

1 COMMONWEALTH OF MASSACHUSETTS  
2 MASSACHUSETTS GAMING COMMISSION  
3 PUBLIC MEETING #136  
4  
5

6 CHAIRMAN

7 Stephen P. Crosby  
8

9 COMMISSIONERS

10 James F. McHugh

11 Bruce W. Stebbins

12 Enrique Zuniga  
13  
14  
15  
16

17 October 9, 2014 10:35 a.m.

18 BOSTON CONVENTION AND EXHIBITION CENTER

19 415 Summer Street, Room 106B

20 Boston, Massachusetts 02210  
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## P R O C E E D I N G S

COMMISSIONER MCHUGH: All right.

I'd like to call to order -- good morning -- ladies and gentlemen, good morning to you all on this beautiful fall morning. I'd like to call to order public meeting number 136 of the Massachusetts Gaming Commission.

For those who are watching from afar, I'm told we are now streaming on both iPads and iPhones, as well as computers so all -- all is right with the world.

Commissioner Cameron is absent today on a commitment that she could not avoid. Because the first item on our agenda this morning concerns the land aspects of the Region A matter, Chairman Crosby is not participating in this segment. We'll have a brief pause after this first agenda item, and then he'll resume his customary position.

So the first item on the agenda this morning is a report from the Investigation and Enforcement Bureau. We have Director Karen Wells with us, the head of the

1 state police detail, Detective Lieutenant  
2 Brian Connors, and Lieutenant Kevin Condon  
3 with us this morning. And we're grateful to  
4 have you here to give us an update in light of  
5 the events of last week. Director Wells.

6 MS. WELLS: Yes. Good morning,  
7 Commissioners. As I know, you are all aware  
8 last week, both the U.S. attorney's office and  
9 the attorney general's office announced  
10 indictments against three individuals  
11 associated with FBT Everett -- FBT Realty in  
12 Everett. Those individuals are  
13 Dustin DeNunzio, Anthony Gattineri and  
14 Charles Lightbody.

15 As with any indictment, these are  
16 allegations, which need to be proved beyond a  
17 reasonable doubt in a court of law. The state  
18 indictments include impeding a gaming  
19 investigation, conspiracy and tampering with  
20 evidence. The federal indictments include  
21 conspiracy, aiding and abetting, and wire  
22 fraud. In addition, the federal authorities  
23 have also moved for forfeiture of the proceeds  
24 derived from the alleged criminal conduct.

1 I have asked the commanding officer  
2 of the Massachusetts State Police Gaming  
3 Enforcement Unit, Detective Lieutenant  
4 Brian Connors, to address the commission  
5 regarding the investigation.

6 I would once again like to  
7 compliment Detective Lieutenant Connors and  
8 his team, particularly Lieutenant Kevin Condon  
9 from the state police, and Guy Michael and  
10 Robert Carroll from our consultant firm of  
11 Michael & Carroll, for the fine investigative  
12 work they did on this issue.

13 I am also grateful to FBI, the U.S.  
14 attorney's office and the attorney general's  
15 office for their efforts and collaboration in  
16 this matter. So I'll turn it over to  
17 Detective Lieutenant Connors to address the  
18 commission.

19 MR. CONNORS: Thank you, Director  
20 Wells. Good morning, Commissioners.

21 COMMISSIONER MCHUGH: Good morning.

22 COMMISSIONER STEBBINS: Good  
23 morning.

24 MR. CONNORS: It's a pleasure to

1 speak to you here this morning. I'll try to  
2 keep my remarks brief, but I do want to hit on  
3 several points, specifically three main areas  
4 that I'll provide some details during my  
5 remarks this morning.

6 The first area that I'd like to  
7 highlight, and this is from the IEB's  
8 perspective, is that the investigative process  
9 leading to these indictments worked, and it  
10 will continue to work.

11 The second note is that the process  
12 worked, will continue to work in a large part  
13 due to the cooperative -- cooperative law  
14 enforcement efforts involving the state  
15 police, the IEB, the FBI, Department of  
16 Correction, the attorney general's office, and  
17 U.S. attorney's office.

18 And the final point, I'd like to  
19 highlight the specific roles of the IEB, not  
20 only in this investigations, but  
21 investigations in general, including the  
22 regulatory versus criminal investigative  
23 aspects of our duties. I believe that last  
24 point is critical to -- to shed some light

1 just really what the function and roles are of  
2 each agency, particularly in a investigation  
3 of this nature.

4 To that last point, during early  
5 July of 2013 state police assigned to the  
6 Investigation and Enforcement Bureau, the  
7 Massachusetts Gaming Commission, received  
8 information from the Federal Bureau of  
9 Investigation relative to the suspected hidden  
10 interests of a convicted felon in the Everett  
11 land, which is the proposed site for the Wynn  
12 casino.

13 At that time, IEB investigators were  
14 in the midst of a suitability investigation  
15 pertaining to the Wynn Mass, LLC application,  
16 which also included investigating the proposed  
17 land deal between the Wynn Mass, LLC and  
18 members of the FBT Everett Realty, LLC, the  
19 owners of the property.

20 During the ensuing months, IEB  
21 investigators, led by Lieutenant Kevin Condon,  
22 who is present with me today and seated to the  
23 left of Director Wells, furthered the IEB's  
24 regulatory investigation, which included

1 gathering additional evidence.

2 It's important to detail that the  
3 IEB's primary function is to conduct a  
4 regulatory suitability investigation while any  
5 criminal matters uncovered during that process  
6 are referred to the attorney general's office,  
7 or in this case, also the U.S. attorney's  
8 office.

9 This framework had been put in place  
10 by statute and provides a blueprints for the  
11 IEB and the AGO's division of gaming  
12 enforcement to operate from. It is important  
13 to note that there is a distinct line between  
14 the gathering of evidence from a regulatory  
15 standpoint versus the gathering of evidence in  
16 a criminal investigation. The limitations  
17 between the two and the accompanying legal  
18 requirements are to be strictly adhered to.  
19 This distinction is one that the IEB and our  
20 state and federal counterparts took very  
21 seriously and maintained throughout this  
22 investigation, and will continue to do so  
23 going forward.

24 The separation of functionality is

1 critical to the integrity of both the  
2 regulatory investigation being conducted by  
3 the IEB, and the criminal investigation being  
4 conducted by the attorney general's office and  
5 U.S. attorney's office.

6 As far back as December 13, 2013,  
7 during the commission's public meeting, and  
8 prior to her summary of the investigation --  
9 by the Investigation Enforcement Bureau to the  
10 commission, IEB Director Wells prefaced her  
11 presentation to the commission by stating,  
12 "Information sharing, particularly between  
13 different law enforcement agencies is critical  
14 to ongoing success."

15 I highlight those words by  
16 Director Wells because it is just that level  
17 of cooperation that has led the investigation  
18 to this point, from the initial information  
19 received by the state police and the IEB, from  
20 the FBI, to the IEB making the required  
21 referrals to the gaming enforcement division  
22 of the attorney general's office, the FBI and  
23 the U.S. attorney's office.

24 The regulatory and criminal



1 investigation -- investigative process in  
2 place was expected to work, it has worked, and  
3 it will continue to work.

4 During that same public meeting on  
5 December 13, 2013, Director Wells also  
6 provided the details of the IEB's  
7 investigation to that point, including the  
8 circumstances surrounding the land purchase of  
9 the current Wynn Mass, LLC site, and the  
10 suspected criminal wrongdoing on the part of a  
11 number of individuals.

12 Specifically, Director Wells  
13 informed the commission at that time, again I  
14 quote, "Evidence exists to suspect that  
15 Charles Lightbody, convicted felon, may have  
16 retained an interest in the Everett property,  
17 and well after the applicant Wynn had been  
18 advised that he had been removed."

19 The IEB was well aware of the fact  
20 of that as a result of our investigation to  
21 that point, and had been so informed since  
22 early July 2013. It was also during that same  
23 public meeting that Commissioner McHugh  
24 indicated that the IEB should, "Refer

1 everything that we've got to the appropriate  
2 law enforcement authorities, the U.S.  
3 attorney, the district attorney and the  
4 attorney general." That is exactly what the  
5 IEB did with the evidence gathered to that  
6 point, and which ultimately assisted in  
7 obtaining the previously-detailed indictments  
8 obtained by the U.S. attorney's office and the  
9 attorney general's office. The investigative  
10 process worked.

11 Since that December 13, 2013 public  
12 meeting, Director Wells has continued to  
13 update the commission as to the status of the  
14 Wynn Mass, LLC application process and ongoing  
15 IEB suitability investigation. It is  
16 important to note, once again, that the IEB's  
17 ongoing suitability investigation at that  
18 point was separate and distinct from the  
19 investigations being conducted by the attorney  
20 general's office and the U.S. attorney's  
21 office. Again, it was absolutely critical  
22 that the regulatory and criminal  
23 investigations remain separate and distinct.  
24 It is important to point out that the

1           suitability of any applicant or licensee is an  
2           ongoing process, either during the application  
3           phase or after licensure. Suitability is a  
4           continuous process.

5                        On May 2, 2014 Director Wells  
6           updated the commission by informing them, in  
7           part, that "The IEB continues to follow  
8           through on obtaining relevant information  
9           regarding the sellers of that property."

10                      Most recently, on September 8, 2014  
11           Director Wells again addressed the commission  
12           providing them with the suitability update  
13           regarding the Wynn Mass, LLC application, as  
14           well as an update relative to the IEB's  
15           investigation of FBT Everett Realty, LLC,  
16           which included a summary of additional  
17           information that the IEB obtained since the  
18           suitability hearing. This information was  
19           also turned over to state and federal  
20           authorities.

21                      On that date, Director Wells also  
22           provided information to the commission that  
23           the IEB had uncovered no additional  
24           information that Wynn personnel had knowledge

1 of or participated in any efforts to conceal  
2 any information from the commission. That  
3 status remains to this date.

4 In closing, I would like to state  
5 that these state and federal indictments, as  
6 outlined by Director Wells, generally provide  
7 us with facts that were consistent with the  
8 IEB's investigation at the time the evidence  
9 was referred to state and federal authorities  
10 in 2013. The ensuing state and federal  
11 investigations corroborated much of what IEB  
12 learned during our own investigation.

13 Going forward, I believe that these  
14 cooperative efforts and the results to this  
15 date clearly demonstrate that the  
16 Massachusetts Gaming Commission and the  
17 citizens of the commonwealth can have full  
18 confidence in the state police, the IEB and  
19 our state and federal counterparts. Again, I  
20 thank you for the opportunity to speak to you  
21 today. I'll turn it back over to  
22 Director Wells for additional remarks.

23 COMMISSIONER MCHUGH: Thank you  
24 detective lieutenant. Director Wells.

1 MS. WELLS: Thank you very much,  
2 Detective Lieutenant Connors. I'd also like  
3 to add, as I reported to the commission during  
4 this suitability update on September 8th of  
5 2014, we have confirmed with Wynn that the  
6 individuals who were indicted last week will  
7 have no involvement in the casino operations  
8 going forward.

9 I think it's important for the  
10 public to understand that being honest and  
11 forthright with the commission is of paramount  
12 importance. With that in mind, I do have a  
13 message as we go forward in this process that  
14 I would like to read into the record.

15 As we move forward with the  
16 implementation of the Expanded Gaming Act in  
17 Massachusetts, the Investigations and  
18 Enforcement Bureau will not only be  
19 continually monitoring the suitability of  
20 licensees, but we will also be investigating  
21 potential vendors and employees, as well as  
22 applicants for Region C.

23 The events of last week underscore  
24 the continuing validity of the principles of

1 integrity and honesty, which are the  
2 cornerstone of our investigations. As such, I  
3 have three pieces of advice for individuals  
4 who we come cross during these investigations.

5 Piece of advice number one, do not  
6 lie to commission investigators. It would be  
7 foolish to assume that we will not figure it  
8 out. Our track record speaks for itself.

9 My second piece of advice, do not  
10 lie to commission investigators. Honesty is  
11 the best policy. If there is a problematic  
12 issue, the commission will work to see if  
13 there is a fair and reasonable solution.

14 And, not surprisingly, my third  
15 piece of advice is, do not lie to commission  
16 investigators. Lying to commission  
17 investigators is a crime, and we will refer  
18 concerns to state and federal criminal law  
19 enforcement authorities. The role of these  
20 authorities is to proceed with a criminal  
21 investigation where appropriate. And make no  
22 mistake, they will.

23 So we are certainly happy to answer  
24 any questions that the commission has at this

1 time regarding these matters.

2 COMMISSIONER MCHUGH: Colleagues?  
3 Well, let me -- let me just come back and --  
4 and look at the distinction -- ask a question  
5 of you, Director Wells --

6 MS. WELLS: Yeah.

7 COMMISSIONER MCHUGH: -- about the  
8 distinction between regulatory investigations  
9 and criminal investigations that  
10 Detective Lieutenant Connors talked about. I  
11 take it that, that distinction not only lives  
12 in the statute, but also is consistent with a  
13 fairly well-defined case law, judicial  
14 distinction between rights --

15 MS. WELLS: Correct.

16 COMMISSIONER MCHUGH: -- that  
17 parties have, and rights that the state has,  
18 when we're deal withing a regulatory  
19 investigation as opposed to a criminal  
20 investigation?

21 MS. WELLS: That's absolutely  
22 correct.

23 COMMISSIONER MCHUGH: And it's  
24 important to keep that distinction firmly in

1 place, in order to assure that individuals  
2 have their constitutional rights, but also in  
3 the regulatory arena, that the commission has  
4 the freedom to act, and act broadly to  
5 preserve the public interest.

6 MS. WELLS: That's correct.

7 COMMISSIONER MCHUGH: It seems to me  
8 that, unless others have questions, that the  
9 bottom line on this, my takeaway from both the  
10 report that we received today and looking at  
11 the indictments themselves, it really falls  
12 into four related parts. The first is that  
13 the Investigation and Enforcement Bureau's  
14 investigation concluded, and the indictments  
15 reflect that the Wynn applicant had no role in  
16 any wrongdoing by the owners of the land, and  
17 had no knowledge of that wrongdoing before the  
18 investigation was completed, or at least  
19 commenced.

20 Secondly, that the FBT sellers and  
21 the personnel involved in that company will  
22 have no ongoing involvement with Wynn  
23 operations, when Wynn operations begin. In  
24 fact, have no ongoing involvement with the



1 Wynn applicant, once the land sale is  
2 consummated shortly after the license is  
3 awarded.

4 And the third of those is that, if  
5 any lies are proved, and if those lies led to  
6 the receipt by FBT members of money, then  
7 under the federal indictment, that money is  
8 subject to forfeiture to the federal  
9 government.

10 And, finally, if there were lies,  
11 but those lies did not lead to the receipt of  
12 money, then the people who told the lies still  
13 face substantial prison terms, a possibility  
14 thereof, for lying, regardless of whether or  
15 not the lies produced money.

16 So it seems to me that the integrity  
17 of the system did work and has worked, and  
18 continues to work. And we got a -- a letter  
19 today from Attorney Charles Baker of DLA Piper  
20 that talked about some of these same things.  
21 I got that letter I got at -- I got it at  
22 five o'clock yesterday afternoon and have only  
23 had a chance to look at it briefly.

24 But it seems to me, on that brief

1 first glance, that there's nothing  
2 inconsistent with what we've just discussed  
3 here today in that letter. But we will, of  
4 course, as we do, give everything careful  
5 consideration, and in due course. But it's  
6 important to understand that, in addition to  
7 the report that we've received today and the  
8 prospect of the future reports, because  
9 suitability is a continuing obligation and  
10 responsibility of the gaming commission, and  
11 will be adhered to, the gaming commission as a  
12 whole is going to monitor, carefully, the  
13 progress of this applicant's movement toward  
14 operations, toward opening. Just as it is  
15 today, monitoring the movement toward  
16 operation and opening of MGM and Penn  
17 National.

18 We're having 30-day reports, we're  
19 having conferences. We've got a consultant  
20 who's overseeing their operations, and will  
21 continue to monitor activities as they  
22 proceed, and make adjustments if, and to the  
23 extent necessary, in the conditions that we've  
24 set out as circumstances revealed by that

1 monitoring warrant. We've already made  
2 already made condition -- already made  
3 adjustments. We've already requested and  
4 demanded changes to various plans in the -- in  
5 the ongoing operations of our licensee and  
6 licensee designate, and will continue to that  
7 here.

8 So that, it seems to me, is where  
9 the matter stands now. Indeed, the first  
10 presentation by Wynn, the first requirement  
11 that they appear and give us a report is in,  
12 simply, a few weeks away. And so, we'll have  
13 better, a chance to see how that plays out.  
14 So that's my view and synopsis of where we are  
15 today. I welcome any additional thoughts from  
16 my colleagues. Commissioner Zuniga.

17 COMMISSIONER ZUNIGA: Sure. I --  
18 I'm in full agreement with -- with your  
19 summary. I thank you for the presentation and  
20 the emphasis on how it's distinct to think  
21 about the regulatory investigation and the  
22 criminal investigation. I think that's key  
23 for us to understand, for our audience to  
24 understand and appreciate.

1           It's clear that you started with  
2           this process more than a year ago, and you  
3           took the regulatory investigation as far as  
4           you could. And, at that time, you turned over  
5           to the appropriate criminal law enforcement  
6           authorities, and they have taken action. And  
7           I think this reflects, very much, what you  
8           suspected. And your three pieces of advice  
9           that -- that could be, essentially, one piece  
10          of advice, should not go unnoticed by anybody  
11          who's watching because that itself is an  
12          offense that might be punished with prison  
13          sentence.

14                 So -- I also want to emphasize, as  
15                 it's been said here, I'm comforted that your  
16                 thorough and detailed investigation did not  
17                 uncover any role of the Wynn applicant in the  
18                 effort to conceal this ownership. And I think  
19                 that also speaks volume to the process --  
20                 volumes relative to the process. So thank you  
21                 for the update, and thank you for the work you  
22                 do.

23                         COMMISSIONER STEBBINS: I would  
24                         just -- back to what my colleagues said, I

1 think one of the key words that stuck out for  
2 me in this presentation, I think was by the  
3 detective lieutenant saying that the  
4 investigative process worked. And I think  
5 it's helpful for people to understand, again  
6 from this presentation, that the IEB is a new  
7 creature. A creature created out of the  
8 gaming statute with assigned responsibilities  
9 and authorities, and powers. And, again, I  
10 also thing that it -- it worked. And, as has  
11 been raised here before, suitability is an  
12 ongoing process. We know that in the coming  
13 months we'll have new qualifiers who are  
14 currently being reviewed by the IEB. So it's  
15 not just once you get a license, or designated  
16 for a license, the suitability test ends  
17 there.

18 I do have a question for  
19 Director Wells, and it's just more of a  
20 reflective comment because I know she's been  
21 on the other side of the equation, on the  
22 prosecution side of this. But if you can just  
23 lend any insight or experience, having been on  
24 that side of equation of where you sit now,

1 some of the -- some of the compelling  
2 differences between the two.

3 MS. WELLS: Well, in the regulatory  
4 investigation, I would say we, in some ways,  
5 have advantage because it is individuals who  
6 are coming to be licensed, or an individual  
7 that is -- wants an employee license or a  
8 vendor license, or is a qualifier, they have  
9 to fill out forms, they have to --

10 COMMISSIONER MCHUGH: Director,  
11 would you pull the mic in front of you?

12 MS. WELLS: Yeah. They have to --  
13 they have to fill out forms, they have to  
14 answer questions so that -- that it is an  
15 advantage for us because they are looking for  
16 something from us. And if -- if they want to  
17 get the license, they're compelled to provide  
18 whatever we ask of them. And it's -- it's an  
19 effective tool to get information to have  
20 that -- have that power.

21 You know, on the criminal  
22 investigatory side, you know, generally tools  
23 such as search warrants, wire-tap warrants,  
24 immunization of witnesses, proffer agreements,

1 witness cooperation agreements, those are some  
2 of the tool that the -- that, on the criminal  
3 side that may be effective in an  
4 investigation. So it's a different -- it's  
5 different.

6 Although, we do have a state police  
7 unit that's working with us, who are  
8 experienced criminal investigators, and we may  
9 use, you know, some methods going forward.  
10 But, generally, we are looking at things from  
11 a regulatory perspective. Can we license  
12 them? What is the analysis of --  
13 prospectively of, can we affirmatively find  
14 that they will be okay going forward?  
15 Whereas, the criminal -- in a criminal  
16 investigation they're looking for evidence of  
17 misconduct. So it's a different -- it's a  
18 different intellectual analysis, and it's a  
19 little different in some of the tools that we  
20 use and some of the powers that we have.

21 COMMISSIONER STEBBINS: I -- I would  
22 also just reflect on the comments of the fact  
23 that, you know, we hear, oftentimes, that  
24 government agencies don't talk to each other.

1 And this is certainly a fine example of where  
2 government agency cooperation between federal  
3 and state authorities, I think assisted us,  
4 and the work of the IEB assisted them in  
5 return. So that's to be complimented, and  
6 hopefully something that we can continue to  
7 appreciate as this process goes forward.

8 MS. WELLS: Thank you.

9 COMMISSIONER MCHUGH: All right. I  
10 think that does it. Thank you, all three, for  
11 your help, prior work, and your report today.  
12 We're going to take a brief recess now, and  
13 then we'll reconvene with the four members who  
14 are present today.

15  
16 (A recess was taken)

17  
18 CHAIRMAN CROSBY: Okay. Ladies and  
19 gentlemen, I think we are ready to reconvene.  
20 If I can have your attention, please,  
21 everybody back there. We're reconvening  
22 public meeting number 136 on October 9th at  
23 the convention center. And we will go to Item  
24 No. 2 on the agenda, which was the approval of



1 minutes, which I believe have been withdrawn.  
2 Commissioner McHugh, are you --

3 COMMISSIONER MCHUGH: Yes. The  
4 minutes are not -- the minutes of the --  
5 they're the minutes of the licensing hearings,  
6 and they're not ready yet so we'll get to  
7 them.

8 CHAIRMAN CROSBY: That's the whole  
9 on Region A?

10 COMMISSIONER MCHUGH: Right. Region  
11 A minute, yeah.

12 CHAIRMAN CROSBY: Okay. Great. And  
13 then to Item No. 4, Workforce Supplier and  
14 Diversity Development, Jill Griffin, our  
15 director, I pass the ball to you.

16 MS. GRIFFIN: Great. Good morning  
17 Chairman Crosby --

18 CHAIRMAN CROSBY: Good morning.

19 MS. GRIFFIN: -- and commissioners.

20 COMMISSIONER STEBBINS: Good  
21 morning.

22 COMMISSIONER MCHUGH: Good morning.

23 MS. GRIFFIN: Commissioners, with  
24 the construction of the large Category 1

1 casinos ahead of us, we have been focused on  
2 learning from construction projects with  
3 successful records of diversity achievement so  
4 that we may apply those lessons. As you all  
5 know, this is a major goal in the legislation  
6 as well.

7 The project -- oh, you see on the  
8 screen, the article from the Boston Herald in  
9 August of 2014. And this is an article that  
10 has been reprinted hundreds of times across  
11 the country. It really highlights the  
12 importance of the issue of getting women into  
13 the construction trades, and the interest of  
14 women in this career.

15 I have been talking with folks about  
16 the successful construction projects that --  
17 the one project that kept coming up again and  
18 again was the Division of Capital Asset  
19 Management's UMass Integrated Science Complex.  
20 I reached out to Andrea Lang, director of  
21 compliance for DCAMM. I spoke to Ron Marlow  
22 from the commonwealth. Commissioner Stebbins  
23 and I met with Brian Doherty of the Building  
24 and Construction Trades Council of the

1 Metropolitan district, and Mark Erlich from  
2 the New England Regional Council of  
3 Carpenters. We've talked with Lew Finfer from  
4 the Massachusetts Community Action Network,  
5 MCAN, and Weezy Waldstein, from the Action for  
6 Regional Equity, just to name a few. All of  
7 these folks were involved in an access and  
8 opportunity committee that monitored diversity  
9 progress on this three-year construction  
10 project.

11 Project owners, UMass, and  
12 developer, DCAMM, set aggressive participation  
13 goals for minority individuals, women, veteran  
14 and city residents. The veteran -- the city  
15 resident goal was 50 percent, veteran goal was  
16 6 percent, minority goal 25 percent, and women  
17 goal, last but not least, certainly, was  
18 10 percent.

19 So in addition to meeting and  
20 surpassing these diversity goals, what was  
21 even more incredible to me, was that the  
22 owners, developers, unions and community all  
23 pointed to the best practices utilized during  
24 this project.

1                   We were pointed to the work of  
2                   Susan Moir and Liz Skidmore from the Policy  
3                   Group on Tradeswomen's Issues, who gathered  
4                   these best practices for sharing with others.  
5                   Chairman Crosby and I had the pleasure of  
6                   meeting with Susan and Liz in a learning  
7                   session set up by Pinck & Company, our  
8                   Category 2 construction monitor. We thought  
9                   it was worth bringing a high-level overview to  
10                  share with the commission, our licensees,  
11                  their contractors and potential contractors.

12                  So I'd like to introduce Liz --  
13                  Liz Skidmore, business manager of the New  
14                  England Regional Council of Carpenters, and  
15                  Susan Moir, director of UMass Boston Labor  
16                  Resource Center. Take it away.

17                  COMMISSIONER MCHUGH: Good morning.

18                  COMMISSIONER ZUNIGA: Before our  
19                  guests begin, let me just mention real quick  
20                  that, Ms. Moir, her kids and my kids share the  
21                  same wonderful piano teacher. I just wanted  
22                  to make that discussion.

23                  MS. MOIR: Dave of Roslindale.

24                  COMMISSIONER ZUNIGA: Dave of

1 Roslindale, yeah.

2 COMMISSIONER STEBBINS: Full  
3 disclosure.

4 COMMISSIONER ZUNIGA: Full  
5 disclosure. Thank you very much.

6 CHAIRMAN CROSBY: Full transparency.  
7 That's great.

8 MS. MOIR: I never thought of that.

9 COMMISSIONER MCHUGH: You might have  
10 a recital.

11 COMMISSIONER ZUNIGA: Well, we --  
12 we've been to a couple, and they're wonderful  
13 too.

14 MS. SKIDMORE: That can be next  
15 commissioner meeting. Well, I'm Liz Skidmore.  
16 Thank you, Commissioners, for having us here.  
17 We're excited to be part of this process, and  
18 to share what we've been learning of the work  
19 we've been doing.

20 First, I have been a carpenter for  
21 25 years. I worked in the field for about 10,  
22 and I've worked for the union, for the  
23 carpenter's union for about 15. And as I like  
24 to say, my part-time, unpaid side job for 25

1 years has been getting more women into the  
2 union. It's been a great career for me. I  
3 was able to buy a house as a young woman, I've  
4 been able to be independent, and have had  
5 health insurance for 25 years, which it just  
6 isn't the case for an awful lot of workers in  
7 the state, and have a pension to look forward  
8 to, which isn't the case for many workers in  
9 the country, because I'm a member of a union.

10 I -- about -- you know, I've done  
11 many, many things to get more women into the  
12 union, and I've learned from all of them. But  
13 about six years ago, I realized that, even  
14 though I and many others across the country  
15 have worked hard to get more women in,  
16 essentially, our movement had failed. We were  
17 at about 2 percent in the late 80s, and we're  
18 at two to 3 percent now. And there have been  
19 many individual successes that are important,  
20 but we haven't really moved things. So I went  
21 to Susan and said, can we get the smartest  
22 people together that we know, who care about  
23 this, let's see if we can't do more than work  
24 hard and not accomplish enough?

1           So over the last six years, I think  
2           we've -- we've changed things and gotten off,  
3           as I like to say, off the hamper wheel and  
4           are actually effecting change. The percentage  
5           of women hours working in Boston over the last  
6           three years has almost doubled. It's still  
7           not high enough, but we're seeing the effects  
8           of work that we've doing. And that's not just  
9           because of the boom, because that's the  
10          percentage of the total hours working.

11          So we started this group that we  
12          came to call the Policy Group of Tradeswomen's  
13          Issues, to try to see if we couldn't figure  
14          out a more policy level changes that needed to  
15          happen. And it's the first time in my 25  
16          years of trying to do this work that we had a  
17          really diverse group of stakeholders in the  
18          room.

19          So we've had city, state and federal  
20          government officials, we've had contractors,  
21          we've had subcontractors, we've had union  
22          officials, we've had tradeswomen, we've had  
23          academics. And each person, it turns out, had  
24          a great deal of expertise in one little silo,

1 but none of us had talked together. And it's  
2 that regional partnership together over time  
3 that is one of the fundamental pieces of  
4 changing this industry and making it work  
5 better.

6 And so, we've been meeting every  
7 other month for six years now. And the access  
8 and opportunity committee that Jill mentioned,  
9 is -- is a similar, it turns out there's  
10 several groups happening like that that is  
11 bringing all the right people together to work  
12 past the, sort of, yelling at each other  
13 around not doing it in the past and get into  
14 the problem solution.

15 One of the key things that is  
16 changing what has happened in the past to try  
17 to get more women into the trades, for many,  
18 many years, almost all the focus for women in  
19 trades was on recruitment and training.  
20 Recruitment and training. We want more women,  
21 then let's go recruit them, and then let's do  
22 preapprenticeship, let's train them. It turns  
23 out, that's a critical piece of the puzzle,  
24 but by itself it's not enough. It's been a



1 failed strategy. And this goes back to basic  
2 economics. That's the supply, but we needed  
3 to do the demand. And it's turned out that  
4 doing compliance, getting the compliance  
5 working creates the demand, which then puts  
6 pressure on the supply. If you're recruiting  
7 and training women that can't -- don't find  
8 employment opportunities, they leave, and  
9 that's what's happened. We brought many, many  
10 women in over the last 30 years, but they  
11 haven't stayed because there hasn't been  
12 enough employment opportunities. So by  
13 bringing supply and demand together, it seems  
14 to be making a critical difference.

15 So just brief history, 80s women  
16 were under 3 percent of the workforce. The  
17 federal goal was 6.9 percent. That -- that is  
18 the current federal law. Any job with  
19 federally fund -- federal funding is supposed  
20 to have 6.9 percent. In 1986, the City of  
21 Boston established a goal of 10 percent for  
22 women, along with 25 percent for people of  
23 color, 50 percent for Boston residents. And,  
24 yet, in spite of that -- and a couple of years

1           ago the state established a goal of 6.9  
2           percent on Bulletin 14, but we're still just  
3           at 2.6 percent of the workforce. So it's  
4           the -- this compliance piece and getting the  
5           stakeholders all together that needs to happen  
6           in a bigger way. And I think the opportunity  
7           to do that on these projects exists.

8                         So why do we care? I mean, women in  
9           construction's kind of a sexy topic for some  
10          people. It's kind of fun. But it actually  
11          has a much bigger impact than that. You know,  
12          occupational segregation, and you guys, I'm  
13          sure have seen this all over the place, that,  
14          you know, women are clustered in the lowest  
15          paying jobs in the economy, and yet often have  
16          larger financial responsibilities. Often, the  
17          single head of households. And so, when you  
18          can find ways to make women -- or allow women  
19          to have access to jobs that are actually  
20          family-sustaining careers, you change those  
21          children's lives, you change that family's  
22          lives, you change the community. It actually  
23          has a very large multiplier.

24                         Also, the industry has a labor

1 shortage, you know. And we're -- you know,  
2 Susan said, we're running out of the young  
3 white guys to do those -- they just don't want  
4 to do this. They want to do other things, and  
5 that's their right. But, you know, this idea  
6 that we have on this culture that women can't  
7 do heavy, physical work is just not true.  
8 We've been learning about tradeswomen in other  
9 countries, and there are many, many women in  
10 construction in other countries. So it's just  
11 -- it's -- there's sort of a cultural idea,  
12 but it's not the case. And this is a good  
13 career, and there's plenty of women who don't  
14 want to sit behind a desk, just as there are  
15 plenty of men who don't want to.

16 And diversity is a market-share  
17 driver. The contractors who really take this  
18 on, because we're getting more and more, the  
19 compliance tools working better and better,  
20 those contractors who build a diverse work  
21 core crew, are going to have -- grow their  
22 market share. They're going to have access --  
23 they can show a successful track record. They  
24 are now general contractors who are looking at

1 that, what subcontractors bid to them.

2 What will not work is sort of a  
3 longstanding industry practice of just winking  
4 at the law. The law's there, everyone's used  
5 to ignoring it, everyone kind of goes through  
6 the motions, nothing happens. It's my sense  
7 from our contacts so far, that, that is not  
8 your intention, and we certainly applaud that.

9 Now, one critical difference that  
10 people new to this topic don't always think  
11 of, this is very separate from the issue of  
12 WBEs and MBEs, women-owned businesses and  
13 minority-owned businesses. That is not our  
14 focus. And we did a -- an analysis of  
15 millions of hours done on The Big Dig, and  
16 it's the biggest dataset we've ever had. And  
17 it turns out that WBEs actually hire less  
18 tradeswomen than either MBEs or majority-owned  
19 contractors. So --

20 CHAIRMAN CROSBY: WBEs hire fewer  
21 women tradespeople --

22 MS. SKIDMORE: Yes.

23 CHAIRMAN CROSBY: -- than either  
24 MBE's or other contractors?

1 MS. SKIDMORE: Correct.

2 CHAIRMAN CROSBY: That's weird.

3 MS. MOIR: Isn't it?

4 MS. SKIDMORE: It is weird.

5 Although, my opinion about that is it is --  
6 there's -- the sexism is so intense that if  
7 you're already a women-owned business, and if  
8 your crew is all women, that just the fear of  
9 not getting taken seriously by anybody is  
10 there.

11 CHAIRMAN CROSBY: Right.

12 MS. SKIDMORE: And so, I think  
13 there's, sort of, an overcompensation that can  
14 happen. But that could be food for more  
15 research for somebody to figure out. That's  
16 just my theory about it.

17 And the other thing that won't work  
18 is, sort of, the scarecrow thing that happens  
19 where everyone's pointing, oh, it's the  
20 union's, oh, it's the apprenticeship, oh, it's  
21 the general, oh, it's the subcontractor, oh,  
22 it's the compliance officers', everyone  
23 pointing arrows at someone else and wait for  
24 someone else to do it.

1                   What we found is, when the owner is  
2                   serious about this, which is what happened at  
3                   the integrated science center, real things can  
4                   happen. And so, this is -- one of the things  
5                   the policy group has done is, we have kept  
6                   charts. And these are on our Web site, which  
7                   we'll show you later, of the jobs that we've  
8                   targeted do not only show when we have our  
9                   weekly, or our regular - there have been  
10                  different frequency - regular access and  
11                  opportunity committee, not only what are our  
12                  number's right that day, but are we trending  
13                  up or are we trending down? And you can see  
14                  on this chart, and this is -- I think it's  
15                  about a \$120 million project, we were at or  
16                  above 10 percent for the women the whole  
17                  project. And, to my knowledge, this is the  
18                  first job in the history of the Boston  
19                  Residents Job Policy that that's ever happened  
20                  on. And, so it's a very, very big deal to us.

21                  When I worked in the field, I was  
22                  almost always the only woman everywhere I  
23                  went. And it's -- that by itself, if nothing  
24                  else happens, it can drive people out. And

1 when you get to be on a job with other  
2 tradeswomen, it's -- it's really  
3 transformative and helps retention.

4 Now, one of our little sayings is  
5 there is no silver bullet. One of our -- so  
6 that -- this isn't an impossible thing, but if  
7 it was simple, it would have been solved  
8 already. And the truth is, there's sort of --  
9 it's a complex social problem. There's many  
10 pieces of the solution. I've been the party  
11 of a women's committee in the carpenter's  
12 union for 15 years. We're actually about to  
13 have our fourth International Carpenter's  
14 Women's Conference in January.

15 And a recent project for the -- the  
16 women's committee here in Boston, was to do an  
17 outreach video. Work has been picking up, we  
18 know we need more women, so this is a  
19 three-minute video that we just released about  
20 two weeks ago. Has already been seen by 3,057  
21 people, and has been shared by almost 50,000  
22 people on Facebook. So it's quick, but we  
23 hope you'll enjoy it.

24

1 (video playing)

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MS. SKIDMORE: Thank you. And I just realized I was remiss in not mentioning that co-convenors of the policy group, where we figured a lot of this out, are Brian Doherty, who's the head of the Boston Building Trades, and Janet Jones, who's here, who's with the Dorchester Roxbury Labor Committee, and who really had a lot of the on-the-ground experience developed from the Kroc Center, which was one of the early projects that didn't do great on women, but did better than many on hiring people of color and residents. So I wanted to mention those two and pass it on to Susan.

MS. MOIR: Thank you, Liz. Thank you, Commissioners, for inviting us. We very much appreciate this opportunity. So I'm the technician here. As Liz said, we have, over the last six years, almost seven years, developed the tools, proven tools for creating diversity on a construction site. We're here to talk about women in construction. I want



1 to say briefly at this moment, but we say it  
2 many, many times, driving women into the  
3 industry drives diversity at all levels, and  
4 we have proven that. And if we -- if we  
5 diversify by race and ethnicity, it does not  
6 do anything for women. But if we do diversify  
7 by women, it diversifies also by race and  
8 ethnicity. You can see from the video, it's  
9 women of color who are going into this  
10 industry. That, in itself, is a very positive  
11 element.

12 So implementation, really, what  
13 we've come to show you is how to follow the  
14 law and change an industry. And so four --  
15 five elements that we would say - we'll get  
16 more into the details of this - are necessary  
17 to do this. The elements that were shown by  
18 DCAMM and UMass building authority at  
19 UMass Boston are the political will to do it  
20 makes a huge difference. As Liz said, we've  
21 been trying to do it for years and nothing has  
22 really changed. Really takes leadership and  
23 political will. Enforcement from the top and  
24 compliance from the bottom, and those are two

1 different things that may be a little  
2 technical, but they really are different.  
3 Enforcement is by the authority from above.  
4 Compliance is by those who are responsible for  
5 it from the bottom. Both things have to  
6 happen in order to change the industry. And  
7 all partners participating in ongoing  
8 monitoring committees. That's the example of  
9 PGTI, that's the example of the access and  
10 opportunities committee, that's the example of  
11 the -- of the Kroc Center in Dorchester four  
12 years a go.

13 And recognizing that diversity is a  
14 cost of doing business, I was presenting to a  
15 group a couple of weeks ago and someone from a  
16 union training program actually turned and  
17 said, well, that's going to cost us money.  
18 And I said, yes, that's going to cost you  
19 money. Like everything else costs money,  
20 diversity costs money.

21 So this is a slide that I've been  
22 using for years, obviously, fairly typical  
23 business slide of any industry, but I think  
24 the hierarchy in any industry. But what you

1 can see from this is in construction there are  
2 many, many levels of the industry. And,  
3 really, what we're going to say, that every  
4 level has a role in -- in changing the  
5 industry and implementing diversity.

6 I want to speak specifically about  
7 the role of the commission. The role of the  
8 commission, your authority and responsibility  
9 regarding diversity in the -- on the  
10 construction sites. So I'm not a lawyer, but  
11 I have, as part of this job for a long time,  
12 interpreted regulations and -- and laws on  
13 this because this is a matter of  
14 interpretation.

15 I think that it was very  
16 interesting, Commissioner McHugh, what you  
17 said in the earlier presentation -- in the  
18 presentation from the Investigation and  
19 Enforcement Bureau, when you noted that the  
20 commission's role is to monitor right through  
21 the opening of -- of the casinos. And you  
22 used the term monitoring warrant. I don't  
23 think that this is any different. Diversity  
24 on these construction sites is really no

1 different from the question of criminal  
2 activity, from the question of quality of  
3 construction. From -- from any questions  
4 regarding these projects. And I would think  
5 that -- I think that your own regulations  
6 demonstrate that.

7 Your regulations, 205 CMR 132.02,  
8 Section 3 says the license shall provide an  
9 affirmative action plan to you, et cetera.  
10 And that regulation refers to ANF Bulletin 14,  
11 which is, you know, kind of conceptual,  
12 visionary document, but says processes and  
13 procedures to ensure compliance. And I have  
14 excerpted -- not trying to distort anything,  
15 but just excerpted the sections on workforce  
16 participation. Processes and procedures to  
17 ensure compliance with workforce participation  
18 goals will be instituted. That document then  
19 refers to supplemental legal employment  
20 opportunity, nondiscrimination affirmative  
21 action program, the supplement, which is very  
22 specific. Goals monitoring, reports,  
23 subcontract notification and sanctions. Your  
24 regulations refer all the way down to these.

1 And I would contend, and hope that you will  
2 have this discussion of your responsibility  
3 and authority as part of that larger  
4 hierarchy. Can you go up one slide for me for  
5 a second?

6 Again, to reiterate goals reporting,  
7 intensive monitoring, notification of  
8 subcontractors and sanctions, and all of these  
9 are mentioned in your own governing  
10 regulations. So these are the five  
11 requirements. That goal is 6.9 percent for  
12 women. The monitoring is very interesting  
13 because the actual language in those  
14 regulations right through those supplemental  
15 document, there will be established, for the  
16 life of a contract, a body known as the  
17 liaison committee. We don't have the standard  
18 name for this anymore. Sometimes it's called  
19 the monitoring committee, sometimes it's  
20 called the oversight committee. The Division  
21 of Capital Asset Management and Maintenance  
22 has called it the Access and Opportunity  
23 Committee. In your regulation there' a  
24 liaison committee. It's the same committee.

1       It's a multistakeholder, longstanding  
2       collaboration to look at diversity issues.  
3       Your regulations call for reporting weekly  
4       reports on the numbers of hours worked by all  
5       employees, requires subcontractor  
6       notification. I'll have more to say on that  
7       -- their obligations, and gives the options of  
8       sanctions.

9                So we have developed a document,  
10       which is called Finishing the Job. It's on  
11       our Web site. We'll show you that link. And  
12       that is a checklist, a series of checklists  
13       that for each of those multiple layers of the  
14       industry, the developers, the contractors, the  
15       subcontractors, the unions and the community  
16       groups, we're actually just in the process of  
17       developing one with the state apprenticeship  
18       counsel for all apprentice and training  
19       programs. That's going to be recommended to  
20       the next meeting of the State Apprenticeship  
21       Council.

22               So these checklists take what's in  
23       fine print, what's in complex, legal language,  
24       what's buried in a lot of documents and put it

1       into at simple form that, at each level, the  
2       folks who are responsible at that level can  
3       check off and say I've done this, and if I  
4       haven't done it I'm probably not going to be  
5       successful in getting women in this industry.

6               So in our -- our practice -- our  
7       Best Practices checklist for the developers,  
8       which is somewhere between you and licensees,  
9       right, legally it may be the licensees, but  
10      it's for the commission and the licensees to  
11      figure out where that responsibility and  
12      authority lies, put the goals up front and  
13      prominent in all bid documents. We say put it  
14      in, you know, 16-point type bold right at the  
15      beginning of the document.

16             As -- as Liz alluded to the industry  
17      practice of winking, these goals are often at  
18      the very end, buried in all bid documents.  
19      Nobody pays any attention to them. That  
20      contributes to winking. Communicate with the  
21      CMs and the construction managers and the  
22      general contractors, that maximum efforts are  
23      required. And, then, those processes and  
24      procedures that are referenced in ANF14, we

1 developed that specific checklist for what  
2 those process and procedures need to be in  
3 order to ensure compliance.

4 Preconstruction meetings at all  
5 stages, daily and weekly reporting, budgeting  
6 for compliance, on site compliance officers.  
7 Danielle Skellig (phonetically) is here, has  
8 spent time as an on site compliance office --  
9 officer at one -- at one of the UMass sites.  
10 She goes to a every single subcontractor every  
11 week or every day to see what their numbers  
12 are. Constant, continuous monitoring.  
13 Multistakeholder project monitoring committee,  
14 again, whatever that is called.

15 And this is a suggestion that you  
16 implement, some have implemented, Bond  
17 Brothers at UMass Boston has actually  
18 implemented this, and Turner Construction is  
19 using it, ask your subcontractors to include  
20 diversity histories in their bids. It's not  
21 required by law, but you have the right to ask  
22 them to include their diversity histories.  
23 Actually, Turner is going out and looking at  
24 the diversity histories and some of the online



1 data that we've developed in order to vet  
2 their subcontractors. We can give you the  
3 names of the some of really bad actors,  
4 because we see them at UMass Boston.

5 A best practice for reporting,  
6 on-line transparent data, searchable data.  
7 This is an example of the data that is being  
8 used by DCAMM, and UMBA. It's -- and on the  
9 Boston project labor agreement site. I could  
10 take you aside, and in two minutes show you  
11 the diversity history of any contractor or any  
12 trade on the UMass Boston site, because we can  
13 look it up like that. You don't have to call  
14 me to get it, you don't have to call somebody  
15 in DCAMM. You can look it up. It's all there  
16 and it's transparent.

17 All data now on the Boston Resident  
18 Jobs Policy is on data. It's not in the  
19 searchable site we want it to be in -- excuse  
20 me, it's on line. It's not the data in the  
21 searchable way we want it to be, but it's all  
22 on line. You can look up any contractor's  
23 history in Boston. All union and nonunion  
24 apprenticeship data is now on line. We are

1 working at many different levels to make all  
2 the data transparent on line so nobody has to  
3 figure out or guess what the -- what the data  
4 is that they need.

5 Again, I show you this just to  
6 remind you again -- oh, one more slide.  
7 Actually, this is the construction industry  
8 hierarchy. There are two hierarchies. There  
9 is a management hierarchy, and there is a  
10 labor a hierarchy under this, at least in the  
11 unionized sector. Where the rubber meets the  
12 road is at the subcontractors.

13 The subcontractors are the ones who  
14 actually do the hiring. And it is our  
15 experience that project labor agreements are  
16 the most effective way. We can prove this,  
17 actually. It's not just our experience, but  
18 we have the data to show that project labor  
19 agreements are the most effective way to bring  
20 about diversity indefinitely to improve  
21 women's numbers, because the unions are  
22 bringing women into the apprenticeship  
23 programs, that subcontractor who's a signatory  
24 contractor can go to an actual pool and say, I

1 need women on this job, I need people of color  
2 on this job.

3 But this is where it happens, and  
4 this is very tricky, because the  
5 subcontractors -- I come from a very radical  
6 background, and let me tell you, I want to  
7 believe that workers is the most vulnerable  
8 sectioner of this industry, subcontractors are  
9 the most economically and financially  
10 vulnerable sector in this industry. They are  
11 very marginal. If they don't get paid for a  
12 couple of weeks, they can go under, not make  
13 payroll. I've seen it over and over again.

14 If a subcontractor bids on a job and  
15 then that general contractor comes to them  
16 three weeks later and says, I'm going to be  
17 serious about diversity, that subcontractor is  
18 already in trouble, because that  
19 subcontractor's processes and procedures are  
20 not in place and now they -- he or she have to  
21 budget for that. We have to get to the  
22 subcontractors way back in the pipeline in  
23 order to be successful at this.

24 And best practices for notification,

1 again, no one's winking this time. Right up  
2 front. 6.9 percent up women's hours by trade  
3 from day one. If a subcontractor comes in  
4 with their core crew, and that's all white  
5 men, and they work for six weeks, their job  
6 may be no more than four months, they will  
7 never meet your goals. It has to be 6.9  
8 percent and the minority figure from day one.  
9 Core crews are no excuse for noncompliance.  
10 This will be the biggest excuse you will see.  
11 I'm going to bring them in, but I got my core  
12 crew. These guys have been working with me  
13 for a long time. Well, as Elizabeth said,  
14 people need to go to work. The women and the  
15 minorities are going into this industry, they  
16 need to be working on core crews. Core crews  
17 of all white men are no excuse in the law, and  
18 they should not be on any of your sites for  
19 noncompliance. You will --

20 CHAIRMAN CROSBY: Susan, is core  
21 crew, is it just -- is it just an informal  
22 expression?

23 MS. MOIR: Yeah.

24 CHAIRMAN CROSBY: There's not

1           some -- there's not some kind of contractual  
2           relationship --

3                     MS. MOIR:  No.

4                     CHAIRMAN CROSBY:  Okay.  So it just  
5           sort of means, my guys?

6                     MS. MOIR:  My guys.  Exactly.  
7           Exactly, Commissioner.

8                     CHAIRMAN CROSBY:  And they can make  
9           -- they can -- that's up to them.  They can  
10          make members of their, quote, core crew --

11                    MS. MOIR:  Absolutely.

12                    CHAIRMAN CROSBY:  -- however they --

13                    MS. MOIR:  And what we don't want to  
14          do is see a core crew come on.  I'm the  
15          subcontractor, I bring the four of you on, and  
16          then two weeks later the general comes along  
17          and says, no, you have to have a woman on that  
18          crew and Commissioner McHugh get's fired.

19                    COMMISSIONER MCHUGH:  I get fired.  
20          I had a question.  And you referred now,  
21          twice, once in a slide to, we're having a  
22          shortage of white men.  And you just referred  
23          to, again, a core crew of white men.  What  
24          about -- what about African-American men as

1 well as men, what about Hispanic men as well  
2 as women, is that factor into this calculus  
3 at all?

4 MS. MOIR: Yes. Absolutely. As I  
5 said just a few minutes ago, we can actually  
6 show you the data to show that moving more  
7 women into this industry diversifies the whole  
8 industry by race also. We can actually show  
9 you that data. But what doesn't happen is you  
10 diversity -- in Boston right now, we're very  
11 successful at diversity. We should have 50  
12 percent minorities working in Boston right  
13 now, because the population of Boston is -- is  
14 50 percent minorities, but we don't. But we  
15 do have 33 percent.

16 A third of our industry in Boston  
17 right now is minorities, people of color. But  
18 we're still around three, four, 5 percent  
19 women. We have pushed the minority -- believe  
20 me, the policy group on tradeswomen's issues  
21 has strong alliances with those who's  
22 primarily -- primary focus is on minorities.  
23 We have very strong alliances. But we can  
24 prove it, if you diversify by pushing more

1 women into the industry, you diversify by  
2 race.

3 But my point on this was, we don't  
4 want to -- believe me, there have been times  
5 in the tradeswomen movement where people have  
6 said you've got to fire the guy and you've got  
7 to bring a woman on. We don't want that to  
8 happen. We don't want the nondiverse crews to  
9 go on site and then have someone removed, we  
10 faced this in the very first weeks of UMass  
11 Boston. That will create horrible feelings.  
12 The person -- the woman who replaces the  
13 person who's laid off, that was your buddy.  
14 You're not going to be friends with that  
15 person. It creates horrible poison on the  
16 site. And construction sites are a very  
17 intimate workplace. This is why it's so  
18 important for this to happen long before the  
19 shovel hits the ground, long before the boots  
20 hit the site, so that, that diversity is  
21 happening long before we get on the site.

22 CHAIRMAN CROSBY: I just want to  
23 make one observation relative to  
24 Commissioner McHugh's question. Although,

1           this is a process that's been designed by a  
2           group that's been dedicated to try to get  
3           women in the construction trades, there is no  
4           question that these best practices that  
5           they're talking about are totally applicable  
6           for any other kind. You know, so the -- we  
7           will use these strategies, not just to get  
8           women into the trades --

9                       MS. MOIR: Yep --

10                      CHAIRMAN CROSBY: -- but to get  
11           minorities into the trades. And it's also the  
12           same -- same basic concepts of what -- what  
13           makes change is applicable to diversity as  
14           well.

15                      MS. MOIR: Yeah.

16                      CHAIRMAN CROSBY: So we're taking  
17           your principles as broadly applicable to other  
18           such objectives.

19                      MS. MOIR: Thank you. Because --  
20           and they are -- I think that when Liz was  
21           talking about the 10 percent women on the  
22           UMass site, the goal for minorities on the  
23           UMass site is 25 percent, the integrated  
24           sciences complex is 31 percent. It's all part



1 of the same thing.

2 CHAIRMAN CROSBY: Right.

3 MS. MOIR: But as I said, what's --  
4 what's not true, what's clearly not true, is  
5 if we talk about diversity and we don't talk  
6 about women.

7 Janet Jones is here from the  
8 Dorchester Roxbury Labor Committee, and I  
9 think she can testify to the failure at the  
10 Kroc was to talk about diversity without  
11 talking about women. And it was an  
12 eye-opening failure because it just didn't  
13 happen. We'll go one more. I just got a  
14 couple more slides, I think.

15 Oh, I just wanted to -- I just  
16 wanted to just say that in 6-1/2 years we have  
17 created a lot of product. There's a lot of  
18 information here for you. We advocate not  
19 reinventing. We give away everything we do,  
20 and only ask that there be a small  
21 attribution. This was contributed -- the  
22 Policy Group on Tradeswomen's Issues  
23 contributed to these efforts. We -- if you  
24 click on the link below for me.

1           We -- all of those materials are on  
2 line in Word format. Contractors can be  
3 given -- given the document and tell them,  
4 take out what you need, take out what works  
5 for you, put your letterhead on it, use  
6 anything that we've done. So these are some  
7 of the documents we've produced. All the  
8 workforce participation data is here.  
9 Finishing the Job, which is the Best Practices  
10 document. Unfinished Business was our -- was  
11 our founding document. Go up and then --  
12 scroll down go up, yeah.

13           Our targeted projects right here has  
14 data on all the projects we've been following.  
15 Not only UMass Boston, but Tropical Foods in  
16 Dudley, the development of Jackson Square --

17           MS. SKIDMORE: Ferdinand.

18           MS. MOIR: And the Ferdinand  
19 building in Dudley so -- we thank you and  
20 we're available for questions, comments and  
21 any assistance we can provide over the life of  
22 your existence.

23           CHAIRMAN CROSBY: Thank you.

24           COMMISSIONER MCHUGH: Thank you.

1 CHAIRMAN CROSBY: Questions,  
2 comments?

3 COMMISSIONER ZUNIGA: Yeah. You  
4 mentioned -- you made a couple of references  
5 to looking at the history of bids, which I  
6 think it's -- it's right on point, and the  
7 point about the subcontractors history and  
8 where the rubber meets the road, if you will.  
9 And you also mentioned you have data as to the  
10 bad actors. Help us understand that a little  
11 bit more. Is that generally people who talk  
12 the talk but not --

13 MS. MOIR: Oh, no. Some of them  
14 don't even talk the talk, Commissioner. But  
15 if we could -- with the data that we have from  
16 -- we've not done the deep analysis on this,  
17 but I can tell you it's there. With the data  
18 that we have from UMass Boston, I could name  
19 two contractors right off the top of my head.  
20 I'm not going to do that.

21 COMMISSIONER ZUNIGA: You don't have  
22 to do that.

23 MS. MOIR: No. But with the data we  
24 have from UMass Boston, we can extrapolate

1 those subcontractors who have been  
2 consistently resistant, and consistently shown  
3 bad numbers. And the thing with UMass Boston  
4 is, that contractor will be listed right under  
5 a contractor who does similar work that has  
6 met the numbers, so it's very clear.

7 And I would also say that, in terms  
8 of UMass Boston, many more contractors are  
9 trying to do this, understand that this is the  
10 way. The ones who are not trying to do it  
11 are -- are really lagging behind in the  
12 industry and are not getting it, and they  
13 stand out because of that. But, yeah, we have  
14 a tremendous amount of data now because of  
15 UMass Boston. And many of these  
16 subcontractors are area subcontractors that  
17 are going to be bidding on your work too.

18 MS. SKIDMORE: And let me add that  
19 getting the data on line has been a piece of  
20 our work. So three years -- three or four  
21 years ago we created a working group on the  
22 Boston Residents Jobs Policy, which sets --  
23 set the goals for the women, people of color  
24 and Boston residents, and under the leadership

1 of city councilors, Ayanna Pressley and  
2 Mike Ross, we got an ordinance passed to put  
3 the data -- compliance data on line.

4 So anyone can go to the City of  
5 Boston Web site or Google the Boston Residents  
6 Jobs Policy, and it's -- it's a little  
7 unwieldy, but it's there. So you can look up  
8 the compliance, the history of any contractor  
9 of any job that's in that database, and  
10 there's three or four years on there now.  
11 It's -- they're a little behind. It's not  
12 super up to date on one part of it, but it's  
13 -- it's -- we've never had access to that data  
14 before. And so, if you've got somebody in  
15 front of you that claims that they can do this  
16 and they're all but for it, but you've looked  
17 up that they have a history of never meeting  
18 any of these goals, you're in a different --  
19 you get to have a different conversation with  
20 them in terms of pushing it and holding them  
21 accountable to their history.

22 MS. MOIR: And this is why I think  
23 that -- because it is a little cumbersome now.  
24 The data's in two different places and the

1 city data is not well organized, and we're  
2 working with the city. But this is why I  
3 think it -- it's a discussion for you to have  
4 with your licensees, whether they can include  
5 in their bid documents, that the  
6 subcontractors include a three-year look back  
7 on their diversity history. It would be  
8 simple for the subcontractors to do it. And  
9 it'll save -- it'll save everybody else a  
10 tremendous amount of time and effort to go  
11 through the data, you know. And, like I said,  
12 Bond Brothers is doing it, Turner's doing it.  
13 If it's done from the top it, I think, will be  
14 much more effective.

15 CHAIRMAN CROSBY: So Turner and  
16 Bond Brothers routinely ask subcontractors, in  
17 their bid materials, to give their -- their  
18 diversity records?

19 MS. MOIR: I don't want to over  
20 speak. I've spoke with Allison Stanton. I  
21 know she's using the Boston data to do her own  
22 review. Bond Brothers does have some  
23 requirements in their bid documents.

24 CHAIRMAN CROSBY: Yeah, okay.

1 Commissioner Stebbins.

2 COMMISSIONER STEBBINS: Yeah. Glad  
3 to hear you say good things about Turner,  
4 because, obviously, they're doing a lot of  
5 work right now for our one licensee. We have  
6 two entities that have been designated for a  
7 license, so when you go back to the five --  
8 the elements in the state law, excuse me, the  
9 bigger projects have not submitted their  
10 affirmative action programs yet to us, and we  
11 have a window to do that after they officially  
12 accepted the license. So we may turn to your  
13 good offices for your thoughts and feedback  
14 and comments on their proposed plans.

15 I did wanted to -- you know, this  
16 is -- this whole issue is interesting, and,  
17 obviously, we're not the builders of these  
18 projects. We're working with -- we're  
19 licensing, the developer, the developer's  
20 working with the GC and subs, et cetera. How  
21 important is the selection of the GC to this  
22 whole effort?

23 MS. MOIR: Very.

24 MS. SKIDMORE: I think two things.

1 I think one, it's very, and to have the  
2 history of the generals, which, frankly,  
3 before a few years ago, almost any history you  
4 looked at would have been terrible. But the  
5 last three, maybe four years, people are  
6 starting to figure out how to do this. But I  
7 also believe that any contractor can be  
8 brought on board with this.

9 COMMISSIONER STEBBINS: Okay.

10 MS. SKIDMORE: You know, and if --  
11 if -- but this won't work without -- without  
12 very strong and regularly repeated commitment  
13 from the top. And you're part of the top,  
14 developer's part of the top, the general  
15 contractor and construction manager is part of  
16 the top.

17 You know, what happened at the  
18 Integrated Science Center is, you know, the  
19 governor put access and opportunity into the  
20 project labor agreements, Commissioner  
21 Cornelison from DCAMM was just fiercely  
22 attendant to this. And then they hired  
23 Mukiya Baker-Gomez, sorry I forgot for a  
24 second, who has just done a phenomenal job,



1 and I think could be also a great resource for  
2 you all. So every time people turned around,  
3 somebody was saying no we're serious. And you  
4 need that from the general.

5 MS. MOIR: And I think -- just so  
6 I -- we've worked with -- we've worked on two  
7 projects with one major area general  
8 contractor, and one project was great and the  
9 other one was lousy. So the project manager  
10 has a great deal of authority and autonomy on  
11 any projects. So, again, it's like down from  
12 the top that -- to feed each unit.

13 COMMISSIONER STEBBINS: And  
14 understand, one of our license designees has  
15 not yet identified a general contractor and  
16 the license condition awarded to that license  
17 designee. And we said, as soon as you have  
18 identified your general contractor, we, as a  
19 commission, want to meet with you, excuse me,  
20 and talk about those diversity commitments,  
21 both on the workforce and the supplier fence a  
22 well.

23 You know, one thing that has  
24 intrigued me from the start of this process is

1 the issue of the diversity and the  
2 construction workforce, but brainstorming  
3 around the idea that -- and I'll use Western  
4 Mass, as we talked about before as an example  
5 of the largest private construction project in  
6 the region's history, and is there a way to  
7 capitalize on that opportunity as an avenue to  
8 market -- excuse me, market the project for  
9 attracting that diverse construction  
10 workforce. Again, people aging out of the  
11 workforce need to kind of backfill that --  
12 brainstorm on the opportunity that we can work  
13 with you to try to drive that opportunity and  
14 drive that message.

15 MS. SKIDMORE: I think, absolutely.  
16 And Susan likes to say 50 percent of the  
17 population everywhere is female. So it's not  
18 a demographics. It's not a oh, you can do it  
19 in Boston, you can't do it in Western Mass or  
20 somewhere else.

21 And just one example, as I mentioned  
22 to you earlier, a year ago some funders came  
23 to us and said, will you start a  
24 preapprenticeship program for women in

1 New Hampshire, where there was no foundation  
2 for this, nothing. And we did. And, you  
3 know, to sort of pick on my own union for a  
4 minute, none of the trades, including mine,  
5 whatever we were doing to do outreach for  
6 women for the last 20 years has really not  
7 produced many, in some case any, as new  
8 members. I now have six women in the local  
9 New Hampshire, down from, one, me, or up from  
10 one.

11 And this preapprenticeship program,  
12 in two months, one full-time person and me  
13 part-time, got 40 women to come to info  
14 sessions about this preapprenticeship program  
15 and went through a bunch of vetting with them  
16 and ended up with our first class of eight  
17 women, who have all graduated. Six of them  
18 already got into unions. Three of them, as of  
19 this week, are already working. And this is  
20 women who are unemployed or making the minimum  
21 wage. So going from 7.25 an hour with no  
22 benefits to 16, 17, 18, bucks, depending which  
23 trade they got into plus benefits is just  
24 transformative. And that was no foundation,

1 1-1/2 people over two months in a very focused  
2 way with a very good program. We borrowed --  
3 we sort of took the Building Pathways program  
4 that's been working in Boston for a couple  
5 years and go their program and took it to New  
6 Hampshire and had very strong commitment from  
7 the unemployment office and staff. That's  
8 actually where we got most of our people, was  
9 reaching out to them with a lot of support  
10 from them.

11 So this can be done anywhere. I  
12 do -- you know, I think it would be  
13 interesting if the commission, you know,  
14 recognizing the amount of work that you  
15 potentially have in front of you, was to set  
16 up a communication with each of the building  
17 trades unions and say, you know, we've got,  
18 you know, X billion dollars worth of work  
19 coming up, we're really serious about these  
20 diversity goals, what's your plan for making  
21 sure we meet them because you probably need to  
22 start doing the outreach -- you know, new  
23 apprentices now for when these jobs roll  
24 around? And that helps that supply and demand

1 cycle actually work. So that's, you know,  
2 sort of an easy step, I think, that you guys  
3 can do to help make sure folks are ready in  
4 the pipeline for when your projects break  
5 ground.

6 MS. MOIR: Let me make the job a  
7 little bigger than that. As you all know, and  
8 you might not have known before you got this  
9 job, but you know it now, construction is a  
10 major boom and bust industry. We are, in  
11 Boston, pretty well into the boom end of the  
12 cycle, and Western Mass just entering the boom  
13 end of the cycle.

14 I've been working in the  
15 construction industry since the first days of  
16 The Big Dig, so I've seen some of these  
17 cycles. My guess is, we've got about six  
18 years, maybe seven, and the casinos might  
19 actually boost that -- that -- that end of the  
20 cycle up. If we do not have a substantial  
21 improvement in the numbers of women and people  
22 of color in the construction industry, at the  
23 end of that boom we're going to go right back  
24 to where we were. That's what's happened.

1 That's what happened on The Big Dig. We  
2 actually did get up to, like, six, 6-1/2  
3 percent women, last hired, first fired. And  
4 that's true for minorities.

5 There -- there is a substantial  
6 amount of bitterness in the minority  
7 community, and I'd say cynicism, I should say  
8 cynicism about these efforts, because there  
9 was improvement during the years of The Big  
10 Dig. There wasn't enough last hired, first  
11 fired.

12 So the goal is -- the legal goal is  
13 6.9 percent women's hours. We need 15 to 20  
14 percent women on jobs in the middle of this  
15 boom in order to survive the next bust, with  
16 enough of a critical mass that we've made  
17 enough change in that cycle to gain ground  
18 during the next cycle. That is the nature of  
19 construction.

20 In terms of minorities in Boston, we  
21 need over 50 percent minorities in the  
22 construction industry in Boston, in order to  
23 survive the next bust with substantial  
24 progress. So 6.9 percent is a floor. It's

1 not a ceiling.

2 If the message from this commission,  
3 from your licensees, from the developers and  
4 the GCs goes down, we will never accept less  
5 than 6.9 percent women hours any week on your  
6 work. And it can be done. We've shown it  
7 can. 6.9 percent is a low number. We wish it  
8 was 10. But if you never accept lower than  
9 6.9 percent, we will build up that workforce  
10 of female and minority employees in the  
11 construction industry, people with good  
12 careers that will not only change this  
13 industry, but will change the economics of  
14 neighborhoods all across the state.

15 CHAIRMAN CROSBY: Others?

16 COMMISSIONER MCHUGH: No. That was  
17 very comprehensive. Thank you.

18 CHAIRMAN CROSBY: I'm right, I  
19 think, in assuming that your -- your  
20 intention, which you'll be talking to us about  
21 is pretty much adopt this whole cloth, right,  
22 for the large part?

23 MS. GRIFFIN: So I'll be before you  
24 on October 23rd, or thereabouts, to -- to make

1 some recommendations.

2 CHAIRMAN CROSBY: Right. And are --  
3 is -- is it -- are the databases that they're  
4 talking about, is that something we've been  
5 talking about with our suppliers -- with our  
6 licensees, keeping those -- those databases of  
7 numbers?

8 MS. GRIFFIN: We haven't talked to  
9 our licensees about putting those databases on  
10 line.

11 CHAIRMAN CROSBY: I think that's  
12 really worth considering because, for one  
13 thing, it would add a tremendous -- if we  
14 could do this well for these construction  
15 projects, that would add a tremendous database  
16 for folks like you to look at, but I don't  
17 know what the pros and cons are. I haven't  
18 really thought about it, but -- but it seems  
19 like something we ought to think about.

20 MS. MOIR: Well, DCAMM's developed  
21 -- I think -- Jill and I have spoken. DCAMM's  
22 developed a really good, transparent and  
23 efficient model. Again, that's something that  
24 doesn't have to be invented.



1                   CHAIRMAN CROSBY: Right. You've  
2 talked about the integrated science center.  
3 Is the same process being applied to the  
4 general academic building?

5                   MS. MOIR: Yes.

6                   CHAIRMAN CROSBY: It is, okay.

7                   MS. MOIR: Yes. And to the  
8 Edward Kennedy Institute, and to the utility  
9 relocation, and all future projects at UMass  
10 Boston.

11                  CHAIRMAN CROSBY: Right.

12                  MS. SKIDMORE: And, in fact, the  
13 state took our best practices document,  
14 customized it to -- for DCAMM and the U.S.  
15 Building Authority, and are in the process of  
16 reviewing that with the intention of adopting  
17 that statewide.

18                  CHAIRMAN CROSBY: Great.

19                  MS. SKIDMORE: So they're in the  
20 process of, if it's successful, taking what  
21 worked here and making that mandatory on all  
22 DCAMM and UMBA projects in the state.

23                  CHAIRMAN CROSBY: Great. You know,  
24 one thing that's totally clear, and this

1 probably obvious, but from these conversations  
2 now with you twice and other conversations  
3 that you had, it's clear that the single  
4 critical variable is commitment from the top.  
5 You know, if you've got that you've got a  
6 chance. If you don't got that, you don't have  
7 a chance.

8 And Susan has been on her best  
9 behavior here this morning, but I think it's  
10 not too indelicate to share with the group,  
11 another of her opinions. She's talking about  
12 when we had this presentation, you put all  
13 these practices together, do the best  
14 practices. That's the blocking and tackling.  
15 But to really make it go, you need a bad-ass  
16 champion. And I think she's right. I mean,  
17 that's what -- this is hard work. People been  
18 working on this and talking about this for a  
19 long, long time, and nothing goes anywhere.  
20 But I think we are going to have the be the  
21 bad-ass champion here and make that -- make  
22 this happen. Thank you very much.

23 COMMISSIONER MCHUGH: Thank you.

24 MS. MOIR: Thank you very much.

1 Thank you. We look forward to continuing to  
2 be able to support your work.

3 CHAIRMAN CROSBY: Thank you.

4 COMMISSIONER ZUNIGA: Thank you.

5 COMMISSIONER STEBBINS: Thank you.

6 CHAIRMAN CROSBY: It is now noon.

7 We are not going to be able to get everything  
8 done, I don't think, before lunch, unless you  
9 all really want to. Do you want to take a  
10 lunch break now, or do you want to do a little  
11 more and take a lunch break later? I'm game  
12 nor either. Any preferences?

13 COMMISSIONER ZUNIGA: Lunch for me.

14 CHAIRMAN CROSBY: So why don't we --  
15 it's noon. Why don't we adjourn for 45  
16 minutes. Is that enough?

17 COMMISSIONER ZUNIGA: Sure.

18 CHAIRMAN CROSBY: Yeah. So we will  
19 reconvene about 12:45.

20

21 (A recess was taken)

22

23 CHAIRMAN CROSBY: Commissioner?

24 It's usually the other wandering commissioner,

1 the wandering judge.

2 COMMISSIONER MCHUGH: Yeah.

3 CHAIRMAN CROSBY: All right. We are  
4 on to Item No. 5, which is administrative  
5 matters. Executive Director Day.

6 MR. DAY: And good afternoon,  
7 Chairman Crosby and Commissioners.

8 CHAIRMAN CROSBY: Good afternoon.

9 COMMISSIONER ZUNIGA: Good  
10 afternoon.

11 COMMISSIONER STEBBINS: Good  
12 afternoon.

13 COMMISSIONER MCHUGH: Good  
14 afternoon.

15 MR. DAY: What I'd like to do  
16 briefly is, I do have a few comments on  
17 general update. I wanted to emphasize to the  
18 commission, and I think you are aware, but our  
19 team at the commission is busy developing and  
20 implementing process regulations and  
21 infrastructure necessary for the commission to  
22 establish a strict regulatory scheme, and to  
23 provide efficient an effective oversight of  
24 our gaming casinos.

1                   Today, as part of that process,  
2                   we're -- we're presenting regulations that  
3                   deal with transfer licensee reporting hearing  
4                   process and internal accounting and gaming  
5                   procedure goals inspection. We'll also have  
6                   topics like training schools, surveillance and  
7                   inspection in process, in the formal  
8                   regulation process.

9                   We are also developing about seven  
10                  packages of regulations addressing topics like  
11                  racehorse development fund and the regulations  
12                  update for horseracing, financial reporting  
13                  and alcoholic beverages, responsible gaming  
14                  features like credit, underage protection and  
15                  enforcement credit-card checks and player  
16                  management. We're also in the process  
17                  developing regulations about complementary  
18                  services and an exclusion list. I just wanted  
19                  to give you a little brief glimpse on those  
20                  that are coming forward.

21                  CHAIRMAN CROSBY: I can't wait.

22                  MR. DAY: Anytime. Anytime. We're  
23                  also in the process of scheduling -- of  
24                  processing racing applications and scheduling

1 on-site hearings for the live racing, and  
2 horseracing. Also we're finishing an audit  
3 for -- and reconciling and converting to an  
4 automated system for the numerous  
5 distributions in racing.

6 We are continuing to interview  
7 candidates for financial investigative  
8 positions, who will investigate financial  
9 stability of applicants and audit facilities.  
10 We're also in the process of developing  
11 procedures and information necessary to begin  
12 recruiting for gaming agents in early 2015 for  
13 on-site regulation of Penn's facilities.

14 We're developing needed training to  
15 prepare investigators, state police and gaming  
16 agents to enforce gaming laws and regulations.  
17 We're working with agencies like the attorney  
18 general's office and the Plainville local law  
19 enforcement to develop agreements needed to  
20 define roles and support cooperation. We're  
21 continuing development of the process  
22 necessary to receive investigative-issued  
23 licenses and registration in anticipation of a  
24 large number of applicants and employees, and

1 vendors. We're testing and completed needed  
2 changes to our licensing and data system to  
3 support the process and hopefully go live  
4 later this fall, and be ready for on-line  
5 applications in January.

6 As, actually, Commissioner McHugh  
7 noted earlier, we are working with our  
8 licensees to monitor their projects, support  
9 outreach to suppliers and workforce, and  
10 report progress to the commission. And at the  
11 next meeting, we will have a quarterly report  
12 from Penn, a monthly report from MGM, and an  
13 initial report from Wynn.

14 We're also beginning to organize the  
15 process in communities necessary to support  
16 the application for distribution of mitigation  
17 funds. We've been able to bring on experience  
18 to help us develop the gaming lab and develop  
19 expertise to monitor and approve electronic  
20 gaming equipment. We've instituted a formal  
21 process in recruiting and hiring, and are  
22 continuing recruitment for paralegal and  
23 technology positions. We are continuing the  
24 final steps to develop a complete policy

1 manual. Preparing to begin the process  
2 necessary to continue development of  
3 evaluation goals, organization and plans to  
4 support performance. We're also developing an  
5 Internet -- intranet to improve internal  
6 communications in the agency. We're planning  
7 to move ahead in response -- planning a move  
8 in response to our lease expiration,  
9 implementing changes recommended in our  
10 financial system review and preparing our  
11 annual report. Those are just a few items  
12 that are going on behind the scenes while --

13 CHAIRMAN CROSBY: Great.

14 MR. DAY: -- while we are moving  
15 forward with the other processes. And, of  
16 course, our next item, which we're very  
17 proud -- proud of, marks the commission's  
18 continued effort to improve our budget  
19 development monitoring and reporting process.  
20 And Derek Lennon, our CFAO is here to present  
21 the 2014 close of our budget, and the first  
22 report for the first quarter of our 2015  
23 budget.

24 MR. LENNON: Good afternoon,



1 Mr. Chairman and Commissioners.

2 CHAIRMAN CROSBY: Good afternoon.

3 COMMISSIONER ZUNIGA: Good  
4 afternoon.

5 COMMISSIONER STEBBINS: Good  
6 afternoon.

7 COMMISSIONER MCHUGH: Good  
8 afternoon.

9 MR. LENNON: I'm pleased to be here  
10 today to update you on the closeout of the  
11 MGC's FY '14 fiscal activities and the opening  
12 of our fiscal year '15.

13 The high-level summary of the  
14 information I'm going to present today, is  
15 that the commission spent 2.7 million less in  
16 fiscal year 2014 than anticipated, and  
17 exceeded revenue projections by 4.5 million.  
18 However, 2.58 million of the underspending in  
19 FY '14 needs to be rolled forward into the FY  
20 '15 base. And the main reason for exceeding  
21 revenue projections was the timing of the  
22 receipt of the Region B annual slot fees and  
23 partial billing for their assessment.

24 Once balancing forward, the FY '15

1 costs and revenues to add to the FY '15  
2 initial projections, the commission's budget  
3 would be out of balance by about \$44,800, and  
4 that would be a deficit. So our spending  
5 would project to outpace revenues.

6 We have proposed for you today,  
7 \$61,000 worth of spending reductions, which  
8 would offset that negative revenue, which  
9 would bring our bal -- our budget back into a  
10 positive state, on my notes. Not a lot, but  
11 it's a good thing to bring us back into a  
12 positive after closing out '14.

13 For the majority of this  
14 presentation, I know I have a bunch of  
15 attachments in here, but I'll ask Amy to just  
16 move on to Appendix A, which is the FY '14  
17 closeout, and then we'll spend time on the FY  
18 '15 piece going forward.

19 So as you'll recall, and I'm sorry  
20 for the size of this, we moved towards this  
21 format in December of 2013, aligning with the  
22 state accounting system of tracking our  
23 spending classes and our revenues. We had an  
24 initial budget in December, which we revised

1 down in April by about 700,000, which brought  
2 to us a \$23.7 million base, so that's the  
3 first three sections on this spreadsheet.  
4 Everything after that are actual actuals, so  
5 it shows our spending by category through  
6 December. For the first half of the year what  
7 you would see, and then out through July -- I  
8 mean, out through June. And then the last  
9 column it says, 2014 accounts payable period,  
10 is the two months that we spend bills for  
11 which we -- pay bills for which we had  
12 actually received services prior to June 30th.  
13 So that's the reason I'm coming to you in  
14 October, too, because our books actually  
15 didn't close until the end of August. So I  
16 would have loved to have been here July, but  
17 we were still paying bills for our previous  
18 year's commitments.

19 As you'll see at the bottom, we had  
20 a \$2.7 million underspending. However, we're  
21 going to roll forward 2.58 million of that.  
22 And the areas that we're going to roll forward  
23 are in the consultant services class. We're  
24 going to roll forward 1.4 million, and that's

1 for the high-performance organization, where  
2 we actually received services in May and June  
3 for 162,000, and the bills didn't come until  
4 September, so we had actually missed our  
5 accounts payable period so we owe those  
6 commitments. The cost of budget into '14, the  
7 revenue is sitting there. We're going to pay  
8 it in '15, so I'm rolling that revenue  
9 forward, with your approval.

10 The completion of the financial  
11 reviews, due to the fact that the Region A  
12 deliberations went a little longer, we didn't  
13 get those in front of the commission until  
14 just the last meeting when I was -- when I was  
15 here, so we have a balance of that amount to  
16 pay off to our consultants.

17 And then the Phase 2, Region A  
18 consultant reviews, we collected all of the  
19 money from our applicants for what we  
20 anticipated to spend. As you know, we're  
21 still doing some closeout right now, of  
22 pulling together all of the information,  
23 filing all the information, so we haven't seen  
24 final bills for that. So there was 1.2

1 million left from what we had collected that  
2 we're going to roll forward those contract  
3 costs into next year. Whatever we don't  
4 spend, we'll refund.

5 Then we have the state aid and  
6 grants column. The Sigma-based study  
7 underspent by 345,000. It's still services  
8 that we need to have done to complete that.  
9 We anticipate that those will be spent in FY  
10 '15 so we rolled forward those cost. We had  
11 the revenue budgeted last year.

12 The small business grants, this is  
13 the main one for the slot region. We had a  
14 hard time getting a partner down there to work  
15 with us. I know that Jill is working very  
16 hard to try and reach out to some of the local  
17 organizations down there with  
18 Commissioner Stebbins to figure out how we can  
19 reduce the stringency of our reporting to get  
20 someone to take a grant for 20,000.

21 And then, the final one is the local  
22 grant, which we collect from -- money from our  
23 applicants to front the possibility of host  
24 and surrounding communities to implement

1 this -- this piece of the law.

2 And then, the final piece that we're  
3 rolling forward is 640,000 for our licensing  
4 management system. We've had delays in that.  
5 It's a milestone-based contract that, as you  
6 hit a milestone we release funding. We had  
7 anticipated 900,000 spent last year, we only  
8 spent three -- 300 of it so we're rolling that  
9 forward because we do anticipate to have that  
10 live in beginning of calendar year 2015. Any  
11 questions on the role-forward expenditures  
12 before I move on to revenues?

13 CHAIRMAN CROSBY: Very clean and  
14 well done.

15 MR. LENNON: The final revenues for  
16 '14 were 42.7 million. This was a 4.5 million  
17 higher than the projected amounts. The  
18 main -- so this is a bunch of ups and downs.  
19 And I think we -- especially for our first  
20 time around and not knowing what the world  
21 would look like, we did a pretty good job  
22 projecting for this -- for this first year.

23 The Region B slots fees -- annual  
24 slot fee and a partial assessment came in at

1 4.96 million. We had budgeted that in FY '15  
2 so that's the main reason we're up. Our Phase  
3 2 category collections were 796,000 below our  
4 projections. And that's because, when we  
5 initially projected we had put in the same  
6 amount for Region B as we had for the two  
7 applicants for Region A. Because there was no  
8 competition, there was a lot less analysis  
9 done on the part of our consultants, and the  
10 final bills didn't come in until late into  
11 July or August. Our revenue doesn't work the  
12 same way as our payments do, so revenue has to  
13 be collected before July or August. So we  
14 didn't send the bill out until August. We  
15 collected that money, and that will actually  
16 be an FY '15 revenue for 350,000. And then  
17 our grant collections came in above our  
18 anticipated, so we had a lot more communities  
19 asking for money, based on the analysis that  
20 they did.

21 So out of \$42.7 million FY '14  
22 revenue, we've actually backed in -- not back  
23 into, we've actually taken a lot look at all  
24 of our commitments and restricted revenue

1 sources, \$21.7 million will balance into FY  
2 '15. And the first -- the first three of  
3 these are actually restricted revenues so we  
4 can only spend on -- these can't be used for  
5 general purposes. The grant collections of  
6 171,000, which I said we have to roll forward  
7 those expenditures, those corresponding  
8 revenues rolling forward, the Phase 1  
9 investigation collections, which I have an  
10 attachment, it's Attachment F to this, shows  
11 all the applicants who's have remaining  
12 balances. Most likely, those will be  
13 refunded, with the exception of one  
14 application for Region C, where we haven't  
15 determined what will -- what will happen  
16 there. And then the Phase 2, Category 1  
17 collections that I said, we're still pay out  
18 those bills for the Region A.

19 In our initial -- in our initial  
20 projections, we thought we would spend about  
21 \$3.5 million of the \$17.5 million licensing  
22 fee that we transferred over. We underspent  
23 that, but that's, once again, because we're  
24 rolling forward a lot of costs. So we'll roll



1 forward, instead of 14 million, 14.7 million  
2 of the initial 17.5 that we took. So we still  
3 did need 2.8 million to close out FY '14, or  
4 else we wouldn't have -- we wouldn't have had  
5 money without taking for a restricted revenue  
6 source?

7 COMMISSIONER ZUNIGA: Derek, you  
8 mentioned this briefly, but the grants figure  
9 that you're rolling forward, 171,000?

10 MR. LENNON: Correct.

11 COMMISSIONER ZUNIGA: It's expected  
12 that not all of it will be spent, or  
13 requisitioned by the surrounding communities;  
14 this is all surrounding community negotiation  
15 agreement --

16 MR. LENNON: Correct. Surrounding  
17 or host.

18 COMMISSIONER ZUNIGA: Or host.

19 MR. LENNON: Yes.

20 COMMISSIONER ZUNIGA: Okay.

21 MR. LENNON: So we -- we've gotten  
22 some late requests recently, so I would have  
23 said some of it's yes, some of it's no. But  
24 it'll be a wash on our balance sheet because

1 I'm going to roll forward 171,000 on spending,  
2 and 171,000 on revenue. If we don't pay out  
3 the spending, I'll decrease the spending and  
4 refund the revenue so it'll just be a wash.  
5 If one goes up, the other will go --

6 COMMISSIONER ZUNIGA: Right.

7 MR. LENNON: -- go down.

8 COMMISSIONER ZUNIGA: But you --  
9 sounds like you're generally comfortable that  
10 there will be a positive balance that would be  
11 eventually refunded, as opposed to the other  
12 way around.

13 MR. LENNON: Correct. And that's  
14 why we went through this, to make sure we're  
15 not eating into the dedicated funds. We've  
16 got them all segregated. We know what we owe  
17 back to people, we know what we're sitting on  
18 to pay bills against. And when the process is  
19 over, we'll be able to give refunds where it's  
20 appropriate.

21 COMMISSIONER ZUNIGA: Right. And we  
22 have not gotten any, sort of, request or  
23 expenditures for Region C at this point on  
24 that rubric?

1 MR. LENNON: So we have some  
2 requests, not on the grant side. On the  
3 applicant side we just got a bill from one of  
4 our consultants for early -- early  
5 investigations they had done. We're making  
6 sure we haven't paid that already --

7 COMMISSIONER ZUNIGA: Okay.

8 MR. LENNON: -- and billed it to a  
9 different area. But, yes, we got -- we got a  
10 bill from our investigative consultant for, I  
11 think it was \$18,000.

12 CHAIRMAN CROSBY: Okay.

13 MR. LENNON: So now we'll move on to  
14 the FY '15. Thank you, Amy. She's well ahead  
15 of me.

16 So our initial projections for the  
17 gaming control fund, we're at 24.5 million in  
18 expenditures. We had net revenues of about  
19 3.7 million, which left us with an assessment  
20 on our licensees of 28.7 million to balance  
21 out. As reported in the summary, we're  
22 balancing forward 2.5 million in additional  
23 projected expenses, and 2.53 in additional  
24 revenues, which would leave us in a deficit of

1 44.8 thousand dollars.

2 The -- I'm -- also at this time I'd  
3 like to take a side note to let you know that  
4 we've -- we've loaded each division's budget,  
5 which was a request of the commission onto the  
6 state accounting system. We have a copy of  
7 that report. It's Appendix C to this  
8 document, and I won't walk you through it, but  
9 we have every single division at the same  
10 level as here, and then when they roll up,  
11 they'll roll up to our bottom line, which is  
12 nice. Our back up matches front up. That's  
13 always a good thing in the budget -- in the  
14 budgeting world.

15 But back to this report, and the  
16 reason I went to that is so that, I'll  
17 reference some of the ups and downs, and to  
18 let you know how we got to the ups and downs.  
19 We actually have those details loaded into the  
20 accounting system, so I wanted to let you know  
21 that we're not making these up off the back of  
22 an envelope.

23 COMMISSIONER MCHUGH: That's good.

24 MR. LENNON: That's always a good

1 thing. So in -- in this report, what you'll  
2 have is our initial projection. You have an  
3 FY '14 balance forward column, which we just  
4 went over. There's a detailed report,  
5 Appendix E in there, that goes over all those  
6 balance forwards. Our approved adjustments.  
7 Now those approved adjustments are where  
8 division managers have actually asked for net  
9 zero changes. I have that included in the  
10 report well, it's Appendix D. And I have it  
11 spun two way -- two ways. I have it one so it  
12 lines up with this report by object class, and  
13 then the second way so it lines up by division  
14 so you actually see the net zeros, in case  
15 anyone wants to check the math on it.

16 And then, finally, I have a proposed  
17 adjustments column, where these are areas that  
18 we have either asked for additional spending  
19 from you, because we don't have a place within  
20 the division's budget to have a corresponding  
21 down, or I've identified payroll savings with  
22 the assistance from our HR department from  
23 delayed hirings and corresponding fringe  
24 decreases to offset those ups. So I'll do is

1 do a quick walk-through of the details behind,  
2 I think it's our proposed adjustments column.

3 So we're asking for 170,000 decrease  
4 in the -- in payroll. And that comes from  
5 delays in hiring from the legal division. We  
6 had a member leave, as well as we were trying  
7 to hire a paralegal, which we've had  
8 difficulties. Our IT division, which we've  
9 had difficulties getting gaming lab manager,  
10 as well as another technical position. And  
11 then the Investigations and Enforcement  
12 Bureau, where we were hoping to have three or  
13 four financial investigators hired at this  
14 time, and we've only been able to hire one.  
15 So we've found some substantial savings there,  
16 and then another 28 percent increase on top of  
17 that, due to the fringe rate that the state  
18 charges for salaries on employees.

19 Under the B object class, I'm  
20 looking for a small increase of 2,000. There  
21 was a good opportunity for one of our  
22 licensing division employees to get some  
23 experience. We hadn't had it budgeted, but  
24 worst-case scenario, we can always pull it

1 from another division towards the end of the  
2 year, if you don't approve it at this point.

3 And then, under the consultant  
4 services due to Region A, extending as long as  
5 it had, we've had some additional costs for  
6 streaming a video conference phase that ate up  
7 most of the year's budget, so I'm asking for  
8 that amount to be reinstated so we can  
9 continue to have these meetings. We're  
10 also --

11 COMMISSIONER ZUNIGA: Sorry. Just  
12 to --

13 MR. LENNON: Yes.

14 COMMISSIONER ZUNIGA: The -- the  
15 170,000 adjustment down for employ takes into  
16 account the now forecast hire dates --

17 MR. LENNON: The new dates. Yeah,  
18 the new dates. Forecasts the new-hire dates.  
19 So one of -- one of the positions, the gaming  
20 lab manager, we're not anticipating we'll be  
21 able to hire that until January or February.  
22 It's just been a hard search.

23 For the -- for the other positions  
24 that are in the timeline, I've talked to our

1 HR director, Trupti, and she's let me know  
2 that based on interview schedules and  
3 background check, average background check,  
4 this is when we can expect to hire these  
5 people. Now, a lot of these people were  
6 expecting them in July or August because the  
7 positions were posted, we had candidates,  
8 whom, for whatever reasons, didn't work out.  
9 So we've got some substantial savings and  
10 anticipated savings form -- from that. Not  
11 that it's a good thing, but it's helped us out  
12 with --

13 CHAIRMAN CROSBY: Yeah. Is it --  
14 what have we done -- we thought we were going  
15 to have several more people on board. How  
16 have we done the work that they were supposed  
17 do, or do we not really need it?

18 MR. LENNON: No. We've needed them,  
19 and in the financial investigation we've had  
20 more contract talks.

21 CHAIRMAN CROSBY: Using the  
22 consultants instead?

23 MR. LENNON: Yeah, but we've -- what  
24 we've done is we've limited them to --



1 especially with the nongaming vendors,  
2 nongaming primary vendors, the cap of the  
3 \$5,000 fee for the investigation. And we  
4 said, when it hits that point you really need  
5 to let us know, because we can't afford to go  
6 above that.

7 MR. DAY: I might add, too,  
8 Mr. Chairman, on the financial investigator's  
9 side, we actually were not successful in  
10 hiring an assistant director for that section,  
11 so we kinds of changed our tact to bring on  
12 qualified people with investigative and  
13 financial background and then train them into  
14 the position.

15 CHAIRMAN CROSBY: Right.

16 COMMISSIONER MCHUGH: I had a  
17 question on the same -- on a related vein.  
18 And that -- that number that's budgeted for FY  
19 '15 for consultants seems high to me.

20 We -- FY '14, FY '13, we've been  
21 heavily relying on consultants, understandably  
22 for the -- for the review of this year, of  
23 calendar year '14, I guess, for the review of  
24 the -- of the applications, and then

1           previously to get -- to get ourselves set up  
2           and to get our structure and the like. But  
3           what -- could you help me with this number,  
4           not detail but just sort of generally what  
5           we're -- what we're doing?

6                       MR. LENNON: So we've got -- we've  
7           got a lot of oversight management costs built  
8           into this, and we have that for three sites,  
9           which is a substantial piece of that. We've  
10          got the high-performance project built into  
11          there, which is another decent size chunk of  
12          change. And we've got -- there was another  
13          variable --

14                      COMMISSIONER MCHUGH: I forgot we  
15          have the oversight contracts, don't we, and  
16          that will be for three sites?

17                      MR. LENNON: Correct. Oh, and we  
18          also have a good portion of money built in for  
19          Region C. So if we don't spend that our  
20          record will go down as well as our --

21                      COMMISSIONER MCHUGH: I see.

22                      MR. LENNON: -- our expenditures.

23                      COMMISSIONER MCHUGH: Those are for  
24          Region C?

1 MR. LENNON: Region C. And then we  
2 have, what was it, I think around 1.6 million  
3 set aside for investigative cut --  
4 investigative billings for our licensees.  
5 Now, that can go down, if we get financial  
6 investigators in, but if we don't, I wanted to  
7 leave that number in because that's --

8 COMMISSIONER ZUNIGA: Now, our  
9 licensing system is also reflected in that  
10 category, right?

11 MR. LENNON: No. That's under  
12 the -- one of the bottom one's, the UU object  
13 class, so it's not -- it's IT nonpayroll  
14 expenses.

15 COMMISSIONER ZUNIGA: Okay.

16 MR. LENNON: So it's a different  
17 sort of consultant.

18 COMMISSIONER ZUNIGA: Okay.

19 COMMISSIONER MCHUGH: And we've  
20 talked about this before, and I -- from what  
21 you're saying, I'm sure we are watching it,  
22 but the cutting down on consultants, and if we  
23 have ongoing needs hiring people, is obviously  
24 the way to go, and I'm sure you're aware of

1 that.

2 MR. LENNON: We completely agree.  
3 We'd like to -- we'd like to go that route  
4 too.

5 COMMISSIONER MCHUGH: Right.

6 MR. LENNON: Because then those  
7 licensing fees actually become money-making,  
8 and we have to put less of an assessment onto  
9 our industry --

10 COMMISSIONER MCHUGH: Right.

11 MR. LENNON: -- versus a break even,  
12 where whatever we're paying out balances the  
13 cost.

14 COMMISSIONER MCHUGH: Right.

15 MR. DAY: And that -- I do know  
16 that, for instance, all the license  
17 application and vendors that have come in have  
18 been handled by IEB, with the exception of  
19 where there's been needed more detail  
20 financial investigation, which we're -- we're  
21 lacking a little bit of expertise on that  
22 side.

23 COMMISSIONER MCHUGH: Right. Okay.

24 Thanks.

1 MR. LENNON: So then, just quickly,  
2 on the approved revenue increases, we talked  
3 about the 705,000 for the difference between  
4 what we're projecting on the balance forward  
5 of licensing fees. The 653 is all on  
6 Appendix F, which shows the amount that we  
7 still have from Phase 1 applications by  
8 applicant. The Phase 2 Category 1 collection,  
9 that includes the 1.2 from Region A, as well  
10 as the 350,000 that I spoke about that we  
11 collected later in Region B. Then you have  
12 the 171,000 for the grant collections. And  
13 then our initial projections for what the  
14 Region A, when it would -- or determine --  
15 determinee would be was a little lower than  
16 what the actual number of slots they had was,  
17 so it bumped it up by about 60 -- 68,000.

18 So my ask to the commission is to --  
19 if they have any questions here, otherwise, if  
20 we would move forward on approving the  
21 proposed adjustments I have to bring the  
22 commission's budget back into balance.

23 And one last thing I'd like to do  
24 is, I'd like to thank the commission staff,

1 the administration and finance team, for  
2 embracing this process and this level of  
3 transparency, as it allows me to produce  
4 detailed level information for you to make  
5 decisions, and it makes the commission and me  
6 look good.

7 So, really, none of this could  
8 happen if the other directors, Rick and, you  
9 know, to go from the previous presentation,  
10 the tone from the top from you, have been  
11 very -- very supportive, which makes my job a  
12 much easier and allows me to provide  
13 information for you to make decisions.

14 CHAIRMAN CROSBY: Great.

15 COMMISSIONER MCHUGH: Great.

16 CHAIRMAN CROSBY: Comments,  
17 questions?

18 COMMISSIONER ZUNIGA: So the bottom  
19 line is an adjustment of 44,826 at this point;  
20 is that a fair statement?

21 MR. LENNON: Well, no, it's 61,710,  
22 which will bring us back about 17,000 into the  
23 positive, because we're off by 44 -- we're off  
24 by 44, and I'm proposing 61,000 of cuts, which

1 will give us a little bit of breathing room,  
2 in case another travel comes up, or something  
3 along those lines.

4 COMMISSIONER ZUNIGA: And you're  
5 reasonably comfortable that the -- the  
6 increases in some of these line items will be  
7 manageable for the next three quarters, as you  
8 have used the delay in hiring to offset those?

9 MR. LENNON: Correct.

10 COMMISSIONER ZUNIGA: And that also  
11 is going to wind down because -- well, we're  
12 -- we're catching up with the hiring.

13 MR. LENNON: Correct. And a lot of  
14 that had to do, if you look at a lot of these  
15 uptakes, it had to do with the Region A  
16 extension.

17 COMMISSIONER ZUNIGA: Right. Right.

18 MR. LENNON: So people have been  
19 pretty good about living within their budget  
20 where they can. But where those pressures, we  
21 just couldn't anticipate that many meetings  
22 and that type of additional support.

23 MR. DAY: If I might, and really in  
24 recognition of Derek's and his staff's

1 efforts, there's a couple bottom lines in here  
2 that I think are really important to emphasize  
3 when looking at our budget.

4 Number one is that fiscal year '14  
5 was 2.7 million underspent. It's always much  
6 better from a budget perspective to have it  
7 that way than the reverse, that the revenues  
8 exceeded expectations for '14, which I think  
9 is another point that's very significant. And  
10 not to mention, the projections were off by  
11 about 44,000 so far, which is -- means our  
12 projections and our budget estimations are  
13 really accurate at this point.

14 I'd like to note, too, that we --  
15 Derek didn't spend too much time on it, but he  
16 did identify that we now have the budget on  
17 line and it's available to each one of our  
18 directors so that we have the ability to have  
19 accountability for our management processes  
20 and their management of the funds that they've  
21 requested.

22 One thing that goes a little bit  
23 unnoticed is that, in one of his paragraphs,  
24 and quickly he announced that, "We're pleased



1 to report that fiscal '15 we'll be tracking  
2 and reporting all appropriations for MGC as  
3 responsible for direct expenditures in some  
4 level of detail" --

5 MR. LENNON: So that's on Appendix  
6 B. If Amy scrolls down a little, because,  
7 see, we have all the appropriations on there.

8 Now, what we didn't do is adjust for  
9 the racing division yet, because we don't know  
10 what the atmosphere of the landscape will be,  
11 so I can't really give you downward revenue  
12 projections or downward spending trends until  
13 we know what we can anticipate.

14 So I can tell you the racing  
15 director and I have been looking at that on a  
16 daily basis, that we are -- once we get a  
17 better idea, we'll be able to make adjustments  
18 because we have a better handle on the type of  
19 revenue that's coming in and the streams, and  
20 where it goes to. But we will be able to post  
21 the same level of detail for every  
22 appropriation, as we did for the gaming  
23 control fund in FY '14.

24 CHAIRMAN CROSBY: And this is all on

1 our Web site?

2 MR. LENNON: It will be up on the  
3 Web site. After each meeting, I post it up on  
4 the Web site. But we do update this on a  
5 monthly basis, if I don't have the commission  
6 meeting. My staff updates it, and it's up  
7 there so that you can see the latest and  
8 greatest information.

9 COMMISSIONER MCHUGH: On the Web  
10 site?

11 MR. LENNON: On our Web site, under  
12 the budget section.

13 COMMISSIONER MCHUGH: Okay, good.  
14 That's great.

15 MR. DAY: I think we've also noted  
16 that -- we haven't noted, but I think it's  
17 important from our -- to recognize the  
18 licensees, that with Region B, MGM, also  
19 recently Wynn, has paid its \$6.3 million  
20 responsibility to the budget as well, and Penn  
21 as well --

22 MR. LENNON: Penn paid their \$1.75  
23 million.

24 MR. DAY: So the licensees are

1 complying with and supporting the regulations  
2 as -- as they're developed.

3 COMMISSIONER ZUNIGA: I got to say,  
4 I'm really pleased with the -- with this  
5 report, in general. But, specifically, on all  
6 of the work that has gone to lead this  
7 framework and this sort of reporting. This  
8 really, in my opinion, is the center point --  
9 the central point to financial -- good  
10 financial management. And you've done a lot  
11 of work, your staff has done a lot of work to  
12 get to this point. And although we have an  
13 adjustment, I think this -- this is the nature  
14 of this year, or these transition years.  
15 Certain things that we cannot anticipate, and  
16 a lot of these might end up being par for the  
17 course on an ongoing basis so I'm very pleased  
18 with the report and I thank you.

19 MR. LENNON: Thank you.

20 COMMISSIONER MCHUGH: I end with  
21 that. I think it's easy to follow. It's  
22 streamlined. And then, if necessary, it's  
23 easy to drill down into these various  
24 categories. And the fact that we can put it

1 up there and let everybody see it is really,  
2 really good, I think.

3 CHAIRMAN CROSBY: Agreed.

4 MR. LENNON: Thank you.

5 CHAIRMAN CROSBY: So we need a  
6 motion.

7 COMMISSIONER ZUNIGA: Yeah. Let me  
8 make a motion, Mr. Chairman. I would move  
9 that this commission approve the requested  
10 budget amendments to the fiscal year '15  
11 budget, as represented and discussed here  
12 today, period.

13 CHAIRMAN CROSBY: Second?

14 COMMISSIONER MCHUGH: Second.

15 COMMISSIONER STEBBINS: '15 or '14?

16 COMMISSIONER ZUNIGA: Fiscal year  
17 '15.

18 CHAIRMAN CROSBY: Any further  
19 discussion? All in favor? Aye.

20 COMMISSIONER MCHUGH: Aye.

21 COMMISSIONER ZUNIGA: Aye.

22 COMMISSIONER STEBBINS: Aye.

23 CHAIRMAN CROSBY: Opposed? The ayes  
24 have it four nothing.

1 MR. LENNON: Thank you,  
2 Commissioners.

3 CHAIRMAN CROSBY: Thank you.

4 COMMISSIONER MCHUGH: Thank you.

5 COMMISSIONER ZUNIGA: Thank you.

6 COMMISSIONER STEBBINS: Thank you.

7 CHAIRMAN CROSBY: We are on to Item  
8 6, the racing division, Director Durenberger.

9 MS. DURENBERGER: Good afternoon,  
10 Mr. Chair, Commissioners.

11 CHAIRMAN CROSBY: Good afternoon.

12 COMMISSIONER STEBBINS: Good  
13 afternoon.

14 COMMISSIONER MCHUGH: Good  
15 afternoon.

16 MS. DURENBERGER: Brief  
17 administrative update for you. When last we  
18 met, I had notified you that the HBPA, which  
19 is the recognized bargaining agent for the  
20 owners and trainers of the thoroughbred  
21 racehorses was having an election. They did  
22 have an election, ballots were counted, and I  
23 wanted to let you know that their leaders was  
24 seated last Thursday, so we've been in active

1 discussions with them.

2 We do anticipate that they're going  
3 to provide some requests, some things for us  
4 to look at. We've given the legal department  
5 a couple of heads-up on what we think might be  
6 coming in, so we've just maintained an  
7 open-door, open-phone policy. So we've been  
8 talking to people stakeholders on a daily  
9 basis.

10 As you know, live racing concluded  
11 Saturday at Suffolk Downs. I want to give you  
12 a meet-end snapshot of the commission's  
13 activities out there. We'll do the same for  
14 Plainridge on the October 23rd meeting. Their  
15 last date of live racing is October 22nd.

16 At Suffolk this year, to date our  
17 licensing staff has issued, approximately,  
18 1500 occupational licenses. That is down  
19 significantly from previous years. The  
20 uncertainty surrounding this year's meet,  
21 certainly had something to do with that.

22 Our stewards have issued 90  
23 administrative rulings. They have posed 45  
24 administrative fines. Our staff of

1 veterinarians and veterinary assistants  
2 collected 1,138 postrace equine drug testing  
3 samples, and 857 prerace blood gas testing  
4 samples to help ensure the integrity of the  
5 race for the parimutuel customers, and our  
6 racing's participants. Our licensees complied  
7 with the strictest medication regulations in  
8 the country. Our clear rate of 99.64 percent  
9 through September 22nd is identical to that  
10 seen nationwide.

11 CHAIRMAN CROSBY: Clear rate, does  
12 that mean that are non --

13 MS. DURENBERGER: Negative.

14 CHAIRMAN CROSBY: Negative.

15 MS. DURENBERGER: Negative tests,  
16 yep.

17 CHAIRMAN CROSBY: Nothing wrong with  
18 the test, yeah.

19 MS. DURENBERGER: Nothing wrong with  
20 the test. So, nationally, 99.66, we were  
21 99.64, right on target. And don't forget that  
22 we did all this with a major set of regulation  
23 changes in the last two years. So that 99.66  
24 national rate is in jurisdictions that have

1           been following these medication rules for some  
2           time. This was something new for our  
3           stakeholders, and I think that stands as a  
4           testament to their willingness to get on  
5           board.

6                         For the just-concluded 65-race-day  
7           meet, there were 4,017 starters at  
8           Suffolk Downs, and 560 races. This produced  
9           two remarkable metrics of focus to our  
10          industry. One was average field size, 7.17.  
11          This is, no doubt, one of the highest in the  
12          country. Our catastrophic injury rate at 1.24  
13          per thousand starters. That's a 30 percent  
14          reduction from last year, and without  
15          question, one of the lowest in the country.

16                        COMMISSIONER MCHUGH: What was that  
17          number again?

18                        MS. DURENBERGER: Catastrophic  
19          injury rate, 1.24 per thousand starters.  
20          That's a metric we can compare across all  
21          jurisdictions.

22                        COMMISSIONER MCHUGH: Right.

23                        MS. DURENBERGER: It's a 30-percent  
24          reduction from last year. National average is



1 1.9. So without question, this was one of the  
2 lowest in the country.

3 CHAIRMAN CROSBY: That's great.

4 MS. DURENBERGER: And I know the  
5 significance of this is probably difficult for  
6 you to appreciate, but I'm compelled to point  
7 out that this was all achieved with a peak  
8 population of 675 horses in the later stages  
9 of their career. Commissioners, this was a  
10 meet for the history books.

11 CHAIRMAN CROSBY: Because -- you  
12 said they're mostly older horses, so  
13 substantial older horses were more prone to  
14 accidents, that's the point?

15 MS. DURENBERGER: There is an equine  
16 injury database that 93 percent of all North  
17 American racetracks thoroughbred tracks  
18 participate in. And the statistics from that,  
19 they've done a lot of statistical analysis for  
20 a five-year period of time, which is an  
21 incredible number of data points. And in that  
22 five-year data point, they've -- they've come  
23 up with, I think nine risk factors that appear  
24 to correlated with injury, and so we do what

1 we -- we call risk profiles of the horses. If  
2 you risk profile the horses at Suffolk Downs,  
3 most of them would have the majority of those  
4 risk factors, just by nature of their  
5 demographics. So --

6 CHAIRMAN CROSBY: And age is one of  
7 the big ones, I gather?

8 MS. DURENBERGER: Age is one of  
9 them.

10 COMMISSIONER MCHUGH: 7.17 starters  
11 per race is high for the country?

12 MS. DURENBERGER: It is, yep. And I  
13 actually don't -- I should have the national  
14 average in front of me, but it's slightly  
15 below seven, I think.

16 COMMISSIONER MCHUGH: It's below  
17 seven.

18 MS. DURENBERGER: Yes.

19 COMMISSIONER MCHUGH: And is that --  
20 why is that? Is that -- is there -- is there  
21 a trend line over the last few years? We've  
22 talked about this before.

23 MS. DURENBERGER: Yeah, decrease in  
24 the field size.

1 COMMISSIONER MCHUGH: Down -- right.

2 MS. DURENBERGER: Decrease in field  
3 size.

4 COMMISSIONER MCHUGH: Decrease in  
5 field size.

6 MS. DURENBERGER: Which is related  
7 to a number of things. It's related to a  
8 decrease in the foal crop, so the number of  
9 horses that are out there, and at the same  
10 time, an increase in the number of race days,  
11 so more races, fewer horses, less field size.

12 CHAIRMAN CROSBY: What do you  
13 target; what's, sort of, an optimal field  
14 size?

15 MS. DURENBERGER: If you were the  
16 operator, as many as you can put in the  
17 starting gate safely, so 12 would be great.  
18 The reason for that is the parimutuel customer  
19 has more betting choices.

20 CHAIRMAN CROSBY: Right.

21 MS. DURENBERGER: So you are -- in  
22 some states there are exotic wagers that you  
23 can't even offer to your customers, if you  
24 only have six horses in the gate. And so,

1           it's just the menu. And then, the value  
2           added, right. So if you have a three- or  
3           four-horse field, and you have one big  
4           favorite, you're not going to much. You're  
5           going to get 10 cents, maybe, if you wager \$2.  
6           Not exactly a value bet, but if you've got 12  
7           of them in there, you probably have a pretty  
8           good chance of finding a horse that has a  
9           good, acceptable return on investment.

10                   COMMISSIONER MCHUGH: Is there a  
11           minimum field size below which you -- below  
12           which you can't have a race.

13                   MS. DURENBERGER: Below which you  
14           can't? No. You can actually have one. It's  
15           called a walk-over. The track would decide,  
16           in Massachusetts, whether they wanted to do  
17           that. They would probably cancel all wagering  
18           in that event, because they're responsible for  
19           a minus pool.

20                   COMMISSIONER MCHUGH: Right.

21                   MS. DURENBERGER: But we do -- we do  
22           have a number of times, at both racetracks,  
23           where the field size is such that they may  
24           cancel show wagering, or they may cancel

1           trifecta wagering. Sometimes even place  
2           wagering, depending on the race.

3                   COMMISSIONER ZUNIGA: But the  
4           counter to the number of field size is -- the  
5           race days, right, the number of races?

6                   MS. DURENBERGER: Yep. Not enough  
7           horse, too many races. And we do see, also,  
8           that the number of starts a horse makes  
9           lifetime has decreased as well. There's also  
10          a trend line there.

11                   COMMISSIONER MCHUGH: Why? Why is  
12          that?

13                   MS. DURENBERGER: Well, that's the  
14          big debate, right. Is it breeding. Are we  
15          breeding a more fragile breed. We could sit  
16          here and talk for three days about that, and  
17          I'd love to do that, Commissioner, but that's  
18          -- that's one of the debates right now.  
19          Medication is certainly something that the  
20          industry's looking at.

21                   COMMISSIONER MCHUGH: And so, that  
22          decreases the number of lifetime starts  
23          because the horses break down, or just because  
24          they're set out to stud or pasture earlier?

1 MS. DURENBERGER: Well, both of  
2 those would be contributing factors. We've  
3 also done a lot better. I think this is  
4 something -- this is Director Durenberger's  
5 personal opinion. Haven't seen this  
6 necessarily discussed in the -- in the trade  
7 publications, but we also do a better job now  
8 of stopping horses, maybe one race before we  
9 would have in the past because of the  
10 industry's commitment to aftercare.

11 So I know that, when I was on the  
12 front lines and we would look at horses, we  
13 would send horses out that we kind of knew  
14 were reaching the end of their career. I  
15 think we've done a lot more with the  
16 commitment of funds within the industry, and  
17 awareness at actually stopping horses now, one  
18 race before what would have been their last  
19 race. So maybe they were to run 23 times, and  
20 now we stop them at 22 and make sure they have  
21 a good home.

22 COMMISSIONER MCHUGH: And who's  
23 decision is that, the track veterinarian, or  
24 the owner or the trainer?

1 MS. DURENBERGER: Well, ultimately,  
2 the owner, but, you know, there's a number of  
3 horses that are presented on race day that are  
4 presented as in-to-go horses, and they're  
5 going to go but --

6 COMMISSIONER MCHUGH: As what kind  
7 of horses?

8 MS. DURENBERGER: In today. They're  
9 in that day.

10 COMMISSIONER MCHUGH: All right.  
11 All right.

12 MS. DURENBERGER: And they're every  
13 intention of being race, and regulatory  
14 veterinarian comes along in the morning and  
15 says, not today, and they don't run again. So  
16 that tells me that we've -- we've made some  
17 good.

18 COMMISSIONER MCHUGH: All right.

19 MS. DURENBERGER: To that note,  
20 we've had a lot of statistics that we'd like  
21 to review over the winter, and I think we can  
22 show -- we can demonstrate what a good job the  
23 regulatory veterinarians at Suffolk Downs did.  
24 I think, when you look at the horses where

1           they intervened, we've got some really  
2           interesting preliminary statistics that show  
3           what a great job they did.

4                        COMMISSIONER MCHUGH:   Gee, that's  
5           great.   Great.

6                        MS. DURENBERGER:   Administrative  
7           update concluded.   And I would like to update  
8           you on the live racing applications that we  
9           received.

10                      The deadline, as you know, was  
11           October 1st, last Wednesday.   So we did  
12           receive four applications for live race --  
13           live horseracing in the commonwealth in 2015.  
14           The first one is from Springfield Gaming and  
15           Redevelopment.   This is an application to  
16           conduct a 105-day live harness race meet at  
17           Plainridge racecourse in Plainville,  
18           Massachusetts.   The proposed meet, the  
19           schedule conducted primarily on Mondays  
20           Wednesdays and Thursdays from April 1st  
21           through November 30th.   They are looking at  
22           running Sundays, replacing Mondays in April  
23           and May.

24                      We have an application from the



1 Brockton Agricultural Society. This is a  
2 placeholder application - and we'll revisit  
3 that again in a few moments - for a one-day --  
4 excuse me, one-day live thoroughbred race meet  
5 at the Brockton Fairgrounds. This application  
6 may be later amended to apply for a maximum of  
7 15 days. And the Middleborough Agricultural  
8 Society, which is another license from the  
9 Department of Ag. at the same facility. A  
10 placeholder application for a one-day live  
11 thoroughbred race meet at the Brockton  
12 Fairgrounds. This one also may be later  
13 amended to apply for a maximum of 15 live  
14 racing days.

15 And the -- the reason for the two  
16 separate applications is that our statute  
17 limits a fair society to 15 live racing days.  
18 The Department of Ag's statute does enable, as  
19 you can see in this instance, a couple of  
20 different ways to do business on the same  
21 facility so -- We have two entities,  
22 essentially one facility, each one applying  
23 for 15 days, or could apply, is eligible to  
24 apply for 15 days.

1                   And then, we have the New England  
2                   Horsemen's Benevolent and Protective  
3                   Association. This is also a placeholder  
4                   application for a one-day live thoroughbred  
5                   race meet at Suffolk Downs. This one could be  
6                   later amended to a minimum of 65 live racing  
7                   days, or such other number of racing days as  
8                   may be approved by the commission, and the  
9                   interest of the health and safety of horses,  
10                  riders and drivers.

11                  So here's what happens next, public  
12                  comments are being solicited. They're up on  
13                  the Web site, these applications. We're going  
14                  to solicit those. I will accept them until  
15                  5:00 p.m. on Thursday, October 30th, so at  
16                  least three weeks there. The applications and  
17                  a link to them are available on the Web site.  
18                  We have public hearings in the proposed host  
19                  communities. These are scheduled in  
20                  Plainville, at the Plainville Senior Center,  
21                  Monday, October 20th at 1:30 p.m. In  
22                  Brockton, the Conference Center at Massasoit,  
23                  also Monday, October 20th. That one's at  
24                  10:30 a.m. And then, in Boston,

1 1000 Washington Street, that one's on Tuesday,  
2 October 21st at 10:00 a.m.

3 CHAIRMAN CROSBY: Do you need a  
4 commissioner at those, I forget?

5 MS. DURENBERGER: They are public  
6 hearings. So in the past, we have not -- I  
7 think a commissioner or two have attended. I  
8 think the legal division ran the hearings last  
9 year.

10 CHAIRMAN CROSBY: But it's not -- no  
11 requirement of that?

12 MS. DURENBERGER: I don't believe  
13 so. Catherine is --

14 MS. BLUE: Last year, you appointed  
15 me to run the hearings. I think it would be  
16 appropriate to have a commissioner to do it.

17 CHAIRMAN CROSBY: Because we do it  
18 on the --

19 MS. BLUE: On the regulation side.

20 CHAIRMAN CROSBY: -- on the reg  
21 hearings, yeah. So we should talk about -- we  
22 presume Commissioner Cameron might be the  
23 presumptive one, but others of us might be  
24 interested too.

1 COMMISSIONER MCHUGH: Right.

2 CHAIRMAN CROSBY: Where's Janice?  
3 We should make sure we keep that in mind.  
4 Thanks.

5 MS. DURENBERGER: So if you can't  
6 attend, and even if you do attend, we will, of  
7 course, assemble the comments received at the  
8 hearings, as well as the public comments from  
9 the Web site solicitations, and then we will  
10 report to you at the public meeting here on  
11 November 6th, what we have heard from the  
12 public, our recommendations, vis-a-vis, the  
13 requests themselves, the applications  
14 themselves. By law, you have to grant or  
15 dismiss each application no later than  
16 November 15th.

17 Now, with these placeholder  
18 applications, a mechanism exists, a statutory  
19 mechanism, whereby successful applicants, if  
20 you grant the license they can later file an  
21 amended or supplementary application so long  
22 as they relate to the same premises.

23 We will probably, under the  
24 circumstances, although it's not required to

1 have a second public hearing, given the  
2 brevity of the detail provided in these  
3 applications, I think we'll probably recommend  
4 having a second public hearing as those come  
5 in. If you do receive any supplemental  
6 applications, you do have to take action on  
7 them within 30 days, so we'll certainly update  
8 you, should we receive any supplements in the  
9 future, and happy to answer any questions on  
10 what we do have. They've all been deemed  
11 administratively complete, but we have not  
12 started tearing them apart yet.

13 COMMISSIONER MCHUGH: Supplemental  
14 applications from the people who have applied,  
15 right?

16 MS. DURENBERGER: Applied, and you  
17 would have granted the license.

18 COMMISSIONER MCHUGH: No, I  
19 understand. Okay. So the window for  
20 applications, though, has now closed, right?

21 MS. DURENBERGER: Correct.

22 COMMISSIONER MCHUGH: And this is  
23 what we -- this is what we have, these four?

24 MS. DURENBERGER: Correct.

1                   COMMISSIONER MCHUGH: The Plainridge  
2 number is substantially up from this past  
3 year, right?

4                   MS. DURENBERGER: Yep. So there are  
5 requirements in 23K that apply to them as a  
6 gaming licensee.

7                   COMMISSIONER MCHUGH: Right.

8                   MS. DURENBERGER: They will actually  
9 increase from here, in 2016, I think, you  
10 know, that goes up to 115 and then 125 the  
11 third year of operation.

12                  COMMISSIONER MCHUGH: Right. And I  
13 suppose this will come out in the -- in the  
14 hearings, is the horse population going to be  
15 a problem with that, or issue with that?

16                  MS. DURENBERGER: So with the purse  
17 supplements anticipated from the racehorse  
18 development fund, that should help increase  
19 the supply. The supply here, of course, has  
20 been -- one of the main factors has been the  
21 lower purse relative to the other harness  
22 tracks in the region that do benefit from  
23 expanded gaming. So the racehorse development  
24 fund and the supplemental purses were meant to

1 remedy that.

2 COMMISSIONER MCHUGH: Right. Right.  
3 Well, that'll be -- that'll be exciting to see  
4 if that works.

5 MS. DURENBERGER: I think that was  
6 the plan.

7 COMMISSIONER MCHUGH: Yeah, no, I  
8 know. I know. But it's going to be exciting  
9 to watch it unfold.

10 MS. DURENBERGER: Yeah. And I think  
11 some of the metrics that we -- the racing  
12 division has been mandated to report to you,  
13 vis-a-vis, the racehorse development fund in  
14 future years, a lot of the metrics, some of  
15 the things we were just talking about, field  
16 size being one of them, we'll be tracking  
17 those closely and reporting to you.

18 COMMISSIONER MCHUGH: Right. Okay.  
19 Looks --

20 COMMISSIONER ZUNIGA: What -- what  
21 statute has little 15-day maximum in for the  
22 fair, for the agricultural society; is that  
23 128A?

24 MS. DURENBERGER: It's in 128A.

1 CHAIRMAN CROSBY: Is there any  
2 public feedback on the horsemen's association  
3 proposal, any sense of plausibility, what it  
4 looks like, anything?

5 MS. DURENBERGER: I think  
6 everybody's talking. I think that it's too  
7 premature, and we don't know what the detail  
8 are. I think one thing I can tell you is it's  
9 going to require some legislative reform so  
10 it's, you know, that's --

11 CHAIRMAN CROSBY: Yeah, got it.

12 COMMISSIONER MCHUGH: Well --

13 COMMISSIONER ZUNIGA: Last time you  
14 gave us a report, you mentioned that the  
15 association was going through their yearly  
16 election --

17 MS. DURENBERGER: Yes.

18 COMMISSIONER ZUNIGA: -- or their  
19 election period. Is that now before us and  
20 past?

21 MS. DURENBERGER: Yep. The  
22 election's over and the new leadership was  
23 seated last Thursday. Just a week ago. Feels  
24 like a month. I'm sure it feels like that to



1           them as well, but just a week ago.

2                         CHAIRMAN CROSBY:  Anything else?

3                         COMMISSIONER STEBBINS:  Just a quick  
4           question on Plainridge, its application.

5           They're replacing some of their Monday days  
6           with Sunday days in April and May.  What  
7           the -- obviously, they're not necessarily  
8           large-crowd dependent, but I would think  
9           switching to more weekend dates, and I  
10          understand all the conflicts that creates  
11          but --

12                        MS. DURENBERGER:  They are in the  
13          room, I believe.  My guess would be that  
14          they're still doing construction at that  
15          point.  Do you wish to comment?  I hate to  
16          make assumptions.

17                        MR. O'TOOLE:  Good afternoon,  
18          Commissioners.  Great to be here.

19                        CHAIRMAN CROSBY:  Good afternoon.

20                        COMMISSIONER MCHUGH:  Good  
21          afternoon.

22                        COMMISSIONER ZUNIGA:  Good  
23          afternoon.

24                        COMMISSIONER STEBBINS:  Good

1           afternoon.

2                         CHAIRMAN CROSBY:   Introduce  
3           yourself, Steve.

4                         MR. O'TOOLE:   I'm Steve O'Toole,  
5           manager of racing at Plainville Racecourse.

6                         So it was kind of a feat to cram 105  
7           days into an eighth -- eight-month period, but  
8           it's easier to explain when you say you were  
9           going from the first day of April to the last  
10          day of November, so that's -- that's an easier  
11          schedule to explain.   But the reason behind  
12          the Sundays in earlier meets, we did have some  
13          positive feedback on the racing on the  
14          weekends.   We did see a little bit of a bump  
15          in the handle, so we wanted to try and go as  
16          many Sundays as possible before the opening of  
17          the casino.

18                        In consultation with Lance George,  
19          the general manager, and -- and John Finnemore  
20          and Chris McErlean, from their experience of  
21          the properties, Friday, Saturday and Sundays  
22          are very popular when a -- when a facility  
23          first opens.   And even though we have a very  
24          large parcel of land there, it still has its

1 constraints, and parking is one of them.

2 So with all that taken into  
3 consideration, we did continue the Sunday  
4 racing for the first two months of the  
5 anticipated June 5th 2015 opening, and then it  
6 just -- looked like it was going to be way too  
7 bogged down.

8 CHAIRMAN CROSBY: So you'd rather  
9 race on the weekends from the standpoint of  
10 the racing handle, but you're concerned that  
11 there won't be enough parking for both better  
12 racing days and the casino?

13 MR. O'TOOLE: Yes.

14 CHAIRMAN CROSBY: Wow.

15 MR. O'TOOLE: The anticipation  
16 from -- you know, what the experts -- and  
17 Lance is definitely an expert in the field,  
18 we're going to be very busy on those weekends.  
19 And just to put the live racing pressure on  
20 top of that is rough.

21 And, traditionally, this is really  
22 the first year that we've consistently done on  
23 weekends. And we did that to ease the  
24 construction, which was -- which was a good

1 move because Wednesdays is very cramped on the  
2 site. I think Director Durenberger had to  
3 park on the driveway one day when she visited,  
4 but, you know the -- I -- we just felt that  
5 was the way to go.

6 CHAIRMAN CROSBY: I guess that's a  
7 nice problem to have, but it's kind -- kind of  
8 unfortunate to have to give up one for the  
9 sake of the other.

10 MR. O'TOOLE: Well, traditionally,  
11 we have gone weekdays up until this past  
12 season. And four o'clock in the afternoon,  
13 post-time for most of the season, when the  
14 light is available to us, has worked out well  
15 with the twilight, card, has worked out well.  
16 But, you know, patrons can come in the late  
17 afternoon. So but, you know, some of the  
18 people that can, they've come on the weekends,  
19 have definitely appreciated it this year, so  
20 that's why we started with it.

21 COMMISSIONER ZUNIGA: Could you also  
22 have to -- you also have to consider how your  
23 product is competing with other product around  
24 the country, right, for the parimutuel?

1                   MR. O'TOOLE: You're absolutely  
2 right. So it's a double-edge sword. The  
3 weekends we did -- we did well on track, but  
4 what's called the host handle, all the other  
5 locations around the country betting on us, it  
6 wasn't well received because there's just so  
7 much product on the weekends. So when we go  
8 Monday, Wednesday, Thursday, especially on the  
9 Mondays, we pretty much own that -- that time  
10 slot. And our -- I anticipate our host handle  
11 to be a lot better, as it was. I mean, if we  
12 go back in 2004, 2005 when we were handling  
13 half a million dollars for other tracks  
14 betting on us.

15                   CHAIRMAN CROSBY: Hmm, interesting.  
16 Anything else for Director Durenberger,  
17 General Manager, O'Toole? Thank you very  
18 much.

19                   MR. O'TOOLE: Thank you.

20                   CHAIRMAN CROSBY: I am going to  
21 suggest a break, a very quick break before we  
22 go to legal.

23

24                   (A recess was taken)

1                   CHAIRMAN CROSBY: We are ready to  
2 reconvene with General Counsel Blue.

3                   MS. BLUE: So good afternoon,  
4 Commissioners. We have before you today, four  
5 different sets of regulations. These  
6 regulations are all in the very first draft  
7 discussion stage. They have not been posted  
8 necessarily for comments in any -- any broad  
9 sense.

10                   I will take you through the transfer  
11 and the hearing regs, Loretta and Todd, and  
12 Bruce will take you through the remaining  
13 regs, and then once we have our conversation  
14 today, we can determine which next steps, you  
15 know, we'll take. Most likely, we will start  
16 putting them out from some kind of informal  
17 comment, take those comments, incorporate  
18 them, and then bring them back for -- for more  
19 discussion on our part, before we get to the  
20 formal process.

21                   So I think we -- the first one we  
22 have is the transfer regulation. This an  
23 entirely new regulation. We early, early on  
24 last year, started our discussion on how we

1 want to treat -- to treat potential transfers  
2 of gaming licenses. We did not create a  
3 regulation at that time. We reserved the  
4 section for this. And I think what has  
5 happened in the interim is, we've learned a  
6 lot more about the industry, and we have a  
7 much better idea on the kinds of regs we would  
8 want to have for transfers.

9 So the purpose of this regulation is  
10 to set up a process for transferring a gaming  
11 license, or an interest in a gaming license.  
12 The general rule in this regulation is that  
13 there can be no transfer without an approval  
14 by the commission. It covers, basically, four  
15 situations, because this is what we've come to  
16 understand a little better, it covers the  
17 transfer of a license post the operation  
18 certificate, so it's an -- when it's an  
19 ongoing business. It covers the transfer of a  
20 license after an award, but before it goes  
21 into operation. It covers the transfer of an  
22 interest in a pending application, which is  
23 something that we had some discussion about  
24 earlier. And then it covers entering into a

1 contract or a transfer. So those were the --  
2 we've started to understand that there are  
3 different potential points in the process  
4 where a license may or may want to be  
5 transferred.

6 Some transfers aren't covered, and  
7 those are the kinds of transfers where the  
8 ultimate transfer would result in less than a  
9 5 percent change. Certain transfer by done by  
10 public companies, transfers to a bona fide  
11 banking institution, and transfers of gaming  
12 equipment, if it's less than or equal to 5  
13 percent of the total value of the gaming  
14 equipment that's with the gaming  
15 establishment.

16 The regulation sets up a process for  
17 the commission to review, and it also sets up  
18 for the payment of fees, if we have to do  
19 investigation into the transferee. It  
20 requires notice to the commission of a  
21 potential transfer. The commission then has  
22 options. They can refer this to the IEB for  
23 investigation, which will be most likely the  
24 case, I would imagine. The commission can



1 request a new RFA1 application, or, in fact,  
2 even a RFA2 application, if that's warranted.  
3 The transferee will have to show that they  
4 will comply with all of the statutory  
5 requirements. It provides for the commission  
6 to hold a hearing on the transfer. And if  
7 it's not in operation that show -- the  
8 transferee will have to show that they will  
9 comply with all of the other requirements, as  
10 it was granted.

11 Just to remind the commissioners,  
12 our statute requires that if the license is  
13 transferred, it has to say in the same  
14 location. So we're really not talking about  
15 transferring from one location to another. We  
16 don't have that option under our statute, but  
17 it's the ownership of the particular license.

18 The commission then has the ability  
19 to approve, deny or ask for more information  
20 regarding a transfer. And then this  
21 regulation also, and this is something I think  
22 we would look for input from the  
23 commissioners, it attempts to deal with our  
24 statutory language that -- that it seems to

1           require that some portion of an increase in  
2           the value of a license gets transferred to the  
3           commonwealth. So that language in this  
4           regulation is -- is basically proposed for the  
5           commission's consideration. You know, that  
6           language has always been a little -- a little  
7           vague, and we tried to address it as best we  
8           could, but we will be looking for input on  
9           that.

10                         The regulation also adds language  
11           about holding an interest in more than one  
12           license. It requires it to be less than a  
13           5-percent interest. Again, that's something  
14           that we can look at. And it also requires  
15           that each licensee add certain language to  
16           their organizational document that show that  
17           any transfer is subject to approval by the  
18           commission.

19                         So this is the general scope with --  
20           in what we've been trying to accomplish with  
21           this regulation.

22                         CHAIRMAN CROSBY: Questions, issues?

23                         COMMISSIONER ZUNIGA: Yeah. I --  
24           I'm looking at page five that you -- where

1           you've highlighted -- this is right on the  
2           notion of the percent share with the  
3           commonwealth. There's value increasing as a  
4           result of a transferring of a license. Can  
5           you help me understand the 15 percent under  
6           subparagraph C that you proposed here?

7                       MS. BLUE: So what we've done --  
8           well, the 15 percent is a -- is an arbitrary  
9           number. Now, we made a distinction between  
10          Section C and Section D, where in Section D  
11          it's a percentage where there hasn't been  
12          issued an operational certificate. So that's  
13          in the situation where a license has been  
14          awarded, but it's not in business. In Section  
15          C, this one is for someone for a license that  
16          has been in operation. There are any number  
17          of ways to structure this. And we could  
18          structure it a couple of different ways, if  
19          the commission, potentially, wanted to do  
20          that.

21                      CHAIRMAN CROSBY: What was the  
22          thought process between 50 percent and 15, in  
23          the two different circumstances?

24                      MS. BLUE: Again, it is arbitrary.

1 I think the idea is that, once it's been in  
2 business for awhile, they've gotten some value  
3 out of it, the commonwealth has gotten some  
4 value out of it so maybe the percentage should  
5 be lower. When it hasn't been in business  
6 yet, I think we want to discourage people  
7 from, you know, transferring quickly, unless  
8 there is some really important circumstances.

9 The other thing, too, to keep in  
10 mind is, we really can't do a transfer, except  
11 for certain prescribed situations under  
12 statute for Category 2, because the term of  
13 that license is short. So this would be --  
14 come into play more often in a Category 1  
15 license. We have a longer term, and you want  
16 to encourage people to come in, operate for a  
17 longer term, and hopefully not transfer,  
18 unless there's a very good reason.

19 COMMISSIONER ZUNIGA: I guess, just  
20 to complement that thought, which I'll come  
21 back and talk about it later. If an operator  
22 has created value over a number of years of  
23 operating, more of these would be on their own  
24 making and therefore more they would get to

1 keep, at least under that rationale. I am of  
2 the personal opinion that the starting point  
3 should be 50 percent in every --

4 CHAIRMAN CROSBY: Did you say 50?

5 COMMISSIONER ZUNIGA: 5-0. 50,  
6 yeah. It's not zero. It's not a hundred. As  
7 the statute is very -- you know, it's vague in  
8 this notion. We share -- the commonwealth  
9 shares in any appreciation, and I'd say let's  
10 start with 50, because it's -- it's in the  
11 smack middle. We -- you know, but -- but I  
12 understand the notion, or I appreciate that  
13 the distinction. And the way I think about it  
14 is, well, not only the commonwealth has  
15 received some value, but at least some of it  
16 would have been attributable to the expertise  
17 of the operator.

18 CHAIRMAN CROSBY: Yeah. On these  
19 same -- I don't have enough information to --  
20 to debate about 15 to 50. I mean, you'll get  
21 feedback, and I'll be interested to talk about  
22 it, sort of, the whole concept. But how  
23 does -- just give me an example of how this  
24 would actually be applied. What is the --

1           what is the base price and what is the  
2           increased price? How do you -- or value? How  
3           do you -- what is that arithmetic?

4                   MS. BLUE: The base price is  
5           \$85,000,00 --

6                   CHAIRMAN CROSBY: Oh.

7                   MS. BLUE: -- for the license.

8                   CHAIRMAN CROSBY: Okay.

9                   MS. BLUE: So the way I envision it,  
10          the licensee will have to separately account  
11          for their license. The initial value will be  
12          what they paid for it, and then over time, on  
13          their books they're going to have to carry it  
14          with another -- with some other sort of value.

15                   CHAIRMAN CROSBY: Well, nobody's  
16          going to -- nobody's going to buy a license  
17          for \$85 million -- nobody's going to sell a  
18          license for \$85 million, if they've also put  
19          700 million into a property, right?

20                   COMMISSIONER ZUNIGA: All of that --  
21          all of that would be taken into account in  
22          the -- in the purchase price. But you're  
23          thinking about only the value of the license.  
24          In the transfer of a property --

1 CHAIRMAN CROSBY: Okay.

2 COMMISSIONER ZUNIGA: -- it would be  
3 all kinds of assets and liabilities that go  
4 with it.

5 CHAIRMAN CROSBY: Well, it does  
6 extend to that. It says, "Transferred  
7 licenses, property or interest."

8 MS. BLUE: So you would  
9 separately -- the licensee would be required  
10 as part of the transfer, to separately value  
11 the license, is what would happen. So -- and  
12 that's not unusual in certain commercial  
13 sales, where certain pieces of a sale have  
14 separate values. That's what this regulation  
15 would -- would push them to do.

16 CHAIRMAN CROSBY: But in this -- in  
17 this situation, and I was actually going to  
18 raise this in another context, but we're also  
19 taking 15 -- take Section C, we're also taking  
20 15 percent of the increased value of the  
21 property, if the property is sold so --

22 MS. BLUE: Well we would -- we would  
23 have to -- if that's how you read this  
24 language, then I think we need to fix it,

1           because our statute really focuses on the  
2           value of the license. Not, necessarily the  
3           increase on the -- say, the real property, for  
4           example.

5                         CHAIRMAN CROSBY: All right. Well,  
6           in that case, then on the first page, it is  
7           very clear that it talks about any interest  
8           structure, real property, premises, facility.  
9           And I was going to -- I was going to ask, if  
10          you sold your spare beds, you know, if you  
11          were recycling your furniture in a hotel, that  
12          you would have to come under this section. So  
13          it sounds -- but as you describe the section  
14          to us just now, you only refer to -- to the  
15          license. So if -- if this is about the  
16          license, I think this does need to be changed  
17          quite a bit.

18                        MS. BLUE: I think we can tighten  
19          that up. The concept would be that when  
20          you're transferring the license, because under  
21          our statute you can't move the facility  
22          somewhere else, you are transferring the  
23          license along with the vast majority of the  
24          facility that's there. That would be



1 negotiable, I would imagine.

2 We can certainly clarify the  
3 language. It's not our intent to have people  
4 come when they're transferring minor pieces of  
5 equipment. That's not what we're after. But  
6 we are looking for a transfer of control, and  
7 to give the commission the ability to control  
8 that.

9 CHAIRMAN CROSBY: But would -- would  
10 the thought process be to take a percent of  
11 increased value of the entire transaction when  
12 a license is sold, or would it just --

13 MS. BLUE: No. Just the -- just the  
14 value of the license itself.

15 CHAIRMAN CROSBY: Just the license.

16 MS. BLUE: Not the property that's  
17 transferred with it. That's how I read the  
18 statute.

19 COMMISSIONER ZUNIGA: Well, but  
20 there is -- depending on how the license is  
21 valued, or, rather, the goodwill of the  
22 operation is valued, some of that value could  
23 be apportioned to the license itself so --  
24 which is what you're getting at?

1                   CHAIRMAN CROSBY: Part of what is  
2 getting at, yeah.

3                   COMMISSIONER ZUNIGA: But, you know,  
4 I think this -- and I haven't read them with  
5 this in mind -- I haven't read them in detail  
6 with this in mind, but how would we go about  
7 valuing both the license, or is there a  
8 third-party provision that would value the  
9 license, or it's also given our approval; is  
10 that the controlled mechanism for that  
11 valuation?

12                  MS. BLUE: We don't have a  
13 third-party evaluation process in this  
14 particular regulation. We do have the ability  
15 to have the IEB investigate. We could have  
16 financial analysis done through the IEB on it,  
17 if we choose to. We can also ask for  
18 additional information. So we could have  
19 consultants come in and look at it, if you  
20 wanted to, as well.

21                  CHAIRMAN CROSBY: This is -- this  
22 one's puzzled me from the very beginning in  
23 the law, and I think -- so I think we got to  
24 do a lot of work trying to figure out what

1 this says and how this would operate.

2 A couple of minor things. On the  
3 first page, Section B refers to an interest  
4 utilized in a gaming establishment, and C  
5 refers to utilized in operating a licensed  
6 gaming establishment, as if there's a  
7 difference between the two, but I don't think  
8 there is. And then, why would -- or maybe  
9 this is in the -- maybe this is in the  
10 statute, why would we not want to be able to  
11 approve the transfer of interest to a bona  
12 fide financial institution?

13 MS. BLUE: I think that is within  
14 our statute, within certain percentages.

15 CHAIRMAN CROSBY: So -- but if  
16 Country Wide wanted to buy a casino, we  
17 wouldn't have the right to approve that  
18 transfer?

19 MS. BLUE: Well, if they wanted to  
20 buy the entire casino --

21 CHAIRMAN CROSBY: Right.

22 MS. BLUE: -- yes, you would. But  
23 if the casino was giving a mortgage to  
24 someone, for example, say, a purchase money

1 mortgage for equipment or furniture, you may  
2 not want to approve that.

3 CHAIRMAN CROSBY: Okay. Well,  
4 again, I don't think that's what this says. I  
5 think this says if it's traded -- if it's  
6 sold -- if the transfer is to a financial  
7 institution, it is not covered under these  
8 regs.

9 MS. BLUE: We'll look at that  
10 against the statute.

11 CHAIRMAN CROSBY: Okay. Well, good  
12 luck with this one, because this one is  
13 complicated.

14 COMMISSIONER ZUNIGA: Which -- I  
15 mean, I'm sorry to try to -- perhaps this is a  
16 oversimplification, but I think because of  
17 that, the number to is 50 percent.  
18 Ultimately, it's going to be up to what  
19 somebody's willing to pay, you know.

20 CHAIRMAN CROSBY: But 50 percent of  
21 what?

22 COMMISSIONER ZUNIGA: Of whatever  
23 the purchase price is.

24 CHAIRMAN CROSBY: So you're not

1 talking about not just the license, you're  
2 talking about everything?

3 COMMISSIONER ZUNIGA: No, no, the  
4 license.

5 CHAIRMAN CROSBY: Just the license?

6 COMMISSIONER ZUNIGA: Yeah. Now,  
7 there's -- you have to look at how everything  
8 is valued, including the goodwill. I would  
9 put all of the goodwill into the licenses.  
10 But, you know, maybe we could do a little bit  
11 more thinking or research about that.

12 CHAIRMAN CROSBY: Yeah.

13 COMMISSIONER ZUNIGA: You know, and  
14 there's third parties that could value the  
15 real property, you know, and everything else,  
16 and all the debt that would be offsetting.

17 CHAIRMAN CROSBY: Yeah, we'll just  
18 have to -- I can't imagine how you would -- if  
19 you -- if somebody comes in and buys the MGM  
20 facility and includes license and the casinos,  
21 and the hotels and everything else, I can't  
22 imagine how you would ascribe which portion of  
23 that total purchase price was for the license  
24 versus everything else; how would you -- how

1 would you do that?

2 COMMISSIONER ZUNIGA: There's  
3 process that's -- in the accounting world it's  
4 a goodwill, it's the brand. It's the axis  
5 between the real property valued -- you know,  
6 there's -- there's ways to value them. And  
7 whatever else was the premium paid or not paid  
8 on top of that.

9 CHAIRMAN CROSBY: Okay. Well --

10 COMMISSIONER STEBBINS: Yeah, I'd be  
11 curious to see how you get that value. I  
12 mean, we started off with a license fee that  
13 just the set figure, it's not based on the  
14 market value.

15 CHAIRMAN CROSBY: It's not based on  
16 what?

17 COMMISSIONER STEBBINS: It's not  
18 based on the market value.

19 CHAIRMAN CROSBY: No. It's totally  
20 arbitrary.

21 COMMISSIONER ZUNIGA: Okay. But  
22 then, we got -- we got a billion -- we got  
23 somebody to propose, you know, 1.6 billion of  
24 -- you know, in one market, 800 million in

1 another that depends on all the other factors.

2 CHAIRMAN CROSBY: Okay. Well, we'll  
3 discuss this more. Let's invite lots of  
4 public comments on this one so we can get some  
5 help. Okay. Who's next?

6 COMMISSIONER MCHUGH: And the  
7 reference to Country Wide was, of course, just  
8 a --

9 CHAIRMAN CROSBY: Hypothetical,  
10 yeah.

11 COMMISSIONER ZUNIGA: I picked up on  
12 that too.

13 CHAIRMAN CROSBY: Just tried to make  
14 my point.

15 MS. BLUE: The next regulation we  
16 have, I believe, is the licensee reporting  
17 regulation, Loretta?

18 CHAIRMAN CROSBY: Employees,  
19 vendors, junket enterprise?

20 MS. LILLIOS: That is really  
21 subsumed, for purposes of our conversation  
22 today, in what we're doing with the internal  
23 controls regulation. Some triggers in the  
24 internal controls are right there. And I

1 think for -- it'd be easier to think about  
2 this, if we started right in on the internal  
3 controls.

4 CHAIRMAN CROSBY: You're talking  
5 about 134?

6 MS. LILLIOS: Correct.

7 CHAIRMAN CROSBY: Okay. All right.

8 MS. BLUE: So before we do internal  
9 controls, maybe we'll do the hearing and then  
10 we can devote the balance of the time to  
11 internal controls because these are little  
12 more complicated.

13 So you have before you what is  
14 really an amendment to the hearing regulation,  
15 Section 101. We had amended it previously to  
16 streamline, make it a little bit easier to  
17 understand. This amendment, at this point, is  
18 to create a process.

19 What we have learned over our -- our  
20 racing hearing structure, is that there are  
21 some better ways for us to -- to hold  
22 hearings. And we want to make sure that we  
23 put a process in place on the gaming side that  
24 allows for what we know will be potential



1           hearings on things like gaming licenses and  
2           employee licenses, and things like that.

3                       So what this hearing regulation does  
4           is, it states specifically when we're going to  
5           follow the formal rules or informal rules  
6           under Section 801 CMR. We leave the formal  
7           rules for adjudicatory proceedings and things  
8           like suitability. We have the informal rules  
9           for other types of hearings. We clarify who  
10          has standing to appeal, because that has,  
11          sometimes, been a little vague in our formal  
12          regulation, but we've created clarity around  
13          who can appeal, and it's generally applicants  
14          or licensees that can appeal.

15                      We allow for the appointment of a  
16          hearing officer. And this is -- this is new  
17          for us. It's not new on the racing side,  
18          where we have a hearing officer who hears  
19          almost all of the appeals, and then has an  
20          appeal to the commission. On the gaming side,  
21          we will now be able to have a hearing officer  
22          who will take the initial hearings and render  
23          a decision that then can be appealed up to the  
24          commission.

1           We talk about time frames for filing  
2           an appeal to the commission. We have now a  
3           sets 30-day time frame where there's an appeal  
4           to the hearing officer's decision, that's --  
5           you have -- when you have to file to the  
6           commission. We create standard of proof. We  
7           have a clear and convincing standard when it  
8           comes to suitability. We've incorporated the  
9           substantial evidence for other things, with  
10          the exception of certain key items that are  
11          found in our statute and require a hire  
12          standard.

13                   CHAIRMAN CROSBY: Catharine, I'm  
14                   sorry, which section are you looking at?

15                   MS. BLUE: It's 101.

16                   CHAIRMAN CROSBY: 101? All right.  
17                   Okay. Adjudicatory proceedings?

18                   MS. BLUE: Yes.

19                   CHAIRMAN CROSBY: Okay. Sorry.

20                   MS. BLUE: And then, finally we  
21                   define the commissioner's review of the  
22                   hearing officer's decision. So the commission  
23                   reviews the hearing officer's decision on the  
24                   record. We have provisions in there that

1 track the 801 CMR provisions that say if the  
2 commission chooses not to review it, the  
3 hearing officer's decision can become final.

4 So -- so what we're doing is, we're  
5 beefing up this sections to be prepared to  
6 have a hearing process for the hearings that  
7 we anticipate will come.

8 CHAIRMAN CROSBY: Anybody?  
9 Commission? Commissioner McHugh? Looked good  
10 to me. Thank you.

11 MS. BLUE: Okay. Internal controls.

12 MR. GROSSMAN: Good afternoon,  
13 Commissioners.

14 CHAIRMAN CROSBY: Good afternoon.

15 COMMISSIONER MCHUGH: Good  
16 afternoon.

17 COMMISSIONER ZUNIGA: Good  
18 afternoon.

19 COMMISSIONER STEBBINS: Good  
20 afternoon.

21 MR. GROSSMAN: As you know, the  
22 internal controls are essentially the policies  
23 and procedures that govern the core gaming,  
24 accounting and financial functions, as well as

1 a number of other functions that happen in the  
2 gaming establishment. Chapter 23K, Section  
3 25D require that each gaming licensee submit  
4 their system of international controls to the  
5 commission for approval, prior to commencing  
6 gaming operation. It also requires the  
7 commission to set forth regulations outlining  
8 the information that has to be included within  
9 those controls. And these regulations before  
10 you are our effort to outline that  
11 information.

12 Efforts have been made to afford a  
13 gaming licensee as much discretion to oversee  
14 their operations as possible. Though, as  
15 you'll see in a number of areas, we have set  
16 forth prescriptive elements that we have  
17 suggested must be included within certain  
18 policies and procedures to ensure a number of  
19 things, including the uniformity amongst all  
20 of licensees and their systems of controls.

21 We have actually circulated an  
22 earlier version of this draft, which is  
23 largely the same as the one before you today,  
24 to each of the designated gaming licensees, as

1 well as the actual gaming licensee for their  
2 comments. And we would certainly look forward  
3 to what they would have to say about the  
4 direction this is taking. And we thought it  
5 important, of course, given the complexity of  
6 this topic, to bring it before you at this  
7 juncture to ensure that you are comfortable  
8 with the direction that these regulations are  
9 moving at this point.

10 So with that, we thought, perhaps  
11 today we would give you a broad overview of  
12 the draft that's before you. Certainly, happy  
13 to answer any questions, address any concerns.  
14 And with that, I would just note that we've  
15 collaboratively put this draft together. So  
16 Loretta and Bruce can certainly answer  
17 questions within the different areas here.

18 CHAIRMAN CROSBY: Todd, excuse me,  
19 let me just ask a question. Did you have an  
20 opportunity to have the two-on-two meetings  
21 with Commissioner Stebbins and Zuniga?

22 MR. GROSSMAN: As well as  
23 Commissioner Cameron. We met with  
24 Commissioner Zuniga individually.

1                   CHAIRMAN CROSBY: Okay. Because I  
2                   -- in that case, we've all heard it. I wonder  
3                   whether we -- we could rather just have us  
4                   comment on what -- raise our questions, rather  
5                   than have you go through the briefing a second  
6                   time?

7                   MR. GROSSMAN: That's fine, sir.

8                   CHAIRMAN CROSBY: Does that make  
9                   sense to you?

10                  COMMISSIONER MCHUGH: Yeah.

11                  CHAIRMAN CROSBY: Okay. So if you  
12                  have other introductory remarks, fine. But,  
13                  otherwise, why don't we just open it up and  
14                  let the commissioners, starting at the  
15                  beginning, just raise whatever questions we've  
16                  got?

17                  MR. GROSSMAN: Great.

18                  CHAIRMAN CROSBY: All right. I'll  
19                  start on page 29. On 138 2A, this is really  
20                  minor. This is only to prove that I actually  
21                  read these things. 2A, the last --  
22                  next-to-last line, it says "of the casino  
23                  games department, and such person shall have  
24                  the authority of a casino manager," I assume

1           you mean gaming manager?

2                       MR. BAND:    Yes.

3                       CHAIRMAN CROSBY:  Anybody else?  On  
4           30 and 31, we talked about this a little bit,  
5           but I just wanted to say it again, that  
6           there's this incredible specificity about, you  
7           can manage this many pai gow tables and one  
8           box person for each craps table and so forth.  
9           Where do those standards come from?  How do  
10          we know --

11                      MR. BAND:  It's been a standard  
12          that's used in the industry for at least the  
13          30-some-odd years that I have -- I've worked  
14          in it.  Pai gow tile tables are handled  
15          differently, basically, because your risk of  
16          somebody cheating is higher, so you wouldn't  
17          want to have the person supervising those  
18          tables have two or three more that they would  
19          have to add to that list, because somebody  
20          that was inclined to cheat the game would just  
21          go to the one that was getting the least  
22          attention.  But these are, kind of, the  
23          standards that have been used since 1978, that  
24          I'm aware of.

1                   CHAIRMAN CROSBY: Well, in the  
2 normal world, that's never a good answer.  
3 This is the way we've always done it is never  
4 a good answer.

5                   Is -- one thing you've talked about,  
6 when you were talking to Commissioner McHugh  
7 and me, is that there's something about  
8 standardization, it's much easier to detect  
9 inappropriate actions, if you're --

10                  MR. BAND: Yes.

11                  CHAIRMAN CROSBY: -- if the viewer  
12 is seeing the same standardized operation,  
13 it's easy to detect diversions from that but  
14 is there any -- does the fact that it's been  
15 done for 30 years suggest that there's reason  
16 to believe that that is the right number?

17                  MR. BAND: I think what you learn  
18 from that 30 years is that, having a big six  
19 wheel is much easier to supervise than a pai  
20 gow tile table or a craps table. So,  
21 therefore, it's easier for somebody to take  
22 six blackjack tables and stuff because there  
23 isn't cost in action, and probably not as  
24 higher risk for the casino to have less



1 supervision on that. Where you get a pia gow  
2 tile table, you're looking at some big money,  
3 and there's a lot of cheating that is  
4 attempted on these tables. So I don't think  
5 it's the time period. I think it's what's  
6 learned over that time period.

7 CHAIRMAN CROSBY: So there is some  
8 reason to think that eight poker tables that  
9 the poker shift supervisor is supervising only  
10 poker tables, really is somehow demonstrably  
11 better than either seven or nine, or 10?

12 MR. BAND: You could probably argue  
13 for nine tables or that. I think that what --  
14 when we did this I was looking at what would  
15 be reasonable for somebody to supervise and be  
16 able to be attentive to, in a working  
17 environment.

18 CHAIRMAN CROSBY: I, obviously, have  
19 no independent knowledge about this  
20 whatsoever. But as we talked about with  
21 Commissioner McHugh, the prescriptive nature  
22 of this is -- is just prima facie notable, and  
23 it's worth thinking. And I'll be interested  
24 in -- in what our licensees have to say. Are

1           there other alternative ways to approach this?

2           Well, we know there are --

3                       MR. BAND:    Yes.

4                       CHAIRMAN CROSBY:  -- but I'll be  
5           interested in hearing this discussion.

6           Anybody else got issues?  On page 34, the  
7           patron's signature file, so this is when you  
8           decide to check somebody's identification, you  
9           will -- in the process of checking you will  
10          gets these four data points -- or five -- six  
11          data points, name, address signature and so  
12          forth, and then you will create a file on that  
13          person?

14                      MR. BAND:    For -- in your credit  
15          file you would have that.  And that's what  
16          would be compared into the pit, it's  
17          somebody's taking a marker or countercheck to  
18          see that those -- that information matches up.

19                      CHAIRMAN CROSBY:  So you would --  
20          you would go into this file when you get  
21          credit?

22                      MR. BAND:    Yes.

23                      CHAIRMAN CROSBY:  Okay.

24                      MR. BAND:    You would actually create

1 the file, when you get credit, and it would be  
2 checked when you request a withdraw on that.

3 CHAIRMAN CROSBY: Okay. Got it.

4 COMMISSIONER ZUNIGA: Can I mention  
5 something to the prior point, you know, which  
6 I, like the chairman, had a, you know, an  
7 initial, shall I say concern relative to the  
8 prescriptive nature, I kept thinking about  
9 internal controls from a financial standpoint,  
10 but I arrived at really appreciating the  
11 notion that, when it comes to the operations,  
12 standardization and prescription is probably a  
13 better way to go.

14 CHAIRMAN CROSBY: When it comes to  
15 what?

16 COMMISSIONER ZUNIGA: Operations.  
17 Like, how many people you're going to have  
18 supervising pai gow tables, as opposed to  
19 blackjack tables, because the operator could  
20 have the incentive, a preferred incentive, to  
21 -- to save money or on shifts, et cetera, that  
22 could detract from the integrity of the game,  
23 which is our main role.

24 So prescribing the number of people

1 around -- you know, a lot of the procedures  
2 presented to the operations, I think, is -- is  
3 very important. Something done in many other  
4 jurisdictions for -- for those reasons. Not  
5 for the reasons in a vacuum but --

6 CHAIRMAN CROSBY: Right. Yeah, and  
7 it's just -- you know --

8 MR. BAND: In the reg, too, to  
9 address that, in slower periods there's  
10 procedures here to request reduced staffing  
11 levels. Which, let's say, from three in the  
12 morning to six you might have three people  
13 sitting at various tables. That, certainly,  
14 is a lot easier to supervise than when you  
15 have full play on all the tables. So we, you  
16 know, do accommodate that in the regulation.

17 CHAIRMAN CROSBY: Right.  
18 Commissioner Cameron's not here so I can raise  
19 issues of philosophy with you. Commissioner  
20 Stebbins has made this point time after time  
21 after time, how differently we treat the  
22 casino industry, and how if anybody else  
23 wanted to come to town the offer 3,000 jobs,  
24 we'd be crawling all over ourselves to give

1 away tax credits and so forth, but we know  
2 this is a different -- but I still -- so that  
3 still sort of gnaws at me, just this  
4 incredible degree of oversight, but I get it,  
5 I think.

6 On page 49, we discussed this a  
7 little bit. I didn't really get it, but the  
8 138.25, this does apply to Plainridge or does  
9 not?

10 COMMISSIONER ZUNIGA: It does.

11 MR. GROSSMAN: Well, I think we need  
12 to clarify that point. I think it probably  
13 does not, if you read some of the definitions  
14 very carefully.

15 CHAIRMAN CROSBY: Right.

16 MR. GROSSMAN: I mean, in that --  
17 Plainridge has, at the moment, a racing  
18 license under 128A, so I think we need to  
19 reconcile some of our internal definitions.  
20 But the -- these simulcasting regulations are  
21 certainly one we need to clarify who they  
22 apply to and who they don't.

23 CHAIRMAN CROSBY: Well, you do mean  
24 them to apply to Plainridge?

1 MR. GROSSMAN: Well, initially, that  
2 was the intent. At this point, the question  
3 has been raised.

4 CHAIRMAN CROSBY: Okay. I think I  
5 just have one other one. On the linked slot  
6 machines, on page 85, this -- on page 86,  
7 Section 1, seems to be setting up the  
8 standards by which there are these special  
9 intervention by gaming staff to, I guess, make  
10 sure that the machines are working properly  
11 and so forth. And it's anytime there's a  
12 jackpot over 75,000, or a manual jackpot.  
13 What's a manual jackpot?

14 MR. BAND: It's when the machine  
15 wouldn't pay manual. Would be a hand-paid  
16 jackpot.

17 CHAIRMAN CROSBY: You mean, if the  
18 machine says you have X amount of money, but  
19 you have to go and get it?

20 MR. BAND: Yeah.

21 CHAIRMAN CROSBY: Oh, okay. "Where  
22 there is evidence of a malfunction, notify the  
23 IEB that a jackpot has been registered, permit  
24 the IEB to inspect the slot machine

1 progressive or related equipment involved in  
2 that failure." There's just a -- it sounds  
3 like if you -- anybody -- if you win anything  
4 over 75,000, you're going to have to come in  
5 and have the machine checked, I guess.

6 MR. BAND: It would be that the IEBA  
7 come on site, and he would just come to make  
8 sure that the proper chip's in the machine,  
9 the outside of the cabinet hasn't been  
10 tampered with. It's just more of an insurance  
11 that it's not a set-up jackpot or anything  
12 like that. It does not at delay the payout at  
13 all, because the casino checks those chips and  
14 things as well for a jackpot, you know, of  
15 that denomination.

16 CHAIRMAN CROSBY: But if there's  
17 manual jackpot of \$600 --

18 MR. BAND: It's still that the -- it  
19 say manual jackpot of 75,000.

20 CHAIRMAN CROSBY: No. It just says  
21 any manual jackpot where there is evidence.

22 MR. BAND: That needs to be  
23 clarified, then that wasn't the intent of  
24 that. It was supposed to be the --

1                   CHAIRMAN CROSBY: "any manual  
2                   jackpot where there's evidence of a  
3                   malfunction."

4                   MR. BAND: Yeah.

5                   CHAIRMAN CROSBY: Anyway, I think  
6                   you need to re -- I don't think this language  
7                   scans.

8                   MR. BAND: Okay.

9                   CHAIRMAN CROSBY: I think you've got  
10                  to -- it doesn't make sense the way it's  
11                  written. Okay. Now I understand when manual  
12                  jackpot is so -- isn't -- 138.57, alternative  
13                  procedures for manual slot jackpots, it seems  
14                  like it's really alternative procedures for  
15                  lesser payouts, not alternative procedures for  
16                  manual slot jackpots, because there's a --  
17                  there's a -- any -- again, I can just let you  
18                  guys look at this, I guess. But this is --  
19                  this is not a procedure which applies to any  
20                  manual jackpot. It's only procedure which  
21                  applies to lesser payouts.

22                  MR. BAND: I believe it's basically  
23                  really we're saying that -- you know, you --  
24                  if you want to come forward with different



1 procedures for doing these jackpots that you  
2 can. We'll review it to make sure for the --  
3 that it would be -- meet the requirements for  
4 being accountable.

5 CHAIRMAN CROSBY: But it's -- you've  
6 got certain is standard ones for over 75,000?

7 MR. BAND: Yes.

8 CHAIRMAN CROSBY: And I think it  
9 sounds like you're saying under some number,  
10 maybe it's 75,000, I don't know what it is,  
11 there's different -- there are different  
12 standards that we can create. We can create  
13 different policies and procedures. But that  
14 -- the variable isn't whether it's manual slot  
15 jackpot or not, it's amount of how much the  
16 payout is.

17 MR. BAND: Yeah.

18 CHAIRMAN CROSBY: So I think this is  
19 mislabeled, and therefore very confusing.  
20 That's all I have anybody else have --

21 COMMISSIONER MCHUGH: Not at this  
22 time.

23 COMMISSIONER ZUNIGA: Not at this  
24 time.

1                   COMMISSIONER STEBBINS: I just had  
2 one quick question or point, and we talked  
3 about it the other day, when we did the  
4 sessions with, you know, with more than two  
5 commissioners.

6                   Going to page 19, which is the  
7 vacancy issue with respect to a chief  
8 executive officer position or a chief gaming  
9 executive. I mean, we're talking about these  
10 being mandatory departments for the operation  
11 of a casino. It would seem to me that some of  
12 this language needs to be consolidated. I  
13 mean, I can't expect our licensee would go  
14 several days or even a month without somebody  
15 filling that position. That you get into that  
16 30-day window, and then five gay days after  
17 you fill it they got to let us know. I mean,  
18 it seems some of these timelines could be  
19 tightened up. They just seem to be more  
20 important reporting levels.

21                  MR. BAND: Yeah. Historically, we  
22 have had issues with that in a few properties.  
23 I can't say that it's happened in modern days,  
24 but it's no problem to tighten that timeline

1 up.

2 COMMISSIONER STEBBINS: I mean, I  
3 can't imagine one of our licensees would let  
4 one of these positions go vacant for very  
5 long. You can't be somebody who, apparently,  
6 is also a department supervisor someplace  
7 else. It's -- it's not like losing a bar  
8 back. You're losing somebody who's got major  
9 responsibilities. And, you know, I think the  
10 timelines could be something that we could be  
11 alerted to a lot faster.

12 MS. LILLIOS: If I could touch on  
13 the licensing notification, because I -- it's  
14 a separate subject on the agenda. I deferred  
15 speaking about it, because I thought it would  
16 come up now and it hasn't, so I just want to  
17 make sure that we cover that.

18 On page 20 of your internal  
19 controls, there are two regs that require the  
20 licensee to have a system for, one, insuring  
21 that employees are properly licensed and  
22 registered, and two, for ensuring that vendors  
23 are properly licensed and registered.

24 These requirements would trigger

1 some reporting requirements that are in your  
2 packet as -- as amendments to 134, the  
3 licensing reg. I do have some question  
4 whether that is the right place for them, but  
5 the language in your packet that's now under  
6 134 is the proposed language that would  
7 trigger reporting provisions that would  
8 require the gaming licensee to report updates  
9 on employees to the commission, as well as  
10 report on a regular basis, the dollar  
11 disbursements between the licensee and any  
12 vendors, so the that licensing division could  
13 monitor when a vendor is reaching the  
14 threshold amounts that would trigger the  
15 gaming vendor secondary so that those -- that  
16 licensing and background processing could be  
17 done in a -- in a timely manner. So those  
18 were the licensing matters that are on the  
19 agenda.

20 CHAIRMAN CROSBY: Okay. Anything  
21 else from you folks?

22 COMMISSIONER MCHUGH: No. This  
23 represents a lot of -- a lot of  
24 highly-detailed and thoughtful work. And at

1 the beginning of the comment period. And  
2 we'll have all have additional time to look at  
3 it and think about it, reflect on the comments  
4 and get back. But it's a -- it's a -- really  
5 a painstaking job, and this is well done. And  
6 the internal control regs really help us  
7 understand what's going on in the casino, and  
8 are valuable to educational -- as an  
9 educational tool, as well as a regulatory  
10 tool, so -- so I look forward to the further  
11 continued discussion of these as we go forward  
12 with the licensing process, and thank the  
13 legal staff, and regulatory staff for the  
14 input. It's really very, very useful stuff.

15 CHAIRMAN CROSBY: I agree.

16 MS. SKIDMORE: Yeah, I agree. Are  
17 we also putting the transfer and licensing  
18 regs for public comments at this time, or is  
19 this like we've done in the past, just the  
20 first presentation for --

21 MS. BLUE: This is -- this is a  
22 first recitation. We can put them out for  
23 informal comment, sure. We probably want to  
24 make some revisions based upon the

1           conversations we had today, but we can start  
2           to solicit informal comments. So we can  
3           started with the licensees, if we haven't  
4           already.

5                        COMMISSIONER ZUNIGA: Right.

6                        COMMISSIONER MCHUGH: But you would  
7           come back to us again and say these are the  
8           ones we want to put out for public comment,  
9           right?

10                      MS. BLUE: Yes, that's right.

11                      COMMISSIONER MCHUGH: And do you  
12           have a time table for that, so that those of  
13           us who have been delinquent in making comments  
14           can remedy the delinquency?

15                      COMMISSIONER STEBBINS: No names.

16                      MS. BLUE: I would not propose the  
17           next meeting, because the next meeting we have  
18           different regulations for final approval  
19           before you. So probably the meeting after,  
20           which would take it out about a month.

21                      COMMISSIONER MCHUGH: Right. Okay.

22                      CHAIRMAN CROSBY: Anything else? Do  
23           I have a motion to adjourn?

24                      COMMISSIONER MCHUGH: So moved.

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CHAIRMAN CROSBY: Second?

COMMISSIONER ZUNIGA: Second.

CHAIRMAN CROSBY: All in favor?

Aye.

COMMISSIONER MCHUGH: Aye.

COMMISSIONER ZUNIGA: Aye.

COMMISSIONER STEBBINS: Aye.

CHAIRMAN CROSBY: Thank you all.

(Proceeding concluded 2:25 p.m.)

1 GUEST SPEAKERS:

2 Elizabeth Skidmore, Business Manager, New England

3 Regional Council of Carpenters

4 Susan Moir, Director of UMass Boston Labor

5 Resource Center

6 Steven O'Toole, General Manager, Racing,

7 Plainville Racecourse

8

9 MASSACHUSETTS GAMING COMMISSION STAFF:

10 Karen Wells, Director of Investigations and

11 Enforcement Bureau

12 Brian Connors, Detective Lieutenant, Massachusetts

13 State Police

14 Richard Day, Executive Director

15 Derek Lennon, Chief Accounting Financial Officer

16 Catherine Blue, General Counsel

17 Loretta Lillios, Deputy General Counsel

18 Todd Grossman, Deputy General Counsel

19 Bruce Band, Deputy Director, Investigations and

20 Enforcement Bureau

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C E R T I F I C A T E

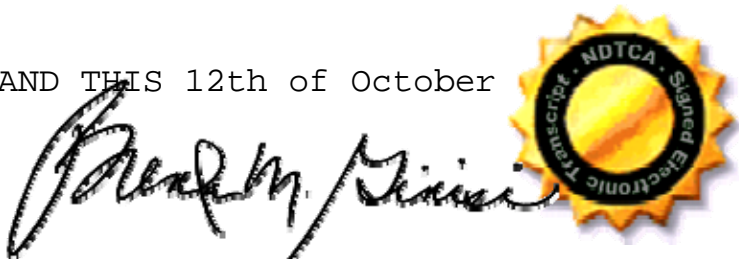
I, Brenda M. Ginisi, Court Reporter, do hereby certify that the foregoing is a true and accurate transcript from the record of the proceedings.

I, Brenda M. Ginisi, further certify that the foregoing is in compliance with the Administrative Office of the Trial Court Directive of Transcript Format.

I, Brenda M. Ginisi, further certify that I neither am counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken and further that I am not financially nor otherwise interested in the outcome of this action.

Proceedings recorded by verbatim means, and transcript produced from computer.

WITNESS MY HAND THIS 12th of October 2014.



BRENDA M. GINISI  
Notary Public

My Commission expires:  
July 11, 2014