
4                   changed. What was the intent to -- you know,  
5                   as the Commissioner points out, it could have  
6                   been retroactive and was not. So I guess my  
7                   concern is sometimes when you're that literal  
8                   with an issue like this that is changing  
9                   constantly, I think --

10                  CHAIRMAN CROSBY: I think if this  
11                  were unambiguous, plain reading, we wouldn't  
12                  be here today. So there's clearly a  
13                  discussion about that. I think you make a  
14                  point which has come up many times and which  
15                  is very important, which is the industry has  
16                  been operating under this piecemeal  
17                  operations, you know, in that there has not a  
18                  holistic look at anything for years. And  
19                  it's put everybody in an incredibly difficult  
20                  situation, all the constituents in the  
21                  industry, all their operators, the horsemen,  
22                  the breeders, and, by the way, the Gaming  
23                  Commission. We, by the way, have tried for  
24                  years to get that corrected. As far as we

1 know, nobody in the industry has supported us  
2 in that effort and neither has the  
3 legislature in its totality. So we're stuck.  
4 You know, we're stuck with a situation.

5 I totally agree with you. I mean,  
6 if I were a horseman, I wouldn't know how to  
7 operate under this. In a previous  
8 discussion, I eloquently referred to it as a  
9 mess and I think it is. And I think that  
10 does raise the kind of fairness issues that  
11 you raise.

12 Nevertheless, we're stuck. You  
13 know, we have to try to make a decision  
14 within the best judgment we can. But I very  
15 much appreciate your point that there has not  
16 been a holistic look for a long time where  
17 anybody has said if you do this, then that,  
18 and really thought through it systemically.

19 COMMISSIONER MACDONALD: But on  
20 that point, Mr. Chairman, what's unfair about  
21 obliging Raynham to comply with the language  
22 of the statute. The one thing that's not in  
23 question here is that they did not pay three  
24 percent of their simulcast revenues. They

1 didn't pay. There's no doubt about that. So  
2 they've kept three percent to do whatever  
3 they want with.

4 There's a doctrine in the law  
5 called unjust enrichment, and it seems to me  
6 that if there is no question that they  
7 haven't paid this over --

8 COMMISSIONER CAMERON: The  
9 questions are the environment changed. Those  
10 laws were written for, you know, many, many  
11 days of racing and that money going to  
12 purses.

13 COMMISSIONER ZUNIGA: But that  
14 doesn't change the gaming. That doesn't  
15 change the --

16 CHAIRMAN CROSBY: I don't -- yeah,  
17 but I don't think that's the issue. I think  
18 the issue is that not everybody agrees with  
19 your reading that they owed it. They don't  
20 have to pay it. Not paying it isn't doing  
21 anything wrong if they don't owe it. The  
22 question here is whether they owe it. They  
23 claim they didn't.

24 You know, so I'm not -- I don't

1 think -- we will make a decision and it will  
2 not be unfair. I think it's unfortunate the  
3 industry has to operate in this environment.  
4 We've tried to do our best to fix that. We  
5 haven't been able to. We're stuck, and we've  
6 got to deal with it. And it is not -- what  
7 we decide is not going to be unfair. It's  
8 going to be our best judgment on this. But  
9 the issue at hand is whether or not they  
10 owed, they were under an obligation to pay  
11 it, not whether or not they paid it. Anybody  
12 else? Commissioner Stebbins, anything else?

13 COMMISSIONER STEBBINS: No.

14 CHAIRMAN CROSBY: You know, my -- I  
15 have said a lot about what I think. I'm  
16 sympathetic to your point. I think the  
17 attorneys for Raynham are very deft at, you  
18 know, trying to make the most of the  
19 ambiguity in this. And frankly, I'm mindful  
20 of the folks at Raynham. You know, I  
21 remember -- This is not totally relevant, but  
22 I'm going to say it anyway. I remember when  
23 we were in Raynham and its surrounding  
24 communities hearing quite emotional praise



1 for the business practices of the folks at  
2 Raynham, and I'm not unmindful of that.

3 In fact, I think we made a point of  
4 noting it for the record. However, for my  
5 money, as best I can see, you know, within  
6 the ambiguities that are granted here, the  
7 best reading for us at this stage in the game  
8 is that the money was owed, and therefore, we  
9 should vote accordingly and should then  
10 undertake an adjudicatory proceeding and  
11 figure out what remedy, if any, is  
12 appropriate.

13 COMMISSIONER MACDONALD: So moved.

14 CHAIRMAN CROSBY: Second?

15 COMMISSIONER ZUNIGA: Second.

16 CHAIRMAN CROSBY: Further  
17 discussion? All in favor --

18 MS. BLUE: Mr. Chairman --

19 CHAIRMAN CROSBY: Oh, sorry.

20 MS. BLUE: Mr. Chairman, just to  
21 put the process probably in its perspective.  
22 When you make your determination, you would  
23 also want to direct Raynham, if you determine  
24 the money is owed, that you would direct them

1 to pay it within a certain time frame, and  
2 then you would take your time in determining  
3 whether an adjudicatory proceeding was  
4 necessary after that point.

5 CHAIRMAN CROSBY: Okay. So I  
6 withdraw the portion of my expiation which  
7 included move forward on an adjudicatory.

8 MS. BLUE: Yes.

9 CHAIRMAN CROSBY: Okay. And  
10 subject to -- for it--

11 COMMISSIONER CAMERON: And do we  
12 decided a time frame that's appropriate  
13 before?

14 MS. BLUE: Yeah. You'd have to  
15 determine what time frame. If you determine  
16 the money is owed, what you time frame you  
17 think in which it should be paid.

18 COMMISSIONER MACDONALD: So the  
19 first motion should be whether it's owed?

20 MS. BLUE: Yes. So we can do it in  
21 pieces, determine first if it's owed. If it  
22 is owed --

23 CHAIRMAN CROSBY: Let's do it step  
24 by step.

1 MS. BLUE: Okay.

2 CHAIRMAN CROSBY: So just -- the --  
3 well --

4 COMMISSIONER MACDONALD: Yeah. I  
5 move that the Commission vote its  
6 determination that Raynham owes the three  
7 percent of the simulcast revenues that are at  
8 issue to be paid to Suffolk Downs.

9 CHAIRMAN CROSBY: Or had an  
10 obligation to pay, all right. Second?

11 COMMISSIONER ZUNIGA: I second  
12 that.

13 CHAIRMAN CROSBY: Further  
14 discussion? All in favor aye.

15 COMMISSIONER CAMERON: Aye.

16 COMMISSIONER MACDONALD: Aye.

17 COMMISSIONER ZUNIGA: Aye.

18 COMMISSIONER STEBBINS: Aye.

19 CHAIRMAN CROSBY: Opposed?

20 The ayes have it unanimously.

21 Okay. So the next step is so what,  
22 and I guess the discussion is that it should  
23 be our direction to Raynham to pay what we  
24 have determined it had the right -- it had

1 the obligation to pay and that we had the  
2 obligation to address in some number of days.  
3 And hopefully in that time that will pay or  
4 the dispute will be reconciled, and we will  
5 not have to go to the further step. Does  
6 anybody have a -- 30 days?

7 COMMISSIONER ZUNIGA: Is there  
8 any -- 30 days seems to be a usual good  
9 amount in terms of administrative  
10 proceedings.

11 MS. BLUE: Um --

12 COMMISSIONER ZUNIGA: Does it  
13 matter?

14 COMMISSIONER CAMERON: Does 60 days  
15 give them some time to talk, possibly?

16 MS. BLUE: It does give them more  
17 time to talk. I think there's certainly  
18 nothing statutorily about a time frame. You  
19 know, sort of general course of business  
20 conduct is usually 30 days, but this is a  
21 regulatory administrative matter, so you  
22 could give them 60 days. You could give them  
23 some more time to try and talk and work this  
24 out if you felt that was appropriate.

1                   COMMISSIONER MACDONALD: I suggest  
2                   that this has been going on too long and  
3                   30 days is more than enough. So I move that  
4                   we vote to require Raynham to pay over the  
5                   amounts at issue within 30 days.

6                   CHAIRMAN CROSBY: Second?

7                   COMMISSIONER ZUNIGA: I second  
8                   that.

9                   CHAIRMAN CROSBY: Further  
10                  discussion?

11                  COMMISSIONER STEBBINS: I feel  
12                  comfortable with a little longer time frame.

13                  Commissioner CAMERON: Yeah. I  
14                  think we went to a motion very quickly  
15                  without discussing it.

16                  CHAIRMAN CROSBY: Well, we can  
17                  discuss it now.

18                  COMMISSIONER CAMERON: Yeah. Yeah.  
19                  I mean, I think a little more time may be --  
20                  may be helpful, or maybe not, but I think  
21                  that it gives people time to understand what  
22                  we're talking about and --

23                  COMMISSIONER ZUNIGA: Well, there's  
24                  a brief.

1                   COMMISSIONER CAMERON: This piece  
2 of it is new for the individuals here today.  
3 They may have had disagreements for a longer  
4 time, but this piece in our discussion is new  
5 information.

6                   COMMISSIONER ZUNIGA: I just happen  
7 to agree with Commissioner Macdonald, that  
8 this issue has been going on for enough time.  
9 There was always at least the possibility.  
10 I'm comfortable with 30 days, but it --

11                   CHAIRMAN CROSBY: And I sort of  
12 tend to agree, too. I think that we have a  
13 lot of experience in our discussions with the  
14 adversarial parties that deadlines have a  
15 pretty big impact. These issues have been  
16 pretty thoroughly discussed. 30 days from  
17 now is the middle of November. 60 days from  
18 now is the middle of December, and then all  
19 of a sudden we're in Christmases and holidays  
20 and what have you.

21                   MR. BEDROSIAN: And Commissioners,  
22 I assume that if the parties came back on the  
23 28th day and said we're having substantive  
24 discussions that appear to potentially

1 resolve this, we need a little more time,  
2 you'd entertain that.

3 CHAIRMAN CROSBY: Well, we'll  
4 entertain anything, but I wouldn't put any  
5 predispositions on the table or suggest that  
6 anything we're about to vote on is not  
7 something that we're committed to.

8 MR. BEDROSIAN: Yeah, I wouldn't  
9 suggest otherwise.

10 CHAIRMAN CROSBY: Yeah.

11 COMMISSIONER STEBBINS: I just feel  
12 comfortable with a little bit longer time.

13 CHAIRMAN CROSBY: Further  
14 discussion? All in favor of the motion to  
15 direct Raynham to fulfill its obligations to  
16 pay within 30 days indicate by saying aye.

17 COMMISSIONER ZUNIGA: Aye.

18 COMMISSIONER MACDONALD: Aye.

19 CHAIRMAN CROSBY: Aye.

20 Opposed?

21 COMMISSIONER CAMERON: Nay. I  
22 would've given them more.

23 COMMISSIONER STEBBINS: Nay.

24 CHAIRMAN CROSBY: Three to two.

1 Commissioners Macdonald, Crosby, and Zuniga  
2 in favor. Commissioner Cameron and Stebbins  
3 opposed. Okay. Is there anything else --

4 COMMISSIONER STEBBINS: To be clear  
5 -- And not on our opposition. That may be an  
6 obligation as it needed to be paid, but --

7 CHAIRMAN CROSBY: No, I understand.

8 COMMISSIONER ZUNIGA: That was a  
9 prior vote.

10 COMMISSIONER CAMERON: The timing.

11 CHAIRMAN CROSBY: Purely as to the  
12 number of days, right. That's fine.  
13 Anything else on this matter? Out of  
14 fairness to you, we're not going to re-debate  
15 anything, but does -- any last points that  
16 are -- Okay. All right. Then we will move  
17 on. Thank you.

18 COMMISSIONER MACDONALD: Thank you.

19 MR. BEDROSIAN: Mr. Chairman, it's  
20 12:42. I am advised by the legal counsel  
21 that she believes Number 6 could be fairly  
22 expeditious. So I leave it up to you  
23 whether -- you know, to try to get through  
24 the meeting now and have the afternoon for



1 the Commissioners.

2 CHAIRMAN CROSBY: I think we  
3 should. I think there's a fair amount of  
4 stuff in the Commissioner's reports that we  
5 may want to talk about. But nevertheless, I  
6 think let's run through it and let's go ahead  
7 and try to get this done. I just want to  
8 take a very quick five-minute break, though.

9 (Break taken.)

10 CHAIRMAN CROSBY: We're ready to  
11 reconvene public meeting 201 with item  
12 Number 6, Catherine Blue, our general  
13 counsel.

14 MS. BLUE: In your packet today you  
15 have the amendments to 205 CMR 134. This is  
16 the licensing regulation and this is the  
17 particular piece that pertains to  
18 fingerprinting, which, as I recall, we  
19 approved by emergency. We've now taken it  
20 through the hearing process. We want to have  
21 the final promulgation take place.

22 So you have an amended small  
23 business impact statement as well as the  
24 final amendments to that section of the

1 regulation. And we're just asking that you  
2 approve that today and allow the legal  
3 department to take it through final  
4 promulgation.

5 COMMISSIONER STEBBINS: I would  
6 just note, Director Griffin and I met with  
7 the purchasing director down at Plainridge.  
8 We had a chance to talk briefly about this  
9 regulatory change, and he could not be  
10 happier in terms of the ease and convenience  
11 it's going to be for him and Plainridge to be  
12 able to pursue certain vendors who, at  
13 previous times, said I'm not going through  
14 that. So positively received.

15 Mr. Chairman, I move the Commission  
16 approved the amended small business impact  
17 statement and final version of 205 CMR  
18 134.13, licensing and registration of  
19 employees, vendors, junket enterprises, and  
20 representatives and labor organizations  
21 fingerprinting as included in the packet.

22 COMMISSIONER MACDONALD:  
23 Commissioner Stebbins, you might slow down a  
24 bit. The stenographer might have trouble.

1                   COMMISSIONER STEBBINS: I'm sorry.  
2                   And she just told us. She said, when you're  
3                   reading something, you go too fast. Where do  
4                   you want me to pick up?

5                   THE COURT REPORTER: Wherever you  
6                   left off.

7                   COMMISSIONER STEBBINS: All  
8                   right -- labor organizations, fingerprinting,  
9                   as included in the packet and authorize the  
10                  staff to take all steps necessary to file the  
11                  regulation with the Secretary of the  
12                  Commonwealth and complete the regulation  
13                  promulgation process.

14                  CHAIRMAN CROSBY: Second?

15                  COMMISSIONER ZUNIGA: Second.

16                  CHAIRMAN CROSBY: Further  
17                  discussion? All in favor? Aye.

18                  COMMISSIONER CAMERON: Aye.

19                  COMMISSIONER MACDONALD: Aye.

20                  COMMISSIONER ZUNIGA: Aye.

21                  COMMISSIONER STEBBINS: Aye.

22                  CHAIRMAN CROSBY: Opposed?

23                  The ayes have it unanimously.

24                  MS. BLUE: Thank you. The next

1 item on the agenda is what we've called the  
2 2017 racing legislation. So as the  
3 Commission knows, the racing legislation,  
4 128A and 128C, was extended last year, but  
5 only for a year, unlike prior years where it  
6 was extended for two years. So it expires  
7 again. Our sun sets as of July 31st of 2017.

8 Beginning of 2017, January 1st, we  
9 start a new legislative session. So in order  
10 for bills to be considered, they need to be  
11 filed by November 2nd of this year so they  
12 get into the queue for the legislature to  
13 consider.

14 What we put in your packet is a  
15 proposed draft racing bill. It tracks very  
16 closely Senate Bill 2440 that was passed in  
17 last session. I did make one significant  
18 change to it and that is I added language  
19 that would allow the Commission to do drug  
20 testing of jockeys and drivers. We currently  
21 don't have that particular authority under  
22 our statute.

23 We have a regulation that seems to  
24 allow us to do it, but we had been advised at

1 prior years that in order to really have the  
2 authority to do that, we would need statutory  
3 authority. So I put some language in.  
4 That's the only significant difference,  
5 really, from what the Senate had considered  
6 and passed last session.

7 So we're asking for you to take a  
8 look at this bill. If you have any changes  
9 or suggestions, we're happy to incorporate  
10 them, but then vote to authorize us to file  
11 it and then see if it goes forward.

12 COMMISSIONER CAMERON: Is that drug  
13 and alcohol testing?

14 MS. BLUE: Yes. Yes.

15 COMMISSIONER STEBBINS: And is that  
16 something subscribed to by the --

17 COMMISSIONER CAMERON: Yes, the  
18 best practice, and I was surprised that we  
19 weren't doing that here. Absolutely, it's a  
20 safety issue for both the horses as well as  
21 the other riders, and it is one that's  
22 strictly enforced elsewhere and one that  
23 is -- there are many instances where this  
24 is -- someone does come up hot, and it's

1 necessary to remove them. So yes, it  
2 certainly is a best practice, and I'm happy  
3 to see that we're incorporating this.

4 COMMISSIONER STEBBINS: Okay.

5 COMMISSIONER MACDONALD: So are we  
6 voting to approve the bill?

7 MS. BLUE: The bill, yes. And to  
8 allow us to file it, to allow staff to file  
9 it.

10 COMMISSIONER ZUNIGA: I'm reading  
11 Section 2 real quick here and just the large  
12 -- the long discussion that we had recently,  
13 would any of these be more clarifying or  
14 perhaps less clarifying in terms of our  
15 authority to --

16 MS. BLUE: Well, so the way this  
17 bill is set up, it has very broad general  
18 provisions. Everything would be dealt  
19 specifically by regulation. So this bill  
20 is -- when you look at statutes, this bill is  
21 very short, but the idea would be that we  
22 would craft a very detailed regulation, so we  
23 would address these kinds of issues in our  
24 regulations.

1                   COMMISSIONER ZUNIGA: Right. 30A  
2                   versus adjudicatory.

3                   MS. BLUE: Yes. That's right.

4                   CHAIRMAN CROSBY: This is actually  
5                   a model of -- These are very different. But  
6                   it's a model of what we've been talking about  
7                   and maybe could be done relative to online  
8                   gaming. A sort of a give broad strokes, give  
9                   values, give -- you know, but let the  
10                  regulatory agency be nimble to do it through  
11                  regulation rather than through legislation.  
12                  We -- Were you finished on that point?

13                  COMMISSIONER ZUNIGA: Yes.

14                  CHAIRMAN CROSBY: We have been  
15                  encouraged to make our feelings known  
16                  about -- our opinions known about this, and  
17                  you know, I think we're clearly open to  
18                  discussing any number of issues that are in  
19                  here. This is our best judgment that we've  
20                  arrived at so far, but we have been  
21                  encouraged to file within the normal proper  
22                  time frame where administrative agencies can  
23                  on file, on our own. So I think it's a good  
24                  idea and I think -- you know, I think what is

1 in here, it's actually evolved.

2 Our original legislation that we  
3 did back under Director Durenberger was quite  
4 different from this. Because I think we've  
5 learned a tremendous amount, and I think this  
6 is really good. You know, whether the  
7 legislature is willing to delegate this kind  
8 of authority remains to be seen, but I think  
9 we owe it to the public to give our best  
10 judgment, and it's up to the legislature  
11 whether they will follow it or not.

12 COMMISSIONER ZUNIGA: Just on that  
13 note and that's a great summary. We could  
14 establish then by regulation and change by  
15 regulation, let's say, all the takeouts and  
16 all the multiple percentages that are so  
17 confusing even to try to get to understand  
18 and simplify them and streamline them.

19 MS. BLUE: Under this statute, we  
20 would. We would have to do that. We would  
21 have a large number of regulations to  
22 promulgate, but we would definitely do things  
23 like takeouts. We would do things with how  
24 the wagers are made and our ability to have



1 different kinds of wagers versus current  
2 kinds. So we would have broad discussion to  
3 describe all that in regulation.

4 COMMISSIONER STEBBINS: I think,  
5 Mr. Chairman, your point giving us that  
6 flexibility, we've talked numerous times  
7 about what we can do to try to help both the  
8 thoroughbred and the harness racing industry  
9 in Massachusetts and being able to be more  
10 nimble and go through a regulatory process,  
11 which still involves public comment and  
12 public participation, it can -- could be a  
13 much easier solution to the changing  
14 landscape then waiting for the legislative  
15 process to work itself through.

16 MS. BLUE: The other thing this  
17 does, too, is it moves the Racehorse  
18 Development Fund out of 23K. It moves it  
19 into this bill, and it gives the Commission  
20 much more flexibility on what it can do with  
21 the Racehorse Development Fund. It does  
22 require that up to 50 percent of it be used  
23 for purses, but other than that, there's more  
24 flexibility.

1                   So we've consolidated a lot of  
2 racing into a racing bill and we've clarified  
3 simulcasting licenses as well. We took them  
4 out of 23K. We put them in here so that you  
5 have the flexibility to address those issues  
6 in one place.

7                   CHAIRMAN CROSBY: Good. Yeah. I  
8 think it's really good. And you know, we  
9 were specifically asked at -- you know,  
10 Commissioner Cameron asked some of the  
11 legislative leadership whether they would  
12 like us to put our pen to paper, and the  
13 answer was yes. Do we have a motion?

14                   COMMISSIONER ZUNIGA: Sure. I  
15 would be happy to move that the Commission  
16 approves the language contained in the packet  
17 relative to Chapter 128D and instruct staff  
18 to submit to the legislative -- to the  
19 legislature as needed or appropriate.

20                   CHAIRMAN CROSBY: Second?

21                   COMMISSIONER STEBBINS: Second.

22                   CHAIRMAN CROSBY: Further  
23 discussion? All in favor? Aye.

24                   COMMISSIONER CAMERON: Aye.

1 COMMISSIONER MACDONALD: Aye.

2 COMMISSIONER ZUNIGA: Aye.

3 COMMISSIONER STEBBINS: Aye.

4 CHAIRMAN CROSBY: Opposed?

5 The ayes have it unanimously.

6 MS. BLUE: And then finally, we  
7 have the legislation for the gaming policy  
8 advisory committee. I know you discussed  
9 this, this morning with Mr. Ziemba. We have  
10 asked the ethics Commission for ways to try  
11 to get out from some of the tension between  
12 the ethics rules that they apply to people  
13 who would be appointed to serve on the Gaming  
14 Policy Advisory Committee and some of the  
15 sub-committees.

16 Last legislative session, we did  
17 file this language. It got stuck on to the  
18 budget. It ended up in conference. It never  
19 came out of conference. This is very  
20 important for us to be able to get those  
21 committees, get the right people on those  
22 committees, and get those committees fully  
23 staffed.

24 So we would like permission from

1 the Commission to submit this again this year  
2 and take it through the process. And  
3 Mr. Ziemba is here if you have questions  
4 specifically about it, but I believe it is  
5 the same legislation we used last year and  
6 addresses the concerns that we had.

7 CHAIRMAN CROSBY: Questions?  
8 Issues? Do we have a motion?

9 COMMISSIONER ZUNIGA: You know  
10 actually, before that, just for a little  
11 background. We're just about done with the  
12 animal report. It's being -- it now is going  
13 through the last of the revisions, I think,  
14 that we will submit to the legislature very  
15 soon. We are, for the first time, including  
16 a section that says recommendations for  
17 legislative action. And these are two  
18 examples, including the prior recommendation  
19 of dealing with online gaming in a holistic  
20 way are the three recommendations that we  
21 have for the legislature that we are now  
22 including in the animal report.

23 CHAIRMAN CROSBY: Great.

24 COMMISSIONER MACDONALD: Can I

1 move?

2 CHAIRMAN CROSBY: Please.

3 COMMISSIONER MACDONALD: I move  
4 that we vote to approve the text of the  
5 proposed statute in the materials that's  
6 titled, "An Act to Enable Municipal and  
7 Regional Planning Agency Employees to Fully  
8 Participate in Gaming Policy Advisory  
9 Committees" be submitted to the legislature  
10 as a bill for the upcoming session.

11 CHAIRMAN CROSBY: Second?

12 COMMISSIONER STEBBINS: Second.

13 CHAIRMAN CROSBY: Further  
14 discussion? All in favor? Aye.

15 COMMISSIONER CAMERON: Aye.

16 COMMISSIONER MACDONALD: Aye.

17 COMMISSIONER ZUNIGA: Aye.

18 COMMISSIONER STEBBINS: Aye.

19 CHAIRMAN CROSBY: Opposed?

20 The ayes have it unanimously.

21 MS. BLUE: And that completes the  
22 legal report.

23 CHAIRMAN CROSBY: Thank you. All  
24 right. We are at Item Number 7 and I hate,

1 in a way, to have to do this, but there are  
2 things I know going on that we don't know  
3 about, so I do want to spend a few minutes.  
4 I have a few things. I don't know if anybody  
5 else does. Yes. Okay.

6 Commissioner Cameron.

7 COMMISSIONER CAMERON: Would you  
8 like me to start, Mr. Chairman?

9 CHAIRMAN CROSBY: Yeah. Please.

10 COMMISSIONER CAMERON: You know, I  
11 just -- I attended -- I was invited to --  
12 this was the day before G2E, and it was an  
13 all-day seminar conference discussion with  
14 regulators from -- international group  
15 from -- representing all the continents,  
16 frankly, and industry. Interesting format.  
17 Because of some of the international groups I  
18 belong to, I believe I was invited to this.  
19 And just, you know, what are the challenges  
20 and what are the opportunities in gaming.

21 It's mostly a group that deals with  
22 online, but there were many, many other  
23 topics discussed. And I'll just go through a  
24 couple of them briefly.

1           The future of social gaming,  
2           driving on property, mobile challenges,  
3           player protection or responsible gaming for  
4           online gaming. What can the industry do to  
5           build loyalty with millennials --  
6           millennials, rather.

7           Sports betting, when, how, lots,  
8           lawsuits. Lots of discussion about that.  
9           E-sports, are they the future or not. Faster  
10          adoption and integration of new technology,  
11          huge topic. Let's see. More discussion on  
12          E-sports. Will video games replace slot  
13          machines. Lotteries versus casinos.  
14          Convergence or collision with the online,  
15          interesting topic.

16          You know, ten years from now, where  
17          will we be. Evolution of gaming, how  
18          interactive will it be. How will smaller  
19          brick and mortar casinos compete. Why should  
20          gaming have more women in leadership,  
21          interesting topic. I think the organizer of  
22          this group had trouble, frankly, finding  
23          women who are in leadership positions,  
24          especially on the industry side.

1                   CHAIRMAN CROSBY: Even to come to  
2 the meeting.

3                   COMMISSIONER CAMERON: Yes. So I  
4 think that's why it got put on the topic,  
5 because there was a struggle with that.  
6 Let's see. Strategies for turning social  
7 gaming into real money. Negative public  
8 perception of gambling. I think our  
9 research -- you know, I noted that will help  
10 with some of that. There's just not enough  
11 good research out there with some of these  
12 perceptions.

13                   Online versus land based, how will  
14 the two -- what will be the intersection  
15 there. How do we get more I-gaming in the  
16 states quicker. That was some international  
17 online folks that really are very interested  
18 in more states adopting online gaming. How  
19 can that be --

20                   CHAIRMAN CROSBY: And people have  
21 no idea how much online gaming is done in  
22 other countries, right?

23                   COMMISSIONER CAMERON: Well, that's  
24 what was so interesting about this, to talk



1 to those regulators from other countries.  
2 And then they took all of those topics and  
3 you had to vote which ones you thought were  
4 most important and then there were further  
5 discussions in the afternoon, and it was a --  
6 the mobile gaming was huge.

7 Traditional slots in ten years,  
8 where will we be. What can be done to build  
9 loyalty with the millennials. Merging of  
10 social gaming with the bricks and mortars and  
11 sports betting were the top five out of all  
12 those previous topics that the entire group,  
13 about 50 individuals. Really, really  
14 interesting.

15 Talking to a regulator from Italy,  
16 for example. He was in charge of all of the  
17 three casinos in the northern part of the  
18 state, and following EU regulations, they had  
19 to mandate player cards. Because you know,  
20 most of the countries in Europe think that's  
21 a good idea. Well, Italy, the culture is  
22 different.

23 Like our country, they like to go  
24 in and use cash and be anonymous, if they

1 choose to. Lost one-third of his business  
2 right over the border to Switzerland, who  
3 isn't -- they are not part of the EU. So  
4 one-third of the gamblers just said, no, I'm  
5 not doing that. I don't want you to know who  
6 I am. Some very interesting discussions.

7 Lots of industry folks from the  
8 online world really looking to see how the  
9 regulators feel about things. What are you  
10 thinking. Lots of interest in Massachusetts  
11 because they know we have the bigger  
12 operators coming here.

13 So just very -- it's just good for  
14 us, I think, to, A, know these individuals;  
15 and B, have an idea of what's coming and how  
16 other jurisdictions are implementing and what  
17 will happen here. So they're very, very good  
18 discussions. Well worth attending this. You  
19 know how some of these -- this was really  
20 substantive and informative. And just the  
21 relationships. I have more business cards,  
22 right, from a lot of these folks and  
23 regulators as well as industry folks who are  
24 looking to see how we're going to move

1 forward.

2 So, you know, it's more detail  
3 obviously, but sports betting is huge again.  
4 I mean, I keep saying it, but it's just --  
5 the Europeans don't understand how we don't  
6 have this, and there were all kinds of  
7 conversations of what the next steps will be  
8 here. So we'll see. And you know, how we  
9 will implement. Some talk about our omnibus  
10 approach. Folks like that because they  
11 really think that will help with the delay in  
12 getting things approved. That's a huge issue  
13 for the industry to stay competitive.

14 CHAIRMAN CROSBY: Who was the  
15 convener?

16 COMMISSIONER CAMERON: GiGse is the  
17 group. It's another -- there are many gaming  
18 groups out there. This group deals mostly  
19 with online, but they -- obviously, as you  
20 can see, they've expanded and they're doing  
21 much more work here in the United States  
22 because of the -- because we are starting to  
23 move into the online space and considering  
24 some of the other issues.

1           You know, whether that be skill  
2           based, whether that be E-sports, and will it  
3           be regulated, how will it be regulated. You  
4           know, DFS. Some talk about that, which is  
5           not really catching on in Europe at all.  
6           They think sports betting is much more --  
7           especially interactive mobile sports betting.  
8           So it's just interesting to learn about the  
9           different cultures and how they're  
10          implementing gaming.

11           COMMISSIONER ZUNIGA: What does  
12          GiGse stand for? I'm curious.

13           COMMISSIONER CAMERON: It's --  
14          Well, I don't --

15           COMMISSIONER ZUNIGA: Sorry to put  
16          you on the spot.

17           COMMISSIONER CAMERON: I should  
18          have brought the acronym down. I said that  
19          when I brought this and it just has the --  
20          but it is an online group that now are  
21          expanding. They have a conference, and they  
22          put this group together with a conference  
23          planner just to get ideas so that they can  
24          have real information to go into their next

1 conference with, and it was regulators as  
2 well as industry folks.

3 COMMISSIONER ZUNIGA: Yeah. I  
4 always find so interesting what goes on in  
5 other countries. You know, first in other  
6 states, but --

7 COMMISSIONER CAMERON: Yes.

8 COMMISSIONER ZUNIGA: -- you know,  
9 the experience you talk about and the  
10 dynamics of the markets and the level of  
11 gambling really that happens in many other  
12 places is always very interesting.

13 COMMISSIONER CAMERON: And it's  
14 very different, depending on where. You  
15 know, the Australians. You know, everyone  
16 has a different culture, really, so their  
17 implementation is different.

18 CHAIRMAN CROSBY: Great. Thank  
19 you. Anybody else?

20 COMMISSIONER STEBBINS: I had just  
21 two quick points. Just to give you an idea  
22 of how quickly two years is going to creep up  
23 on us. We know that MGM is slated to open  
24 September of 2018. Director Griffin and I,

1 last week, went to their kickoff of their --  
2 essentially their recruitment effort in  
3 laying out their Skill Smart program, which I  
4 think we've all seen a demonstration of.

5 Skill Smart is an online tool,  
6 online resource to go through, help a job  
7 candidate look at their skill base, figure  
8 out what they might be eligible for, as well  
9 as maybe help them understand some gaps in  
10 training or education that they have and  
11 where they could go get those resources. And  
12 again, what kind of jobs that would open up  
13 their search, too. There was well over 200  
14 people in the room at an 11:00 a.m. event.  
15 Again, very well attended.

16 A lot of folks from the region, a  
17 lot of diversity in the crowd looking at what  
18 opportunities. I think MGM is being  
19 thoughtful in looking at what positions in  
20 their list of employment positions could be  
21 made available to people who are 18.

22 So when you think two years out,  
23 those are kids maybe still in high school  
24 that could start thinking about what careers

1 might be open to them as well as some people  
2 who made have, at this point, stopped their  
3 education and may be looking for an  
4 opportunity to get back in. And again, some  
5 of the genesis of the community mitigation  
6 fund question that I raised.

7 So great event. They're doing this  
8 consistently over the next month or so at  
9 different times. But again, the same point  
10 they're trying to drive home is to get  
11 candidates to enroll in that Skill Smart  
12 system so they can begin to get an idea of  
13 who they have or who's interested at this  
14 two-year out window.

15 One other item, and we've talked  
16 about this group before. As you know, every  
17 community in Massachusetts has a veterans  
18 service officer, somebody in the town hall or  
19 city hall who goes around, meets individually  
20 with veterans who live in that community from  
21 World War II kind of on up to the present  
22 day, make sure they're getting benefits,  
23 making sure their aware of programs for needs  
24 that they might have.

1                   Every year, the Secretary of  
2                   Veteran's Services has an annual training for  
3                   all of the municipal representatives, so all  
4                   of these VSOs from across the Commonwealth.  
5                   He and I talked, and he was very gracious to  
6                   invite the Commission and our licensees to  
7                   come and talk to this group of almost 200  
8                   VSOs at their annual training, talk about  
9                   employment opportunities for vets through  
10                  gaming and business opportunities for  
11                  veteran-owned business through the Gaming  
12                  Statute.

13                  So we quickly reached out to our  
14                  licensees, even Plainridge, and said come on  
15                  up, talk about the opportunities. Our  
16                  counterparts at the supplier diversity office  
17                  are going to talk about their new veteran  
18                  business certification. So that's coming up  
19                  in Leominster on October 24th.

20                  CHAIRMAN CROSBY: That's great.  
21                  That's really good. Anybody else?

22                  COMMISSIONER ZUNIGA: I have one  
23                  quick update. A few weeks ago, an e-mail  
24                  went out to interested parties from the



1 National Council on Problem Gambling, and it  
2 was an invitation to participate in one of  
3 the several committees. I responded because  
4 I was interested, not before checking with  
5 General Counsel Blue whether any of these  
6 would represent any kind of conflict with our  
7 enhanced code of ethics and things like that,  
8 and it doesn't. I was then invited to  
9 participate in their finance committee. This  
10 is a national council.

11 CHAIRMAN CROSBY: This is Keith  
12 White?

13 COMMISSIONER ZUNIGA: Keith White.  
14 Keith White, yeah. And will be participating  
15 actually very soon.

16 COMMISSIONER CAMERON: Great.

17 COMMISSIONER ZUNIGA: It's a good  
18 way, I believe -- I think it's a testament to  
19 the work that we've done and the recognition,  
20 which Keith mentioned, in the area of  
21 responsible gaming. I think it's good for  
22 the Commission to be a little bit plugged in  
23 at a national level. It's good for me  
24 personally, which I also value. And they

1           were very excited to have me be a part of  
2           that.

3                       CHAIRMAN CROSBY:   That's great.

4                       COMMISSIONER ZUNIGA:   One thing  
5           that I will never do, because we are  
6           precluded from, is any kind of fundraising or  
7           letting the -- anybody use our name or the  
8           Commission's position for any kind of  
9           development, but they know that and they're  
10          happy to have me.

11                      CHAIRMAN CROSBY:   That's great.

12                      COMMISSIONER CAMERON:   Great.

13                      CHAIRMAN CROSBY:   Commissioner, do  
14          you have anything?

15                      COMMISSIONER MACDONALD:   No.

16                      CHAIRMAN CROSBY:   Just a few quick  
17          things.  First of all, Commissioner Zuniga  
18          and I, for the last probably year have been  
19          working with the New England Consortium on  
20          Problem Gambling on a variety of issues, but  
21          the one we have been particularly interested  
22          in is the possibility of setting a New  
23          England -- a regional voluntary  
24          self-exclusion list so that if you want to

1 self-exclude, you don't have to go around to  
2 all the different New England jurisdictions  
3 and sign up.

4 When Terrence was here, he did an  
5 analysis of each of the jurisdictions  
6 self-exclusion rules to see what was similar  
7 and what wasn't, and there are definitely  
8 some issues. But we -- that group, the New  
9 England Consortium on Responsible Gaming,  
10 which is mostly made up of responsible gaming  
11 councils, like our Mass. Council on  
12 Compulsive Gambling, but also the regulators  
13 and the lottery many times.

14 We decided that it was worth  
15 pulling together the decision makers from all  
16 of the jurisdictions in New England and we  
17 are now putting together a meeting in  
18 November to see whether or not we can come up  
19 with the outlines of what would be a regional  
20 voluntary self-exclusion package. And  
21 originally right off the bat, Patrick Fleming  
22 from Maine and Peg Rose from Rhode Island  
23 immediately said to me we'd love to be a part  
24 of that. Patrick Fleming, unfortunately, is

1 retiring and hopefully his new person will  
2 pick it up. But I think there are  
3 significant procedural issues because we have  
4 different exclusion times. Some people treat  
5 it as a real law enforcement issue, don't.  
6 We really treat it more as a treatment issue  
7 -- treatment transaction, but I think there's  
8 room to compromise.

9 So it would be great if we can do  
10 it. It doesn't happen anywhere else.  
11 There's no other multi-jurisdictional  
12 self-exclusion agreement out there. So  
13 that's in the pipeline.

14 I, too, was at G2E. There were  
15 several things that's just interesting, and  
16 all of us in different ways have seen it.  
17 But for being a pretty new jurisdiction, we  
18 are in the conversation about a lot of stuff.  
19 There are all these discussions like  
20 Commissioner Cameron talked about, about how  
21 do you make regulation nimble, how do you  
22 deal with new stuff.

23 Our whole idea, our DSF white paper  
24 and our omnibus approach to online gaming are

1 talked about frequently and, obviously, all  
2 of our responsible gaming innovations, "Play  
3 My Way" and "Game Sense" in particular are  
4 noted all over the place. And it's a credit  
5 to our folks, I think, that we are talked  
6 about at the national level probably as much  
7 as anybody really, particularly in the areas  
8 of innovation.

9 There was also a two-day pre-G2E.  
10 There was a pre-day two-day national  
11 conference on responsible gaming as opposed  
12 to the council on problem gaming, which is  
13 the industry organization. NCRG is the  
14 funded by the industry, headquartered here in  
15 Peabody. That was mostly clinicians. They  
16 take a very technical -- they're really  
17 focussed more on problem gaming and on doing  
18 peer-reviewed research, on treatment and  
19 intervention. So that had less relevance to  
20 us because it was really for clinicians as  
21 much as anything.

22 I went to two panels in particular  
23 that were interesting, although repetitive  
24 with some stuff. E-sports and casinos, the

1 coming collision was chaired by Chris Grove  
2 who was Commissioner Cameron's -- one of  
3 Commissioner Cameron's initial contacts to  
4 come in and counsel to us, and he continues  
5 to become more and of a leader in this.

6 Just some information about  
7 E-sports in the U.S. 42 million  
8 participants, 70 percent of them are over 21.  
9 37 percent say they would be willing to pay  
10 \$99 or more to go to a -- to buy a ticket to  
11 go to an E-sports event.

12 Now, mind you, an E-sports is  
13 watching people play a video game. You have  
14 teams of people playing video games against  
15 each other, and 37 percent of 42 million  
16 people said they'd be willing to pay \$100 or  
17 more to go watch that. Seven hundred and --  
18 I can't read that number. 715 million, I  
19 think, has been wagered in the U.S., 3  
20 billion worldwide. 12 billion by 2020. It  
21 is definitely being treated as a sport.  
22 There are any number of measures where -- for  
23 example, apparently American visas. You can  
24 come in to the U.S. on a sports visa. You

1 put your activity down.

2 COMMISSIONER ZUNIGA: Athlete.

3 CHAIRMAN CROSBY: You come in as an  
4 athlete, because you are real good at playing  
5 video games. I mean, it's bizarre. It's a  
6 whole different world out there. Et cetera.  
7 But that's just to give us the idea, and it  
8 certainly reenforces what we've been saying  
9 to the legislature. You know, we've been --  
10 they're all concerned about DFS and DFS is  
11 ancient history by now.

12 COMMISSIONER CAMERON: It is.

13 CHAIRMAN CROSBY: And E-sports is  
14 about to, you know, explode on us. They gave  
15 one number, which at first, I totally dropped  
16 teeth, but then I realized it is not very  
17 meaningful. There are 192 million gamers in  
18 the United States. There's only 350 million  
19 people in the United States. 192 million  
20 gamers.

21 97 percent of us households have  
22 gaming devices. Well, a cell phone is a  
23 gaming device. So that one was a little bit  
24 misleading. Skill-based games and E-sports

1 was just talking about where they're going to  
2 be in the business.

3 Some of the casinos are really  
4 aggressive. Some are really concerned about  
5 the millennial problem, others are not.  
6 Caesars is leading the way. I was on a panel  
7 with the new CEO of Caesars, which given my  
8 and our history, was interesting. But he was  
9 a very good guy. He came over from Hertz  
10 Rent-a-car. He's a new CEO, was not involved  
11 in our stuff at all. And they are very  
12 concerned about the drop off in players, and  
13 they are very concerned about the need for  
14 innovation and the kind of play and the kind  
15 of interaction with players.

16 There was a panel on gaming, quote,  
17 "the unsung hero in CSR". I thought CSR  
18 meant customer service reps, but it means --  
19 what is it -- corporate social  
20 responsibility. So gaming, the unsung hero  
21 in corporate social responsibility. I  
22 thought I was going to hear about how  
23 customer service reps can do their job well.

24 Jim Baldachi was from Penn, who is



1 the Number 2 compliance guy, I guess, or top  
2 compliance guy with Penn, was there, talked a  
3 lot about Penn's commitment to corporate  
4 responsibility, including their responsible  
5 gaming basics, but he didn't mention anything  
6 about our stuff, which was kind of  
7 interesting -- about, you know, "Play My Way"  
8 or "Game Sense" or PPC in particular.

9 Then there was a panel on urban  
10 environments for casinos. There were two  
11 frail -- Attorney Fralick who represented  
12 Springfield and Ed Pikula, who's the general  
13 counsel of the City of Springfield, who were  
14 on that panel. And Springfield was very much  
15 an example, along with Bethlehem. There  
16 really aren't very many places where you've  
17 got an urban casino that is designed to try  
18 to lift the entire area or region as an  
19 economic development engine.

20 According to these stories  
21 Bethlehem has done that to a significant  
22 extent. It's -- the casino is located in the  
23 old Bethlehem Steel plant. And once some of  
24 it was renovated, reused, repurposed for the

1 casino, a lot of the rest of that plant has  
2 begun to be repurposed as well, much like  
3 we're hoping Springfield will have this  
4 ripple effect.

5 COMMISSIONER CAMERON: And Everett.

6 CHAIRMAN CROSBY: And Everett,  
7 yeah, right. For sure.

8 COMMISSIONER CAMERON: DeSalvio.

9 CHAIRMAN CROSBY: Right. Yeah.  
10 DeSalvio, who came from Bethlehem, right.  
11 Good point. So that was all interesting  
12 stuff. As usual, you know, it's -- some of  
13 these panels are kind of repetitive in a way,  
14 but there's an awful lot of interesting  
15 stuff, interesting connections, interesting  
16 feedback. You know, you get a perspective on  
17 the rest of the world. It is oftentimes time  
18 well spent.

19 Anybody else, anything else? Do we  
20 have a motion to adjourn?

21 COMMISSIONER CAMERON: So moved.

22 CHAIRMAN CROSBY: Second?

23 COMMISSIONER ZUNIGA: Second.

24 CHAIRMAN CROSBY: All in favor?

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Aye.

COMMISSIONER CAMERON: Aye.

COMMISSIONER MACDONALD: Aye.

COMMISSIONER ZUNIGA: Aye.

COMMISSIONER STEBBINS: Aye.

CHAIRMAN CROSBY: Motion passes  
unanimously.

(Whereupon the hearing was adjourned at 1:21 p.m.)

SPEAKERS

GUEST SPEAKERS:

SUFFOLK DOWNS

Bruce Barnett, Esq., DLA Piper US LLP

RAYNHAM PARK

Patrick Dinardo, Esq., Sullivan & Worcester,  
Massasoit Greyhound Association

Michael Morizio, Esq., Morizio Law P.C.

MASSACHUSETTS GAMING COMMISSION:

Edward Bedrosian, Jr., Executive Director

Catherine Blue, General Counsel

John Ziemba, Ombudsman

Doug O'Donnell, Senior Financial Analyst

Derek Lennon, Chief Financial and Accounting  
Officer

Alex Lightbown, Director of Racing

C E R T I F I C A T E

I, Amie D. Rumbo, an Approved Court Reporter, do hereby certify that the foregoing is a true and accurate transcript from the record of the proceedings.

I, Amie D. Rumbo, further certify that the foregoing is in compliance with the Administrative Office of the Trial Court Directive on Transcript Format.

I, Amie D. Rumbo, further certify 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 Stenographic means, and transcript was produced from a computer.

WITNESS MY HAND this 18th day of October, 2016.

*Amie D. Rumbo*



Amie D. Rumbo, Notary Public

My Commission expires: 10/23/2020