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THE COMMONWEALTH OF MASSACHUSETTS

MASSACHUSETTS GAMING COMMISSION

OPEN MEETING

CHAIRMAN

Stephen P. Crosby (*not present*)

COMMISSIONERS

Gayle Cameron (*not present*)

James F. McHugh

Bruce W. Stebbins

Enrique Zuniga

OCTOBER 23, 2012, 1:00 p.m.

OFFICE OF THE DIVISION OF INSURANCE

First Floor, Hearing Room E

1000 Washington Street

Boston, Massachusetts

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PROCEEDINGS:

COMMISSIONER MCHUGH: All right. It's 1:00. So, I'm going to call to order the 32nd public meeting of the Massachusetts Gaming Commission. Two of our members, Chairman Crosby and Commissioner Cameron, are in the Far East getting some learning and information that will be helpful to all of us as we move forward. So, the three of us will proceed, and I'll call the meeting to order.

The first order of business is the minutes of the October 9, 2012 meeting. I distributed those. I found I must have had a couple of typos in them, but would welcome substantive comments if there are any and then see if we can approve them.

COMMISSIONER STEBBINS: Mr. Chairman, I just had one. Page six where we are talking about our meeting out in Holyoke, the last line, I thought the community college representatives were hoping to present a finalized plan to the Commission in November not February.

COMMISSIONER MCHUGH: In November. Okay. All right, any other corrections apart of the typos?

1 COMMISSIONER ZUNIGA: My only comment
2 was perhaps one of the typos that you are alluding to
3 on page three, but other than that, it's a word that is
4 repeated.

5 COMMISSIONER MCHUGH: Yes. I got that.
6 Thank you, though.

7 COMMISSIONER ZUNIGA: Other than that, I
8 reviewed them and found them in good order.

9 COMMISSIONER MCHUGH: Then I'd move that
10 the October 9 -- the minutes of the October 9 meeting
11 be approved.

12 COMMISSIONER STEBBINS: Second.

13 COMMISSIONER MCHUGH: Discussion, I
14 think we've already had the discussion. So, all in
15 favor? Aye.

16 COMMISSIONER STEBBINS: Aye.

17 COMMISSIONER ZUNIGA: Aye.

18 COMMISSIONER MCHUGH: And the minutes
19 are approved.

20 Now the October 16 meeting was a long one.
21 And I did not get the materials until late on Friday,
22 understandably so. I'll have those minutes ready for
23 approval at the next meeting. They're not ready today.

24 So, that takes us to item 3 on the agenda,

1 the consultant status report. Is there any
2 representative of the gaming consultants here today?
3 There is not. We had an extensive report last week.
4 And we are going to have a meeting next Monday that we'll
5 talk about more in this meeting. And we have some other
6 things to talk about today, in any event. So, is there
7 anything under that topic, Commissioner, that you want
8 to talk about?

9 COMMISSIONER ZUNIGA: Yes. I believe
10 Director Glovsky was prepared to give us a bit of a
11 summary.

12 MS. GLOVSKY: Yes. I was going to do it
13 as part of my Director of Administration report, if
14 that's all right.

15 COMMISSIONER MCHUGH: We'll get to that
16 in a minute. Although, maybe what you have to say will
17 provide a platform for some of the other discussions.
18 So, maybe we ought to take your report out of order right
19 now.

20 MS. GLOVSKY: Okay, sure. I can do just
21 the consultant detail, if you'd like.

22 COMMISSIONER MCHUGH: No. Why don't we
23 do it all together. And then we don't just have to have
24 so much shifting around. So, welcome back.

1 MS. GLOVSKY: Thank you very much. It's
2 great to be back. And it was good to do this update with
3 the consultants over the phone today to catch up on the
4 things that happened last week in my absence.

5 I know that in addition to being at the
6 public meeting on Tuesday last week, the consultants
7 spent time in the office on Wednesday, October 17 with
8 a number of meetings, as well as conducting some phone
9 meeting subsequent to that.

10 There were discussions with Commission
11 members to identify and prioritize policy
12 determinations that are preconditions to drafting Phase
13 II regulations. And I think some of that may be
14 discussed later on today.

15 I know that the consultants worked with
16 you all to develop a schedule and sequence for making
17 policy decisions based on the priorities assigned.
18 Really looking at policy direction, communications,
19 methodology in terms of how we are going to communicate
20 with host communities and applicants, which I just think
21 that that's in process at this particular point in time.

22 And I know that they are working on
23 continuing to assist in identifying and evaluating
24 potential candidates for open staff positions.

1 I note that Commissioner Stebbins met
2 with them to discuss certifying curriculum for gaming
3 education and what the most appropriate method would be
4 for doing that. In addition, they were, I think, pretty
5 much involved in the scheduling and providing some
6 logistical and other support for the meetings that are
7 going to happen next week, the October 29 scope of
8 licensing meeting with the applicants and the
9 individual scope of licensing meetings that are
10 expected take place after that meeting next week.

11 And they began to respond to questions and
12 comments from the Commission about the revised draft
13 strategic plan, which was delivered on October 15.

14 COMMISSIONER MCHUGH: On the last item,
15 the revised draft strategic plan, do you know what the
16 next step with that is? Are they anticipating -- And
17 I know you've been away, so this must be an unfair
18 question. Maybe somebody else knows. Are they
19 anticipating another set of comments from us before
20 finalizing it or is this essentially the final product
21 from their standpoint, from the consultants'
22 standpoint?

23 COMMISSIONER ZUNIGA: I couldn't say one
24 way or another. I know that the draft documents after

1 our initial comments are now in our possession.
2 Whether there's another pass at this or not, I believe
3 there was an initial question not too long ago as to
4 whether we would adopt that plan formally here by vote
5 of the Commission. As a version of that, maybe we could
6 really study those revised addenda.

7 COMMISSIONER MCHUGH: Let's do that then
8 and try to move that forward, either to the next
9 iteration so that we can get to a final plan. And in
10 that regard, it may be that some of the recommendations
11 that the consultants made with respect to the policy
12 issues, which we are going to discuss today or begin the
13 discussion of today, maybe some of that needs to be
14 incorporated into the strategic plan, and maybe some of
15 the timelines need to be adjusted in light of that.

16 So, those are at least two items that we
17 need to think about in terms of turning the next version
18 around.

19 MS. GLOVSKY: Right. And I think we'll
20 also have to make a decision about how we want to view
21 the strategic plan. Because in some sense, it will get
22 approved in some way, but it also becomes a living
23 document that we'll be adding to and changing as we go
24 forward.

1 So, I think we'll have to make a decision
2 about when we want the Commission to approve it at a
3 particular point and use it as the basis for continuing
4 our work going forwards.

5 COMMISSIONER MCHUGH: Yes. I think
6 that's really an important consideration. It's not
7 fixed. And by the nature of things, it can't be fixed.
8 We're constantly going to be trying to update and
9 improve on the timelines, no matter what they turn out
10 to be, if we can do so consistent with a deliberate and
11 sound and thoughtful approach.

12 MS. GLOVSKY: I do know that they are
13 working on a work plan for us. We provided them with
14 a form that we wanted them to produce their work plan
15 in. And they are working on that piece. And to a
16 certain extent, I view that along with the formalization
17 of the comments that you have as sort of the final piece
18 of this part of the strategic plan.

19 And then moving forward -- because we have
20 to be careful. We don't want to keep them working on
21 it too long when we need them to be working on the policy
22 stuff going forwards.

23 COMMISSIONER MCHUGH: What's the work
24 plan?

1 MS. GLOVSKY: The work plan is really
2 going to be a document. It's sort of in a spreadsheet
3 format that takes specific steps that are listed within
4 their timeline right now but also will assign staff to
5 it from their point. And I think that they'll do a first
6 pass on which Commissioner that they think will be
7 working with it.

8 It's really our communal attempt to make
9 the next part of process less of a black box for
10 everybody. Section 1.2, Commissioner McHugh is going
11 to be working on it. And he'll be working on it with
12 this person from Spectrum and this person from Michael
13 & Carroll. So, that at any time any of the
14 Commissioners can take a look at the tasks that need to
15 be done, know which ones they're expected to have a hand
16 in participating in and understand who's handling other
17 ones as well.

18 COMMISSIONER MCHUGH: That'll be
19 enormously valuable. And it ties into the discussion
20 we are going to have in a little while about the
21 preliminary policy issues, I think, very nicely.

22 How will that, and we are at a 50,000-foot
23 level, but how will that tie back into the PMA plan?

24 MS. GLOVSKY: I think that they'll, in

1 some sense, all be iterative. But I think that's one
2 place where we can start for our resource loading. I
3 know that that was something that we wanted to try and
4 do with the PMA scheduling plan, but until we have a
5 sense of who's working on what and how long things are
6 going to take, it makes it very difficult to do the
7 resource loading.

8 My expectation is that we would start the
9 resource loading sort of at the 50,000-foot level and
10 then drill down on particular areas from there.

11 COMMISSIONER ZUNIGA: In addition to
12 that, the work plan, if you will, has a bit of a framework
13 that is particular to the gaming consultants, whereas
14 PMA is also helping us with activities that are more
15 relying on staff, staff that's coming up, our research
16 agenda, other meta processes, if you will, that are
17 incumbent of the Commission as well.

18 So, I would call that a subset without the
19 timing element, because there's also a lot of, as you
20 suggested, a lot of recurring activities within that
21 work plan with our consultants. It's very hard to put
22 a date limit to some of it, others it's very
23 straightforward.

24 COMMISSIONER MCHUGH: Okay. That's

1 helpful. And for all of those to whom this all sounds
2 like simply a proliferation of acronyms, what we're
3 trying to do is now move toward the second phase, the
4 site-specific phase of the licensing process. And in
5 connection with that, there are a host of policy issues
6 that we've got to resolve. And we're going to talk
7 about those in a few minutes.

8 And the questions we've been discussing
9 here now have to do with how we are going to create plans
10 so that we know who's working out what policy issues
11 when, so that we can move forward on a number of fronts
12 at the same time and have a coordinated set of milestones
13 and tracking devices, so we can see where we are and make
14 sure that we stay on track.

15 So, that's what this last piece of
16 discussion was about and how to incorporate the various
17 plans that we have and we'll need in order to deal with
18 all of those policy decisions, and then the regulation
19 writing that's going to come right out to those, while
20 at the same time proceeding with the investigation of
21 the qualifiers who have filed applications in the Phase
22 I process. So, we've got a lot of things going on and
23 obviously need to coordinate them through these various
24 plans.

1 Okay. As long as you are here, did you
2 want to give the rest of your report?

3 MS. GLOVSKY: Right. The only other
4 things that I wanted you to know is that we have several
5 RFRs that are in process. We have one for stenographic
6 services. There's one for investigative services.
7 And in addition, on Comm-PASS we've been -- Again,
8 acronyms, ITS 43, which is a State contract for
9 temporary assistance.

10 I have posted a temp. to perm. position
11 for someone to do some research on the document
12 management software that we need to get in. Have
13 someone come in, take a look at the different options,
14 contact the vendors, help us write a procurement if
15 necessary and see where that takes us.

16 I really look at it as sort of staff
17 augmentation. It's a task that needs to be done that
18 we really don't have the resources in-house to
19 accomplish it as well as I would like it to be done or
20 as quickly as I would like it to be done.

21 Additionally, we have a posting on CEO for
22 a senior business operations specialist, which would be
23 someone that I view as coming in to work for me who would
24 be able to handle some of the accounting and information

1 technology things that we are working at.

2 We don't really have a full job in any of
3 those areas, but someone who has multiple skills and
4 talents is what we are looking at. And we seem to have
5 had a number of responses come in over the past week and
6 I look forward to reviewing those.

7 COMMISSIONER ZUNIGA: Remind us, this
8 posting is for a contract position?

9 MS. GLOVSKY: The ITS 43 is for a contract
10 position, whereas the one on CEO is for a permanent
11 position.

12 COMMISSIONER MCHUGH: How about the
13 document management position?

14 MS. GLOVSKY: That's the contractor, but
15 I posted it as a temp. to permanent position. If we got
16 someone in in a temporary position who we were happy
17 with, we would certainly consider bringing them onboard
18 to a permanent position.

19 COMMISSIONER MCHUGH: At what point in
20 that process, on the document management process, do we
21 need to create the policies that the software is going
22 to manage? Early, right?

23 MS. GLOVSKY: I think early. But in some
24 of my initial conversations with the vendors, I think

1 most of the vendors -- I've talked to two vendors. They
2 seem to have what we're looking for in general, which
3 is really an all-encompassing archive.

4 One of the things that they talk about is
5 the ability to delete stuff after a certain period of
6 time, which clearly is not something that we would want.
7 But there are rules that get set up with the
8 implementation of the software.

9 So, in some sense making sure that we have
10 a good outline of the policies, maybe not the specifics,
11 as we go into the procurement process so we can be very
12 specific about what our needs are, and then the
13 implementation of those policies in the rulemaking
14 process when the software is implemented.

15 COMMISSIONER MCHUGH: Well, I'm thinking
16 -- maybe we're talking about the same thing. I'm
17 thinking about the coding of documents so that in
18 response to a Freedom of Information Act request you can
19 easily retrieve relevant documents.

20 I'm thinking about a system that can be
21 coded to deal with the document retention policies of
22 the Secretary of State. And there are a variety of
23 other things that we will want to do even though we are
24 not required by law to do them to make our lives simple.

1 MS. GLOVSKY: Both of those options, as
2 examples, are pieces that we would have in the
3 procurement that we would need them to be able to allow
4 us to specify our own rules for putting keywords in for
5 our ability to get it back. But the systems that I've
6 looked at, in addition to allowing for that, really do
7 have the ability to do sort of a global search. So that
8 you can put in -- if a word came up that you needed to
9 go search for in response to a public records request
10 or anything else that even if it wasn't specified as a
11 key word, you would still be able to search for the
12 document that way.

13 COMMISSIONER MCHUGH: All right. And
14 that's helpful. And I'm sure we will talk further about
15 this before we go forward. It seems to me that we need
16 to think through, perhaps at a high-level, the kinds of
17 statutory and policy objectives that we're trying to
18 meet through this system. And having the specs embody
19 those objectives, self-imposed and externally imposed.

20 MS. GLOVSKY: I do view that as being
21 something that we would have in the procurement, because
22 it wouldn't do us any good to purchase a system that
23 didn't meet those requirements.

24 COMMISSIONER MCHUGH: Right. Okay.

1 COMMISSIONER ZUNIGA: I was wondering if
2 you were also thinking about what I would term
3 procedures, if you will, relative to some of the aspects
4 or attributes of systems like these? Perhaps you are
5 labeling them policy questions, but this notion of
6 meta-data or criteria that we would attach to or tag each
7 piece of documents that we possess, receive and create.

8 As part of the procurement, we need to
9 think through how we're going to go about cataloging,
10 if you will, each document to the extent that a sub-word
11 can help us retrieve that in a helpful way. Perhaps
12 that's what, maybe now we're bidding ourselves, but
13 that's also as far as I can understand it, what we want
14 to have this person help us do.

15 MS. GLOVSKY: Right. And we need to make
16 sure we have flexible ability to do that as well.

17 COMMISSIONER MCHUGH: Right. Yes. And
18 that was included in what I was talking about. But it
19 seems to me that we - And that's why I think this is a
20 discussion that I don't know when we have it, but I think
21 we need to have it among all of us. Because to the
22 extent you impose, for example, a whole bunch of coding
23 requirements on documents, they aren't going to get
24 coded.

1 So, we need to have the flexibility to
2 look for things with a minimum amount of front-end
3 loading and the kind of searching capabilities and the
4 like. But at the same time, we have to know what kind
5 of policies we are going to have to comply with to make
6 the thing work.

7 COMMISSIONER ZUNIGA: That's a very real
8 question with software. People will come in and sell
9 it that it's customizable but --

10 MS. GLOVSKY: You have to put the rules
11 in to make it customizable and that becomes the
12 challenge.

13 COMMISSIONER MCHUGH: Right, right.
14 Okay. All right.

15 MS. GLOVSKY: So, given it's my first day
16 back after six days out, that's all I have.

17 COMMISSIONER MCHUGH: Okay, great.
18 Good to have you back. Thank you.

19 MS. GLOVSKY: Thank you.

20 COMMISSIONER MCHUGH: So, that report
21 really sets the framework for the discussion that we'll
22 have for the next few minutes.

23 The next step in the Phase II process,
24 going to item 3B, the next step in the Phase II process

1 is the meeting that we'll have on October 29, a week from
2 yesterday, next Monday at the Sheraton Framingham at
3 10:00. That will be a so-called scope of licensing
4 meeting.

5 The details are posted on the website.
6 And we will have that meeting at which the gaming
7 consultants will be present. They'll explain the
8 general parameters of the Phase I process, talk about
9 the criteria for determining who qualifies are, and the
10 process that they will follow in conducting - or not that
11 they will follow, that the IEB, more about that in a
12 second, will follow during the qualification
13 investigations that are following the Phase I
14 applications.

15 So, all who are preparing to or thinking
16 about or even if they're unsure about filing an
17 application before the deadline of January 15 are
18 welcome to attend that meeting. It's open to the
19 public. It is a public meeting. So, it will be held
20 there and then.

21 And that will be followed by three days
22 of individual meetings between the consultants and the
23 individual applicants to go over specific questions
24 that individual applicants have about their specific

1 Phase I application.

2 And we'll try to resolve as many questions
3 about who has to qualify, who has to file and other kinds
4 of like questions that arise. So, those are designed
5 to help all of the applicants get off to a fair start,
6 and figure out where any difficulties lie and any things
7 and any issues that may ultimately have to be decided
8 by the Commission. But the first step are these
9 meetings to try hopefully to iron out all of those
10 problems.

11 It would be enormously helpful if anyone
12 who plans to attend next week's meeting, the big meeting
13 on Monday, would register. The registration mechanism
14 is posted on the website. And it would be very helpful
15 to us to know who's planning to attend and also to create
16 in the process a list of people for whom -- to whom we
17 can send notices if necessary as other events and issues
18 arise during the Phase I process. So, that mechanism
19 is there and people are encouraged to use it.

20 Is there anything else that we ought to
21 talk about?

22 COMMISSIONER ZUNIGA: Can I question
23 just for clarification?

24 COMMISSIONER MCHUGH: Sure.

1 COMMISSIONER ZUNIGA: These meetings are
2 available but not required; is that correct --

3 COMMISSIONER MCHUGH: That's right.

4 COMMISSIONER ZUNIGA: -- of potential
5 applicants?

6 COMMISSIONER MCHUGH: Right. Nobody
7 has to show up either at the public meeting or at the
8 individual meetings.

9 But this is the main opportunity -- Well,
10 it is the only opportunity to get an early read on what
11 applicants are going to have to do in terms of filling
12 out the RFA-1 application. Who the qualifiers are and
13 what documents are going to be required, any questions
14 or issues about the portions of the specimen documents
15 that the Commission has labeled as presumptively
16 nonpublic, all of that is open for discussion.

17 The last piece not so much discussion, but
18 is open for discussion at these meetings, and will be
19 explored at these meetings. Any other thoughts about
20 that?

21 So, that's really to get this piece, this
22 Phase I piece off to a more or less formal start. Both
23 the Phase I application for the class one and class two
24 licenses were issued last week, the class two license

1 on Wednesday and the class one licenses on Friday. So,
2 now the Commission is now in the process of accepting
3 applications for -- the Phase I applications that is for
4 all gaming licenses it is empowered to issue -- gaming
5 facility licenses it's empowered to issue. The
6 licensing period, as I said, remains open until January
7 15.

8 Okay. Item 3C focuses on the RFA-2
9 process, what comes behind the RFA-1 process. Some of
10 this is yet to be resolved. But at a high level I think
11 it's fair to say, and we can talk about that for a second
12 in a minute, that the RFA-1 deadline is January 15.
13 I've said that now three times. The investigations
14 will go on of the qualifiers for a period of time that
15 we expect to end in June. And then the Commission will
16 make a qualification decision, who's qualified and who
17 isn't qualified.

18 While that's going on, the Commission is
19 going to be engaged in preparing for the RFA-2 process
20 and to issue the RFA-2s. So, while that investigation
21 and process is going on, the Commission is going to be
22 engaged in making policy decisions that will underlie
23 the RFA-2 regulations. We'll issue another set of
24 regulations, just the way we did the RFA-1s.

1 We're hopeful that we can make those
2 policy -- research and make judgments about the policies
3 that we need to have in place to issue those regulations
4 during the month of November, try to set the policies
5 in place in early December. And then begin writing the
6 regulations that will support those policies, to the
7 extent we need regulations to do so.

8 We may be able to just create regulations
9 to -- I mean policies to stand by themselves. And then
10 the regulations themselves will be issued by June, and
11 will be available by the time the RFA-2 applications are
12 ready for issuing.

13 The idea behind thinking about and
14 deciding on these policies is twofold. One to support
15 the regulations, to give us guidance as to what
16 regulations we need to issue and to make sure we haven't
17 overlooked anything.

18 And secondly and equally important if not
19 more so, to give applicants and municipalities an early
20 view of what the policies are that are going to be
21 embodied in the regulations so that planning can
22 proceed. It's going to take us a while to issue the
23 regulations. The planning and negotiations are going
24 on now and ought to be going on now, and they ought to

1 be going on in an enlightened fashion.

2 So, we're trying by this policy creation
3 mechanism to lay out an array, a menu, if you will, of
4 policies that are going to be found in the regulations.
5 There'll be some slight changes, but the major decisions
6 we hope will be made in December so that people can plan
7 and continue the planning with some firm idea in mind
8 as to what the regulations are going to look like and
9 what's going to be required on both sides, on the
10 municipal side and on the developer side. I think that
11 covers basically what the objectives are --

12 COMMISSIONER ZUNIGA: Yes.

13 COMMISSIONER MCHUGH: -- and what we're
14 going to try to do. This is in some ways, some parts
15 of this are highly plastic because things are going to
16 change as we acquire more information. We may find that
17 and inevitably will find that additional policies need
18 to be confronted and created as we move forward with the
19 actual writing process. But at least some of the big
20 picture questions can be answered, I think, early on.

21 All right. Anything more on that?

22 COMMISSIONER ZUNIGA: No. I think it's
23 well articulated. I think that the two goal piece that
24 you articulate is very insightful in terms of how we're

1 trying to signal what's useful, if you will, for
2 potential applicants in preparing the responses,
3 because these responses, as per the statute, are going
4 to be very detailed, very rich in a lot of information
5 and a lot of due diligence and a lot of studies that need
6 to be considered if they haven't already. And that's
7 a paramount goal of everybody here.

8 COMMISSIONER MCHUGH: Anything?

9 COMMISSIONER STEBBINS: No. I think the
10 process as you've laid it out was perfectly clear for
11 anybody who's watching.

12 COMMISSIONER MCHUGH: Okay. Now item 3D
13 deals with an integral part of that process. And that's
14 the formal organization, the Investigation and
15 Enforcement Bureau. The statute provides that when the
16 applications are filed, the Commission will ask the
17 Investigation and Enforcement Bureau, the IEB for
18 short, to commence an investigation as to the
19 qualifications of the applicants. That's basically
20 the Phase I process. So, the Phase I process is in the
21 hands of the IEB.

22 And the question is first of all, how we
23 create the IEB, what formalities do we have to use to
24 create the IEB? And the answer to that is essentially

1 that we announce we've created it and appoint a
2 director. So, that is something that we are in the
3 process now of doing. There is a search on being
4 conducted by Commissioner Cameron for a Director of the
5 Investigation and Enforcement Bureau. And when that
6 person is hired, and we anticipate that will be very
7 shortly, and in any event well before the end of the
8 year, then the Bureau will be created. He or she will
9 be in charge of the Bureau. And they will have
10 responsibility for the investigations.

11 We've already had contact with the State
12 Police, who will be a component of the IEB. And if the
13 need be, we can arrange for temporary support from the
14 State Police while we're getting around to the formal
15 naming of the IEB. But in any event, we will have that
16 ready to go on schedule. I don't think there is
17 anything more we need to talk about on that item. So,
18 that's basically how we will set it up.

19 And in connection with that, item 3E
20 focuses on the enhanced ethics requirements that we are
21 required by statute to create. And that set of enhanced
22 ethics standards will apply to us. It will apply to the
23 State Police who work with us, both in the IEB and
24 elsewhere. And it will apply to the Alcoholic

1 Beverages Control Commission personnel who work with
2 us. And the Attorney General is required to create a
3 separate enhanced ethics standard to apply to the gaming
4 division that the Attorney General has set up.

5 So, we are in the process of working on
6 that new ethics standards. We had several meetings
7 already and are going to, in the process of dealing with
8 these policies that we are going to turn to in just a
9 second, meet again with the stakeholders in the ethics
10 process and have the enhanced ethics standards ready by
11 the time we're ready to move forward as well.

12 I don't know if there's anything else we
13 can say about that. Anything you want to say,
14 Commissioner?

15 COMMISSIONER ZUNIGA: No. I guess just
16 by way of -- Is there any idea as to the timeline of the
17 creation of these enhanced code of ethics?

18 COMMISSIONER MCHUGH: Well, there isn't
19 any firm timeline, but I would very much hope that we
20 could have that in place by no later than the end of the
21 year. We're going to begin and have begun a hiring
22 process. We're going to be staffing up and gearing up
23 to deal with the investigations. And I think that set
24 of standards ought to be in place in the near term. And

1 I think it can be.

2 We've had a couple of good meetings. And
3 I think we need to go back and finish up those meetings
4 and get the standards set up. So, I think by no later
5 than the end of the year we'll have that in place and
6 hopefully sooner.

7 COMMISSIONER STEBBINS: I'm assuming,
8 because you're talking about the end of the year that
9 we don't have to go through any official regulatory
10 approval.

11 COMMISSIONER MCHUGH: No. This would be
12 a policy that would be applicable to the Commission and
13 the ABCC personnel and the State Police. Each unit,
14 particularly the ABCC and the State Police may have to
15 go through some internal approvals. But that's just
16 part of the process. It's not going to take the form
17 of a regulation. It's going to be a policy.

18 And it will be published on our website
19 and part of our employee handbook. And that's the way
20 we'll create it and enforce it, I think.

21 COMMISSIONER STEBBINS: Is there any
22 benefit of putting these out for, again, the general
23 public to kind of offer their comments or thoughts or
24 opinions on it?

1 COMMISSIONER MCHUGH: I think that would
2 be a helpful process, a helpful part of the process.
3 This is designed to -- Of course, everybody on the
4 Commission is governed by the State ethics laws. So,
5 that's a given.

6 And these ethics requirements under the
7 statute are to be more strict than those. So, I think
8 that's an excellent suggestion, Commissioner. I think
9 we should put it out for at least public comment for some
10 period as we're moving forward before we finally adopt
11 it. And there'll be time to do that. So, I think
12 that's a good idea.

13 Any other discussion on that?

14 So, that brings us then to the preliminary
15 discussion of policy priorities. And in everybody's
16 packet is a list that we created, a preliminary list,
17 again with some typos. But it's a preliminary list of
18 policy areas, I think is fair to say, where we need to
19 think about policies and ultimately regulations.

20 And the purpose of that today -- We have
21 two Commissioners who are absent, and we're not going
22 to talk about any substantive policies today. That's
23 a topic that we need to talk about with the full
24 Commission. But the question arises and the discussion

1 needs to begin about how we're going to deal with, I
2 guess, several things. And maybe there's others that
3 we can talk about.

4 How we're going to deal with prioritizing
5 the promulgation of these various policies? What's
6 really important to get out there as quickly as we can?
7 What can we take more time to get out? And what can we
8 wait for as a Phase III, for example, to deal with?

9 Secondly, how do we -- And by way of
10 example, some of these policies, and let me just point
11 to a couple of examples, number one and five on the list
12 really are necessary or would be helpful and probably
13 are necessary for communities and for applicants to do
14 some planning. They need to know what our criteria are,
15 if we can publish them.

16 Some are pretty minor straightforward
17 things. Number seven deals with what kind of
18 identification will you need to buy alcohol in a gaming
19 facility. That's not one that should take very much
20 time to think about at all. The statute requires us to
21 put out a regulation dealing with that. But that's not
22 one that is going to take a lot of time.

23 Number eight is one that may not
24 temporally be important in terms of planning, but really

1 is a major policy decision on the part of the Commission
2 and will require a lot of thought and consideration of
3 the consequences.

4 So, these in the form in which they
5 currently are are not differentiated in any of those
6 fashions.

7 Secondly, how are we going to approach the
8 process of figuring out what we need to do in order to
9 make an intelligent decision on these various policies?
10 This list contains 30 some -- 34. There are others.
11 And this list builds on a list that the gaming
12 consultants suggested. There are going to be others.

13 How do we in a reasonable amount of time
14 after we've made some priorities, figure out to approach
15 these so that we get the information we need in order
16 to make an intelligent decision? And then how do we
17 announce the policies so that people understand them?
18 And how do we in the process of doing this give people
19 an opportunity at least to have some preliminary
20 comments, recognizing that they'll have another
21 opportunity during the regulation publication process
22 for most of these to submit comments the way they did
23 with the Phase I?

24 So, those are the kinds of things that it

1 would be useful to discuss today to lead into a more
2 thorough discussion at next Tuesday's meeting when all
3 five of us are together.

4 COMMISSIONER ZUNIGA: Well, I like the
5 notion of perhaps grouping or subgrouping these
6 questions in what you already started to articulate.
7 Those that have -- Where there's a lot of value to our
8 stakeholders, our potential applicants, our host and
9 surrounding communities to at least know where this
10 Commission stands, let's say, for planning purposes. I
11 think that's very important, the sooner the better.
12 While not a firm deadline, there's benefit in at least
13 articulating policy wise where we stand or our
14 interpretation of certain pieces of the statute, etc.

15 There's also others in this group of
16 questions that I see as key from a strategic standpoint.
17 And those we ought to discuss, again, sooner rather than
18 later, if you will.

19 COMMISSIONER MCHUGH: Can you give an
20 example of one of those?

21 COMMISSIONER ZUNIGA: The one that you
22 highlighted, number eight, I had also highlighted as
23 it's a fundamental approach of the Commission. It's
24 purely a discretion of the Commission, as far as I can

1 read the statute, and one that is perhaps a strategic
2 consideration, if you will.

3 It's not one that we should undertake any
4 time soon, by the way, but trying to answer, but it's
5 an important strategic consideration. And that for our
6 benefit, for the benefit of the public interest, we
7 ought to start discussing soon as well.

8 And perhaps there's another element of
9 those that could very easily or should be addressed via
10 regulation. And that can take it's parallel course.
11 We can talk about that as well.

12 I was also thinking, and I want to call
13 the attention to number four, question number four here
14 just to set a specific example around the subsections
15 in the statute that I believe are also relevant to the
16 sort of information that we will need to ask for. Not
17 only in Sections 9 -- Subsection 9, but you also start
18 -- we also articulated here on question five, Sections
19 18 and Sections 15. And I would pose that Section 1
20 where all the paramount goals of the chapter are also
21 articulated.

22 So, if we could think of a process of
23 distilling the amount or the type of information that
24 we will require, either in the form of a question or in

1 the form of a document that will help this Commission
2 address all those goals Section 1, 9, 15, 18, I think
3 that may be a worthy initial goal to start to put our
4 arms around all of the information that will either be
5 asked by virtue of the RFP that we will conduct for these
6 licenses or because we are referencing key pieces of the
7 statute.

8 COMMISSIONER MCHUGH: So, what we're
9 talking about here is with respect to Sections 9, 15 and
10 18 of the statute, they all lay out a series of criteria
11 that have to be in the application that we have to use
12 as a criteria for making a licensing decision and the
13 like. But these sections also say that the Commission
14 can add other additional criteria or information that
15 they want in the application or that they can take into
16 account in issuing licenses.

17 So, the question is how do we do that.
18 And Section 1 is sort of the general aspirational
19 section that talks about what the statute is suppose to
20 achieve. And your suggestion is that we think about a
21 document in which all of these things can be
22 encapsulated.

23 COMMISSIONER ZUNIGA: To start putting
24 specificity to -- Some of those questions in those

1 sections are broad. And others perhaps just by the way
2 they were drafted are very narrow. I can probably get
3 into examples, but I believe it would be a worthy goal
4 to start adding a level of specificity as to what this
5 Commission would want to ascertain in terms of
6 applicants for many of all those sections.

7 Can I give one example, because I think
8 this may be sort of illustrative of what I was
9 specifically thinking about. In one of the sections,
10 I believe, Section 15, the applicant is required to
11 provide to this Commission the number of construction
12 hours that the project will require. And I would pose
13 that that's very useful information, but there's a much
14 more important level of detail that we should consider
15 that go along what I believe is intended in that
16 question. And that is if there is any kind of
17 pre-assembly use of materials from other states, let's
18 say, where the number of construction hours in
19 Massachusetts versus another state starts to make a
20 difference.

21 COMMISSIONER MCHUGH: So, we don't get
22 some prefab. casino?

23 COMMISSIONER ZUNIGA: That's right.
24 So, that we understand -- If the intention behind that

1 question is to ascertain just how much construction jobs
2 are going to come to Massachusetts, we should not just
3 ask the construction hours but how much of
4 pre-assembling somebody may be thinking about.

5 Or describe for us the type of hours, what
6 are they considering behind their sum of the total
7 hours. And this is just a specific example as to while
8 some of those questions in the statute seem to be very
9 straightforward, there are examples where the paramount
10 goals should be overlaid to allow us to get to that
11 specific information.

12 COMMISSIONER MCHUGH: Right. How do we
13 in a thorough and thoughtful way figure out what those
14 kinds of things are? Some we will by virtue of our
15 backgrounds and experience will know and think are
16 useful. But that's not enough, it seems to me.

17 So, how do we in a rigorous way go about
18 figuring out say what additional information we should
19 require beyond that specified in the statute and defined
20 by us in the way you've just described, we should require
21 in the application? How do we approach that task?

22 COMMISSIONER ZUNIGA: I think that may be
23 part of what question 20 in this document started to
24 address, in my opinion. That we should also ponder

1 perhaps with the full Commission soon enough, which is
2 what level of expertise will we need or we'll have to
3 rely on for key aspects of the evaluation of these
4 proposals.

5 COMMISSIONER MCHUGH: That's on the
6 back-end though. We're on the front-end now. So, we
7 may well need the expertise, similar kinds of expertise
8 on the front-end, right?

9 COMMISSIONER ZUNIGA: Or at least a
10 preliminary piece of expertise. Don't forget to ask
11 this question. If you're going to require a financing
12 model, these are the parameters that will help us review
13 the financing structure. So, a financial advisor may
14 be incumbent upon us to start procuring or thinking
15 about procuring, if that's where we want to go.

16 COMMISSIONER STEBBINS: I like this
17 approach of trying to couple questions together. Ones
18 that pertain to host communities or surrounding
19 communities, try to make groupings of these policy
20 questions as we go along. And to the point of, you
21 raised the question or the comment about, question
22 number eight of it's more of a fundamental approach.
23 It's not necessarily something that we need to
24 necessarily lay out in regs.

1 But I also think those types of questions
2 are important for us to get public feedback on as part
3 of this hearing process. But to get to, Mr. Acting
4 Chairman, your point, where do we find the expertise,
5 the knowledge around this? I think we only -- in some
6 cases we can look to the people that we've heard from
7 at the variety of public forums and public hearings that
8 we've had, because I think a lot of their expertise could
9 be drawn in to talk about these questions.

10 Planning agency types who addressed us on
11 community mitigation issues. To the extent that we
12 have questions about policies related to addressing
13 compulsive gambling needs, we have kind of collected a
14 farm team of people that have offered their opinions and
15 advice already. Maybe giving them an opportunity as
16 part of this broad discussion, giving those folks an
17 opportunity to kind of look at these questions and lay
18 them out.

19 We know we've talked to experts in gaming
20 enforcement from other states and other jurisdictions.
21 Inviting their feedback, because we know more than one
22 of them have stood up and said, here's my number. Call
23 me if you have any questions and we can ever be of any
24 assistance.

1 I don't think we necessarily need to
2 shuttle those people back and forth from where they are,
3 but giving them a chance to - Again, couple all of these
4 questions by categories or topics and put them out there
5 to a lot of the people that we've already heard from who,
6 in my mind, give us a lot of a great insight from the
7 forums that we've already conducted.

8 COMMISSIONER MCHUGH: I think that makes
9 sense. And then we have, of course, the gaming
10 consultants. We have more people that we've met at
11 these various conventions that we are going to.

12 I wonder if it makes sense once we get our
13 view of the policies we need to encounter and define and
14 set, to make sure we haven't overlooked something, if
15 we post the policy questions that we think are
16 irrelevant (SIC) on the website to get public input and
17 input from the applicants as to things they're uncertain
18 about that they'd like to have us define policies around
19 before we finish that part of the process.

20 It seems to me the questions that exist
21 probably exist right now and they're either on this list
22 or they could --

23 COMMISSIONER ZUNIGA: -- be added to it.

24 COMMISSIONER MCHUGH: -- be added to it

1 very quickly and then we could proceed. There are 34
2 of these things. Our plan, at least in very loose form,
3 is to spend -- I think our plan, it's not like we have
4 a plan with any fixed contours, is to spend November
5 really working our way through the research that's
6 necessary to deal with educating ourselves about what
7 the content of these policies ought to be.

8 And then to spend the early part of
9 December actually working on the policies in these
10 meetings, a series of these meetings.

11 How should we organize the work that needs
12 to go into the education process so that we can create
13 a base of knowledge we need in order to make intelligent
14 policies? Would it make sense, for example, to divide
15 these up in some fashion and assign some to each
16 Commissioner to be primarily responsible?

17 COMMISSIONER STEBBINS: I think there
18 are obviously questions in here and policy questions in
19 here that are going to be of particular interest to
20 communities. There are going to be policy questions in
21 here that are going to be of interest to everybody as
22 well as our license applicants.

23 You're going to also find a group of
24 questions in here, which I think you alluded to earlier,

1 are going to be in kind of a Phase II. If we think we
2 have all of the pertinent policy questions from the five
3 Commissioners, and I know I've added just a couple on
4 the end, let's take a crack at trying to couple them and
5 how we would categorize them.

6 Then if we do assign -- It would be great
7 if we wound up with five categories, but begin to think
8 of people we would want to make sure are at the table
9 as we kind of do this research, as well as turn to our
10 consultants and see what thoughts they might have on the
11 people that we definitely want to hear from, the
12 research that's been done.

13 We've talked about the benefit of us being
14 the 38th jurisdiction to incorporate gaming. A lot of
15 these question have probably been answered by somebody
16 somewhere.

17 COMMISSIONER MCHUGH: Right, right,
18 right.

19 COMMISSIONER ZUNIGA: I would agree that
20 the pragmatic way to go about that comes to mind is to
21 divide and conquer. There's multiple constituencies
22 here, research, case studies from other jurisdictions,
23 stakeholders here in the State, varying levels of
24 expertise at the Commission but a growing staff, which

1 will make things a lot more helpful.

2 But just by virtue of our own process, we
3 ought to think about who can take the lead in some of
4 these areas to the extent that they could be discreet,
5 if you will.

6 Without a doubt or perhaps without
7 saying, the only mechanism is to come back to these
8 meetings and discuss and update and reconsider or report
9 back. And that's good. And that's the design, the
10 intended design. But I think that I see no other way
11 but to try to divide amongst ourselves in one shape or
12 form.

13 COMMISSIONER MCHUGH: Yes. I think
14 that's right. And I'm struggling with how we advance
15 the conversation so that we don't just repeat this
16 conversation next week when the others are back, given
17 the constraints of the open meeting law. We want to
18 obviously comply with that. And yet it's important to
19 take what we've done here and take it to the next step.

20 As I'm listening, I'm hearing a consensus
21 among the three of us at least, I think, that we ought
22 to group these in some fashion. We ought to assign the
23 lead on various groupings or parts of groupings to
24 people to be the lead investigator. And that we ought

1 to get some input from the public as to things that we're
2 missing and get our own input as to other policies that
3 we need to consider.

4 And it would be ideal, it seems to me, if
5 we could come back next week with a revised document that
6 contained some groupings, some tentative assignments.
7 Maybe that's not possible. But at least some groupings
8 and priorities so that we could then spend the next week
9 thinking about who was going to do it and whether it was
10 complete.

11 Perhaps it would be worthwhile to
12 designate Director Glovsky to be the repository of
13 suggestions. And then have a revised document come
14 based on those suggestions for the next meeting.

15 Director Glovsky, is that something that
16 you have the time and capacity to do?

17 MS. GLOVSKY: Yes.

18 COMMISSIONER MCHUGH: Then we can talk a
19 little bit about how mechanically to do that. But that,
20 it seems to me, will take this discussion one step
21 further. And in that process any additional policy
22 suggestions that aren't here could be added to the list
23 we send to Director Glovsky. And then suggested
24 groupings could be done. And then we could have that

1 document back as the next step.

2 And by then I think we could have
3 something that is ready to both make assignments and get
4 moving on what we need to do. Plug into the consultants
5 with a comprehensive list and then post that list right
6 away so that we can get comments to anything that's
7 missing up front so that we still have time to do it
8 within the month we're going to set aside to do this.
9 Does that makes sense?

10 COMMISSIONER STEBBINS: That approach
11 sounds great.

12 COMMISSIONER ZUNIGA: That makes sense.
13 I would agree with that.

14 COMMISSIONER MCHUGH: Let's follow that
15 out and see if we can't get all that information from
16 the three of us to Director Glovsky soon and get that
17 process started.

18 For anybody that's watching or has the
19 document now, we'd welcome comments as to policies that
20 are missing and need to be resolved on the strength of
21 what you see here. So, you don't have to wait until we
22 take that next cut and do the posting. But at MGC
23 comments, the normal place for making comments, we would
24 welcome any comments anybody has on that score right

1 now. Okay.

2 Anything more on this topic then? Okay.

3 Let's then move to item four on the
4 agenda, which is administration. The first item there,
5 we've already had 4B, the report from the Director of
6 Administration.

7 4A is personnel searches. I think we
8 don't have to spend much time on this. We have four
9 searches, four searches in addition to the ones Director
10 Glovsky talked about, in progress now. A search for the
11 Executive Director, which is well in progress. A
12 search for the head of the Investigation and Enforcement
13 Bureau, which also is well in progress. General
14 Counsel search is well in progress. An intern or fellow
15 starting lawyer search is well in progress.

16 We welcome Danielle Howe (SIC), who is the
17 latest addition to the Racing Division, who's here to
18 assist Director Durenberger and Commissioner Cameron
19 with those duties. So, it looks like all of those
20 people will be in place well before the end of the year.
21 And then we can move forward from there.

22 Any other things we ought to be thinking
23 about in that area? Okay.

24 So, we could have now item five, which is

1 the first report from our new Director of Racing.

2 DR. DURENBERGER: Thank you, Acting
3 Chairman. Good afternoon, Commissioners.

4 COMMISSIONER STEBBINS: Good afternoon.

5 COMMISSIONER ZUNIGA: Good afternoon.

6 COMMISSIONER MCHUGH: Good afternoon.

7 DR. DURENBERGER: I apologize for not
8 being with you last week. I was in Kentucky attending
9 a Welfare and Safety of the Racehorse Summit with a
10 number of other directors in equivalent positions from
11 other racing commissions. I picked their brains to the
12 fullest extent possible and told them what your plan was
13 for the Racing Division within the Commission.

14 There were a few panels of interest. One
15 was implementing safety initiatives. And I will have
16 a report to you by the end of the week, if not sooner
17 on that.

18 COMMISSIONER MCHUGH: Safety, can I just
19 interrupt you there?

20 DR. DURENBERGER: Absolutely.

21 COMMISSIONER MCHUGH: Safety
22 initiatives for racing participants, is that the main
23 focus of that?

24 DR. DURENBERGER: Yes, both the horse and

1 the other participants, jockeys and drivers and others
2 who are involved at a more peripheral level but still
3 involved.

4 COMMISSIONER MCHUGH: Right. Was there
5 discussion about the health, does the health of the
6 horses fit into the safety piece or is that a separate
7 topic?

8 DR. DURENBERGER: It absolutely does.
9 And at the Commission level, the policies that are
10 implemented, whether it be granting occupational
11 licenses to the people that take care of the horses all
12 the way to the post-race testing of horses that have won
13 or have not won when they were expected to win, a lot
14 of the policies and regulations that the Commission
15 would put in place directly affect the safety and
16 welfare of the horse.

17 COMMISSIONER MCHUGH: All right. I'll
18 look forward to seeing that report.

19 DR. DURENBERGER: I did spend Monday at
20 Suffolk Downs viewing operations of the former SRC
21 staff, now under DPL, and just visited the racetrack to
22 see on a live racing day. I'll be doing the same at
23 Plainridge on Thursday. I will also be stopping by the
24 Raynham facility to meet with the people there.

1 We are in the process of finalizing a date
2 and time for the working group, which will be a
3 conglomeration of interested stakeholders that are
4 going to give us some input and feedback as we move
5 forward.

6 COMMISSIONER MCHUGH: This is a working
7 group to think at a high level about best practices and
8 the like?

9 DR. DURENBERGER: Absolutely, yes, and
10 to fill us in a little bit. Many of us in the Racing
11 Division are maybe new to the Commonwealth or at least
12 have not been involved in racing in the Commonwealth.
13 So, they can help point out some areas that may be blind
14 spots for us or give us a different perspective than what
15 we've seen at the 50,000-foot level, as you say.

16 COMMISSIONER MCHUGH: Right.

17 DR. DURENBERGER: So, that'll be coming
18 up very soon. There's going to be a number of those
19 meetings. They'll be going. And we welcome all
20 comers, but if there's going to be any sort of
21 deliberation, we recognize we'll have to narrow the pool
22 a little bit. So, we'll be asking for sort of a delegate
23 from each stakeholder group to attend the meetings on
24 an ongoing fashion.

1 Then Commissioners, as you know, the
2 Gaming Act, Section 104 mandates that there's a review
3 done of the pari-mutuel and simulcast law. I'm pleased
4 to report that David Murray has signed on on a project
5 basis to help us do that. Ms. Danielle Holmes, which
6 you introduced earlier, she has signed on as a legal
7 assistant with the Racing Division at this time.

8 That review basically started in earnest
9 yesterday. They are pouring over the statute. So,
10 we've just begun there. The charge is to evaluate the
11 statutes for efficacy and if there's any need to replace
12 going forward. That report is actually due by the end
13 of the year. So, there is a sense of urgency there.
14 But I have no doubt that we'll be able to slog through
15 it.

16 COMMISSIONER MCHUGH: Great, great.
17 Any questions, comments? It sounds like you're off to
18 a great start. So, the implementation of the best
19 practices I know is something that Commissioner Cameron
20 has been very interested in in the beginning, and I know
21 you are as well. No reason that the racing in the
22 Commonwealth can't be at the par, if not better than
23 racing elsewhere. And this comprehensive review of the
24 pari-mutuel statutes will be very helpful, I think, and

1 may even result in statutes that one can understand,
2 which would be an enormous step forward.

3 DR. DURENBERGER: I would just like to
4 add I think it's very timely. There are a number of
5 commissions in the country that have been forced to sort
6 of react to things. And I think being proactive, in
7 fact that was the theme of the Welfare and Safety Summit
8 was prevention instead of reaction. So, I think that
9 this is an excellent opportunity to ensure that
10 everything that is a very good structure in place going
11 forward.

12 COMMISSIONER MCHUGH: Great, great.
13 Good. Thank you very much. Okay. The next agenda
14 item is public education and information. And the
15 first issue there is item a-i of questions posed by the
16 City of Chelsea after one of our public forums in August,
17 I believe. And these answers we presented in draft at
18 an earlier meeting. The issue is a familiar component
19 of our agenda. And we finally have some answers that
20 I've distributed and I'd welcome any comments from my
21 colleagues.

22 The first question is the only one that
23 I'm going to spend any time on. And that is that there
24 is a fund created by a part of the gaming legislation

1 that's in Chapter 29 Section 2EEEE. A number of funds
2 were created in the expanded gaming legislation.

3 The money from the gaming revenues goes
4 into a big fund. It gets put from the big fund into a
5 series of smaller funds. And from the smaller funds
6 distributed to various people, entities, groups in
7 various ways.

8 The fund described in Chapter 29 Section
9 2EEEE is one of those funds. It's called a local
10 capital projects fund. The difficulty with that is
11 that although the statute prescribes the money that goes
12 into that fund, there is no description of how the money
13 gets out of the fund. And as a consequence, at the
14 moment at least, it's simply a receptacle for funds that
15 will sit there.

16 So, we tried to determine whether the
17 Comptroller had some understanding of how the money was
18 to come out, whether this was tied into some portion of
19 other legislation, perhaps it wasn't codified that we
20 were unaware of, but we've come to a dead-end there.
21 So, we've got to do more work on trying to find out how
22 that money comes out. Perhaps ask for a legislative
23 correction.

24 Perhaps in a bill of this magnitude it's

1 not unusual to find someplace where something was just
2 left out and particularly in the waning moments of the
3 session. And if so, we'll look for some legislative
4 correction and direction.

5 It's not essential now because nothing
6 happens until there are gaming revenues. There won't
7 be gaming revenues for awhile. Plenty of time to fix
8 this. But there is no answer now to what money comes
9 out of that fund.

10 The others we've revised the answers in
11 accordance with some comments that were made the first
12 time we talked about them. And I think they're ready
13 to go as we prepared to -- Any comments on those?

14 COMMISSIONER ZUNIGA: No. I think we
15 reviewed them before. I think you articulated well the
16 issue with question one. But I think the response
17 essentially addresses just that. So, I think it's good
18 proposed answers to these questions.

19 COMMISSIONER MCHUGH: All right. I
20 think given the length of time that they've been pending
21 and given the fact that they do embody policy decisions
22 by the Commission, I think I would ask for a consensus
23 at least, I don't think we need a formal vote, that these
24 are answers that we can deliver to City Manager, Jay Ash,

1 on behalf of the Commission. And then post them as part
2 of our frequently asked questions and they embody
3 policies that the Commission is prepared to -- that the
4 Commission embraces and is prepared to proceed with.
5 So, I take it we have that consensus of all
6 Commissioners?

7 COMMISSIONER ZUNIGA: Yes.

8 COMMISSIONER STEBBINS: Yes.

9 COMMISSIONER MCHUGH: All right.

10 Request from regional groups. Commissioner Stebbins,
11 that item seems aimed at a follow-up perhaps to the
12 discussion we had at the last meeting from the regional
13 tourism group. And just to make sure that we had put
14 a cap on that discussion, I think that's why it's on the
15 agenda. Is there anything you want to discuss in
16 connection with that?

17 COMMISSIONER STEBBINS: No. I know we
18 discussed it at actually I think at the meeting on the
19 ninth. And in reviewing those minutes, I think the
20 Chairman said since the letter had been addressed to
21 him, he was going to address a reply back to the
22 convention and visitors bureau that reflected kind of
23 our current thinking on the issue, obviously, with more
24 to come as Phase II regulations get rolled out.

1 COMMISSIONER MCHUGH: Yes. The issue
2 there really is how many individual agreements will the
3 Commission require in the course of the licensing
4 process. And that will be something that we need to
5 take up as part of the policy decisions. Not only how
6 many agreements to require, but even if you don't
7 require an agreement, how do you protect a variety of
8 interests that the statute protects.

9 So, the formal response is in the
10 Chairman's hands, but the policy underlying the
11 question will be addressed as we progress with these
12 policies during the next month. Okay.

13 The next item 6B is the United Auto
14 Workers Workplace Safety presentation. That was
15 scheduled for today. We invited them to join us at
16 their request. But through some issues beyond their
17 control, they couldn't join us today. And I think we're
18 going to have them at a future meeting.

19 And that bring us to item 7, the research
20 agenda. Commissioner Zuniga, that's in your court.

21 COMMISSIONER ZUNIGA: Yes. I can
22 provide a little update for some consideration, perhaps
23 discussion or just for information. Chairman Crosby
24 talked a little bit about this last week as we were

1 plowing through the very thoughtful and sometimes a
2 little lengthy responses that we obtained to our request
3 for information as to how to go about implementing the
4 mandates in the statute relative to research and the
5 research agenda.

6 I would encourage all the Commissioners
7 to read through some of the questions or the questions
8 and the responses.

9 But I will summarize that there are two
10 perhaps competing themes here or two broad themes within
11 these responses. On the one hand, there's this
12 realization about measuring social and economic --
13 especially social impact of problem gambling is
14 difficult. The field is new. Some of the research
15 done to this effect is inconclusive.

16 There's a fundamental difficulty because
17 as per one of the responses, at least 96 percent of the
18 people with problem gambling have some other kind of
19 addiction or behavioral problem. So, that essentially
20 has this comorbidity problem, if you will, as to how to
21 isolate the problem of problem gambling being really
22 difficult.

23 Some of the other difficulties have to do
24 with the low prevalence of the general population. So,

1 ascertaining, identifying changes in behavior is a real
2 challenge. It has to be done with -- The usual methods
3 of surveying have to be complemented with other indirect
4 methods. And that's almost by definition a real
5 challenge.

6 On the flipside, the legislation is very
7 specific relative to and very clear relative to our
8 mandate. And we are in a unique opportunity to really
9 do this research and think about it when it matters the
10 most, which is prior to the introduction of casinos in
11 Massachusetts. So, not only is the statute
12 prescriptive but also it gives us the funding. So, we
13 have a funded mandate, if you will, which again we have
14 to act on.

15 So, with that background, again I would
16 encourage you to at least focus on all of the
17 respondents' answers to the first question, which was
18 our question as to the general recommendations. And
19 everybody who responded is a very good writer by their
20 own merits and they articulate and summarize those very
21 well.

22 One of the things that I would say is also
23 a common theme is this notion of implementing a rigorous
24 peer-review procedure, if you will, in all of the

1 research that this Commission will eventually either
2 conduct or cause to conduct. Again, that's also a very
3 important theme. And a clear recommendation that all
4 policy decisions be made with this in mind that all
5 research will be peer-reviewed and published in
6 reputable science journals.

7 But we also need to start thinking about
8 our immediate next steps because timing will soon be of
9 the essence. This baseline study we understand that it
10 could take anywhere between a year or a little bit more.
11 And there is a report due to the Legislature by the end
12 of 2013 with the findings of that baseline study,
13 essentially. So, we need to move soon.

14 And as part of our next steps, we need to
15 think about whether we conduct an RFP. And if so, what
16 do we conduct it for? And there's a particular piece
17 that I wanted to sort of highlight. Some of the
18 recommendations here recommend that we establish a
19 research bureau or a research center and we fund that,
20 of course.

21 And that bureau, perhaps not unlike the
22 investigations bureau, whether it's partially staffed
23 by somebody working for the Commission or it's
24 contracted out with a research institute, that bureau

1 becomes the repository and the project management type
2 organization for all of the research that is either
3 conducted there or commissioned out of there, and then
4 peer-reviewed out of that. So, how we go about creating
5 or requesting a response for that bureau is one of our
6 immediate next questions or next steps.

7 There's also this other idea relative to
8 a scientific advisory panel. Although the legislation
9 has this gaming -- establishes this gaming policy
10 advisory committee, that committee will be likely an
11 unpaid committee that will come together perhaps at
12 different times.

13 But there is a recognition or there's a
14 case to be made that this process may be very well served
15 if we have some kind of scientific advisory committee.
16 And the question becomes -- separate from this gaming
17 policy advisory committee. And the question becomes
18 whether that should be a compensated committee or not
19 because there could be some real hours, if you will,
20 spent in analyzing the processes and the research that
21 will take place as part of this effort.

22 So, those were two very large questions
23 initially that we thought. I just wanted to kind
24 mention and kind of throw out there. We will have to

1 ponder them soon if we decide to request in the open
2 procurement mode, a request for proposal for this
3 research bureau. Or whether we may want to enter into
4 an ISA let's say with the likes of the University of
5 Massachusetts because they are like ourselves an
6 instrumentality of the Commonwealth.

7 COMMISSIONER MCHUGH: We have to produce
8 a report that we can convey to the Legislature by the
9 end of next year, right?

10 COMMISSIONER ZUNIGA: Correct.

11 COMMISSIONER MCHUGH: And if we
12 contracted with somebody or entered an ISA with somebody
13 to do the research that was necessary to file that
14 report, and decided to have a research bureau of our own
15 of some kind, we could build the research bureau on top
16 of whatever substantive knowledge that report produced,
17 right?

18 COMMISSIONER ZUNIGA: Absolutely.

19 COMMISSIONER MCHUGH: In other words, we
20 wouldn't have to have the bureau there in order to
21 produce this report. Again, thinking about priorities
22 and overall things. And could we identify a number of
23 -- This report is a comprehensive report, much broader
24 than problem gaming, although problem gaming is a piece

1 of it. Are there things that we could identify that we
2 want tracked, just seven or eight or 10, 15 things that
3 we want to track that are not subject of the
4 comorbidities and things like that that would be at
5 least be something that we could get started with? Does
6 that theme run through these reports as well?

7 COMMISSIONER ZUNIGA: Yes.

8 COMMISSIONER MCHUGH: In other words,
9 here's a concrete example. If you wanted to look at
10 housing prices, if you wanted to look at traffic
11 patterns, if you wanted to look at education
12 requirements in surrounding communities, those kinds of
13 things. Those are things that as to which really hard
14 metrics are available right? You could create a
15 baseline now in those areas without, he says naïvely,
16 much difficulty.

17 COMMISSIONER ZUNIGA: Yes, yes. And the
18 challenge becomes perhaps determining -- figuring out
19 what those variables are. The variables that we want
20 to measure and make part of this baseline that we in the
21 future may come back and check against as to a
22 differential, what those variables may be. And to the
23 extent that we load up the cart with more and more, the
24 more difficult and expensive that it gets, perhaps to

1 state the obvious.

2 But there are some, if I may, some that
3 maybe very straightforward, housing starts or housing
4 stock in a particular community, vacancy, just to keep
5 on the issue of housing. They are publicly available
6 already or readily available.

7 But there are by virtue of some of the
8 other variables, there are some difficulties
9 particularly when we get into social costs or some of
10 the other at various impact. That starts to get
11 challenging quickly because of this compounding or
12 comorbidity, and also this low prevalence, if you will,
13 when it comes to the general population.

14 I'll perhaps expound a little bit. The
15 general methods of surveying are more and more
16 challenging. Because of technology, caller ID and cell
17 phones, what used to be a very reliable telephone survey
18 approach actually as late as 1996, as I understand it,
19 is radically changed in the last few years.

20 I myself don't answer almost anything
21 that I don't recognize in the caller ID at home. And
22 I'm perhaps one of the few that still have a landline
23 among my friends.

24 COMMISSIONER STEBBINS: That's why you

1 won't return my calls.

2 COMMISSIONER ZUNIGA: I may now, by the
3 way, I may now answer more surveys. So, the methods
4 have become increasingly by necessity more
5 sophisticated but sometimes more indirect. So, email
6 surveys, there's usually -- and there's a competing
7 time, the more questions that you ask, the more that you
8 really lose your audience, again, as we understand it.

9 So, the reliance has been more and more
10 on indirect methods. Just to stay on the problem
11 gambling, the use of services, the number of calls. The
12 amount of people that enter self-exclusion programs,
13 etc. that the differential across time on some of those
14 services become a big factor in determining, again,
15 incidents and impact. None of which help us with the
16 baseline study, which is essentially what we are -- I
17 shouldn't say none of which helps us, helps us in a
18 limited way as we are trying to ascertain this
19 longitudinal study starting with a baseline.

20 COMMISSIONER MCHUGH: So, that's the
21 kind of thing you mean by trying to measure the social
22 cost, not the social cost of traffic jams.

23 COMMISSIONER ZUNIGA: Right, well the
24 presence of a casino.

1 COMMISSIONER MCHUGH: Right.

2 COMMISSIONER ZUNIGA: There's also even
3 some dispute among the research community as to what
4 constitutes a social cost and purely a transfer. I'm
5 just going to repeat one of the examples. If I steal
6 from my wife is that a transfer or a social cost, which
7 sounds kind of silly when one ponders it but --

8 COMMISSIONER MCHUGH: I'd have to ask
9 your wife.

10 COMMISSIONER ZUNIGA: Well, but it's the
11 level of thinking that comes to what exactly constitutes
12 a social cost.

13 COMMISSIONER MCHUGH: So, how do you --
14 We can't do it today, but is there an approach to trying
15 to deal with this that you think we could use? By this,
16 I mean trying to decide what it is we want to measure
17 or how we want to approach the creation of a measurement
18 process so we can take the next step? Because that's
19 another thing we've got to do before the end of the year.

20 COMMISSIONER ZUNIGA: Yes. Perhaps if
21 there's any insight as to all of this very complicated
22 questions, I got to think because there is all of these
23 difficult questions maybe that really merits this
24 notion of the research bureau. Something that we fund

1 that is outside of -- And I use that term perhaps
2 loosely. -- that resides elsewhere from this
3 Commission. And that will be staffed or will be funding
4 people who have been thinking about this for a lot more
5 years than we have.

6 And they themselves could be the ones
7 thinking as to how to go about requesting proposals,
8 funding specific elements of the research or measuring
9 specific questions for going about and researching
10 specific dimensions. That may be the best way to go.

11 Pragmatically, because this could be a
12 very lengthy or a very long effort, that could bode well
13 to entering into an ISA with someone like the University
14 of Massachusetts, because it's again a sister agency in
15 some degree. An agency that will be here for a lot
16 longer and it could be one thing to consider.

17 But that doesn't take away from our
18 ability to issue an RFP, let's say, and to rethink who
19 may be our research bureau. We don't have to have a
20 research bureau, the same one, year after year.

21 COMMISSIONER STEBBINS: Give me some
22 clarification as to this scientific advisory panel.
23 Are those people that are the peer-review for our
24 results or are these people that look the methodologies

1 by which we're evaluating and assessing the
2 information?

3 COMMISSIONER ZUNIGA: It could actually
4 be either or both. In other words, the peer-review
5 discipline could be at the advisory level for everything
6 that the bureau conducts or at the individual level for
7 each of the studies to perhaps simplify. And I guess
8 that's a question that we ought to consider.

9 COMMISSIONER STEBBINS: Getting back to
10 your piece of how people conduct -- gather information
11 anymore, I would have to think that there are folks in
12 the private sector, even as we are in the final weeks
13 of the presidential campaign, there are strategic
14 processes that those folks are using to identify their
15 market and get feedback from those people in the market
16 through social media means, through online things,
17 through looking at what you subscribe to, I mean, any
18 number of factors.

19 I mean it might be interesting to kind of
20 build those people into the mix as well to make sure that
21 the information we're gathering is correct, not just how
22 we're assessing the information.

23 I think it's critical to have this
24 conversation, obviously, with DPH, since they are going

1 to be in charge of the research fund. And maybe they
2 may give us thoughts on a research bureau idea, but have
3 you entertained that conversation?

4 COMMISSIONER ZUNIGA: Oh, yes, yes.
5 Chairman Crosby has had some discussions, of course,
6 this is all in conjunction with them.

7 The way the statute gives us the authority
8 to dictate and be as prescriptive as we may want in terms
9 to DPH relative to that research agenda. So, we could
10 be very prescriptive. We could be very involved or we
11 could be hands off. Again, that's a major policy that
12 we ought to start thinking about.

13 COMMISSIONER STEBBINS: In terms of the
14 gaming policy advisory committee, and obviously some of
15 the seats are pretty prescriptive as to who has got to
16 sit in those seats, should we be looking at recommending
17 to some of the appointing authorities the types of
18 people, as opposed to you get five seats. We can tell
19 you from what we look at our future needs to be, it would
20 be great if there was somebody who was -- had a
21 background in research.

22 Maybe that gets us around the scientific
23 advisory panel and it stands up that our gaming policy
24 group if they're going to offer their research agenda

1 or give direction to our research agenda every year that
2 maybe we urge or recommend that some of the slots that
3 may not be as prescriptive, give us an opportunity to
4 say it would be great if somebody from this type of
5 background was sitting in one of your appointments.

6 COMMISSIONER ZUNIGA: It's an
7 interesting thought. I kept thinking about how to
8 integrate or whether it should really just be one.
9 Perhaps we appoint one advisory or policy committee, if
10 you will.

11 But I know Chairman Crosby has had some
12 initial discussions, from what I understand, as to the
13 necessity of forming this advisory group, the gaming
14 policy advisory group sooner rather than later.

15 Now as to whether he's been thinking that
16 we should try to suggest profiles of the people who
17 should be there, I don't know, but that's an interesting
18 suggestion.

19 COMMISSIONER STEBBINS: Just in order to
20 kind of not have to create another entity, but I still
21 see the argument of the professional help may be one that
22 we only turn to once a year and it may have to come at
23 an expense.

24 COMMISSIONER ZUNIGA: If I'm not

1 mistaken, the gaming policy advisory group is broad.
2 And there is a subcommittee that's particularly
3 dedicated to the research question. So, while the
4 appointing authorities have broad discretion as to who
5 may be at the gaming policy advisory committee --

6 COMMISSIONER STEBBINS: -- some of the
7 small subcommittee appointments could be more
8 prescriptive.

9 COMMISSIONER ZUNIGA: -- could have more
10 prescriptive, right. So, perhaps that's kind of
11 compromise.

12 You reminded me of something that I want
13 to highlight, which is the response from the MIT was very
14 narrow, but very insightful. It talks about something
15 that is going to be tremendously helpful to this
16 Commission, which is how we are going to contract with
17 a nonprofit, and there's different ways to go about
18 doing this, will anonymize proprietary data of the
19 casinos and provide us with behavioral patterns to
20 inform problem gambling. And that's a particular
21 section in the legislation that must have had a lot of
22 study. And is something that again I will call your
23 attention because it's if nothing else, it's very
24 interesting.

1 It's a little for later, because it
2 doesn't really happen to have much direct correlation
3 to the baseline study. It comes as to how we then
4 collect data of behavior. That's going to be a very
5 important wealth of data that will help with all of these
6 problem gambling effort and even social impacts
7 perhaps.

8 COMMISSIONER MCHUGH: I am listening to
9 this discussion thinking that there is, and this isn't
10 any enormously insightful comment, a real divide
11 between the kind of soft social cost analysis. I mean
12 the soft in the sense that you don't have hard metrics
13 to deal with. And it's really hard to figure out how
14 you go about measuring that. Figuring out how to
15 measure that in and of itself is a project. And on the
16 other hand we have stuff that can be measured and that's
17 there.

18 Is there a way to get the stuff that has
19 hard metrics available to measure it by started while
20 we figure out the softer -- how to approach the softer
21 things?

22 I'm concerned a little bit about
23 establishing the baseline and the need to do so in order
24 to get helpful statistics before the construction

1 actually starts. Because the fact that the
2 construction starts, maybe the fact that the
3 construction start has been announced begins to change
4 some things in the way of housing patterns, perhaps, a
5 variety of different things. And the problem gambling
6 piece and the impact of the problem gambling piece and
7 separating out all of the comorbidities, is going to
8 take place a little bit farther down the road.

9 And so if we don't bifurcate the process,
10 we may lose an opportunity to get the really reliable
11 baselines we need in order to measure some things while
12 still having an opportunity to figure out how to measure
13 the other things later with an equally accurate baseline
14 that's not going to be affected by the announcement that
15 a gaming license, a gaming facility is going to go
16 someplace. Is that something that might be worth
17 thinking about?

18 COMMISSIONER ZUNIGA: Yes, absolutely.
19 To the extent -- and I keep thinking of this notion of
20 a survey. And it should not be thought of as an
21 all-encompassing, which is perhaps what you're alluding
22 to.

23 To the extent that the baseline study is
24 only envisioned to be a survey that will have however

1 many variables that will study longitudinally, then we
2 will run into the problems that you are alluding to
3 because we'll miss all of the important pieces of data
4 perhaps.

5 So, I suspect the answer is the survey may
6 be only one element of many others that could be taken
7 at different times with different approaches.

8 COMMISSIONER MCHUGH: What's the next
9 step of this?

10 COMMISSIONER ZUNIGA: Well, if nothing
11 else, as I mentioned, just reporting on some of that.
12 I think we ought to think about if we are going to issue
13 an RFP for this effort, what that would be. If it is
14 for the likes of a single point of contact type bureau
15 that could then think about the scope, think about the
16 approach, the methodology of any one of the components
17 of the research piece. We could start writing
18 something to that effect.

19 COMMISSIONER MCHUGH: But that in itself
20 is a policy decision, right?

21 COMMISSIONER ZUNIGA: That in itself is
22 a policy decision.

23 COMMISSIONER MCHUGH: Why don't we put
24 this on the agenda again next week, with this

1 conversation as a backdrop and the other two
2 Commissioners here and see if we can't make that policy
3 decision as to the direction we want to go. Or maybe
4 we want to go in two directions simultaneously and then
5 move this forward.

6 We have those responses to the RFI. And
7 they're available for us to read. And then move this
8 forward and either draft an RFP for a bureau or draft
9 an RFP for a project or do both.

10 COMMISSIONER ZUNIGA: Precisely.

11 COMMISSIONER MCHUGH: Okay. All right.
12 That gets us to the end of the agenda items that are laid
13 out there. Is there any other business that falls into
14 the last catchall category? I have none, can think of
15 none. So, I would have a motion to adjourn.

16 COMMISSIONER ZUNIGA: So moved.

17 COMMISSIONER MCHUGH: All in favor?

18 Aye.

19 COMMISSIONER STEBBINS: Aye.

20 COMMISSIONER ZUNIGA: Aye.

21 COMMISSIONER MCHUGH: Thank you all.

22

23 (Meeting adjourned at 2:46 p.m.)

24

1 ATTACHMENTS:

2

3 Attachment 1, Agenda

4 Attachment 2, October 9, 2012 Meeting Minutes of the
5 Massachusetts Gaming Commission

6 Attachment 3, Potential Policy Issues for the
7 Commission's Resolution (Preliminary Draft)

8 Attachment 4, Questions from City of Chelsea and
9 Proposed Answers

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11 SPEAKERS:

12 Eileen Glovsky, Director of Administration

13 Jennifer Durenberger, Director Racing Division

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1 C E R T I F I C A T E

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19 Court Reporter for OfficeSolutionsPlusLLC.com

20 My commission expires: May 11, 2018

21
22 //Elizabeth Tice// Date: October 24, 2012
23 Elizabeth Tice, President, OfficeSolutionsPlusLLC.com

24 My commission expires: August 26, 2016