COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION

PUBLIC MEETING #78

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BOSTON CONVENTION AND EXHIBITION CENTER
415 Summer Street, Room 156-A
Boston, Massachusetts
CHAIRMAN CROSBY: I think we are good to go. I'm calling to order Public Meeting #78 of the Massachusetts Gaming Commission on Thursday, October 3rd at the Boston Convention Center.

We are going to go straight to the item two, the Mohegan Sun suitability discussion. But I do want to make just two quick announcements.

We have -- we have determined and made public, that Penn National, the final applicant for the slots parlor license has been found suitable by the Commission. That decision has been posted and we will be holding a public hearing on Monday during which time all three of the applicants, the suitable applicants for the slots parlor license, the Category 2 license will be making live 90 minute presentations on their proposals. So, that will be next Monday.

Now, we are going to go to the Mohegan Sun suitability. And I think that
we're going to start with our Director of Investigations and Enforcement Bureau, Karen Wells.

DIRECTOR WELLS: Good morning Chairman and members of the Commission. I am pleased to present the findings for the suitability investigation into the Applicant, Mohegan Sun, Massachusetts, LLC.

I'd like to initially thank all of the investigators, state police and our consultants at Michael and Carroll for all of their work on the project. It was an extremely comprehensive review of the Applicant. And I'd also like to mention for the Commissioners' edification that the investigators found that this particular Applicant was not only cooperative, but extremely responsive to requests and forthcoming with information. And I got a very positive response from both the state police and the consulting investigators with respect to how the investigation went. And I think that is very telling on what kind of company this is and what it would be like to
regulate them going forward. So, I just
wanted to comment on that as an initial
matter.

The Applicant is seeking a Category 1
gaming license. They have a proposed
facility planned for Palmer, Massachusetts.
That's in Region B. The Applicant has
indicated that the casino resort estimated to
cost approximately $775,000,000.00 would lie
directly off of Palmer's exit on the Mass
Pike not far from its main street where the
Applicant believes the railroad would bring
additional tourism to the location.

The Mohegan Sun executives envision a
resort with 600 room -- a 600 room luxury
hotel, casino gaming, including slots and
table games, world-class restaurants and
branded retail stores, and meeting and
entertainment space.

Although the Applicant is presently
owned 100 percent by the Mohegan Tribal
Gaming Authority, or MTGA, it is the
intention of the parties that ultimately
there will be a 60 percent share held by one
or more funds managed by Brigade Capital Management, LLC.; with the 40 percent residual share being retained by MTGA.

The investigation conducted an in-depth inquiry into all of those persons and entities whose qualifications are a statutory and regulatory precondition to the suitability of the Applicant, that is they are the qualifiers. In all, eight entity qualifiers and 22 natural person qualifiers were investigated for the two sides of the proposed operation.

As to the Mohegan side of the application, as to the entity qualifiers, like other applicants we have seen, there are a series of companies in the Mohegan ownership structure.

The Applicant itself Mohegan Sun, Massachusetts, LLC which is owned 100 percent by MGA Palmer Partners, LLC; MGA Palmer partners, LLC is currently 100 percent owned by MGA Holding, Mass, LLC, which is in turn owned by Massachusetts Gaming Advisors, LLC. MGA, Massachusetts Gaming Advisors is wholly
owned by MTGA, the company I previously referenced, an instrumentality of the Mohegan Tribe Indians of Connecticut. There are no individual owners of Mohegan Sun, Massachusetts, LLC; MGA Palmer Partners, LLC; MTGA or any intermediary companies or any of the assets of the Mohegan Tribe, as all the assets are owned on an undivided basis for the Tribe and its members.

As to MGA Palmer Partners, LLC, that's an LLC formed on November 15, 2012 which owns 100 percent of the membership interest of casino Applicant, Mohegan Sun, Mass., LLC. Palmer Partners is based at the Mohegan Sun in Connecticut. That's a casino in Connecticut. And has no employees, only company managers and officers, all of whom are currently employed by the MTGA. Michael -- Mitchell Etess is the manager; Gary VanHettinga is the manager and president; Mario -- pardon me, Kontomerkos is the treasurer. He is also the CFO of MTGA and David Rome is the Secretary.

Upon award, the casino license to MSM
and the admission of New England Gaming Partners, LLC as a member of Palmer Partners, a total of five directors will be named, up to three by New England Gaming Partners, LLC; that is a subsidiary of the Brigade entity, which I'll refer to later. And up to two by MGA Holdings Mass, LLC to a new Board of Directors, which will operate as a board of managers to the LLC.

MGA Gaming Mass, MA, LLC, that's the management company for this proposed operation. It was formed in January of 2013 by the Mohegan Gaming Advisors, LLC in connection with the RFA-1 application of MSM, or Mohegan Sun, Massachusetts, pursuant to the agreements between Brigade and Mohegan Gaming Advisors, LLC. They'll manage operations at the Mohegan Sun, Massachusetts to be owned by Mohegan Sun, Massachusetts, LLC on behalf of that company and its partner company, MGA Palmer Partners.

MGA Gaming is the same management and operating structure as its parent company, Mohegan Gaming Advisors, LLC and is the same
two managers and same three company appointed officers. Managers and officers all of whom are currently employed by the MTGA. Mitchell Etess is the manager; Gary VanHettinga, the manager and president; Mario Kontomerkos, the treasurer, also the CFO of MTGA and David Rome is the secretary. Same structure.

MGA Holdings, Mass, LLC was formed by Mohegan Gaming Advisors, LLC in January of 2013 in connection with the — again in connection with the RFA-1 application. Holding is the 100 percent owner of MGA Palmer Partners, LLC or to be the sole owner of MSM, the casino Applicant.

Now, as I've indicated, Holding will transfer 60 percent ownership interest in Palmer Partners to New England Gaming Partners, LLC and retain a 40 percent ownership following the award of a casino license. Holding is based at Mohegan Sun in Connecticut and has the same management and the operating structure as its parent company, same two managers and same three company appointed officers, all of which are
currently employed by the MTGA. Mitchell Etess is the manager; Gary VanHettinga is the manager and president; Mario Kontomerkos is the treasurer and David Rome is the secretary.

Mohegan Gaming Advisors, LLC was formed in July of 2012 by the MGA division of the MTGA to own investments in gaming facilities outside of Connecticut, management companies managing other gaming facilities and to provide services under contract to other Native American and commercially owned gaming facilities. It's based in Mohegan Sun in Connecticut and MG also does business in New Jersey. It formed two wholly owned subsidiaries, MGA Gaming LLC and MGA Holding, LLC to manage and to hold ownership interest in MGA Palmer Partners, LLC which formed Mohegan Sun Massachusetts as a wholly owned subsidiary. It is the same management and operating structure as its subsidiary previously mentioned. It has the same two managers and the same three company appointed officers.
The Mohegan Tribal Gaming Authority was established by the Mohegan Tribe in 1995 with the exclusive authority to conduct and regulate gaming activities for the Tribe on tribal lands and the nonexclusive authority to conduct such activities elsewhere. It's governed by a nine member management board whose members all -- also compromise Mohegan Tribal Council.

MTGA is the direct owner of Mohegan Sun in Connecticut. It was formed -- it formed the Mohegan Gaming Advisors Division to pursue gaming management and ownership -- and ownership of gaming operations outside of Connecticut.

The nine member board of MTGA includes Bruce "Two Dogs" Bozsum who's the Chairman; R. James Gessner, Jr., the Vice Chairman; Kathleen Regan-Pyne, the Corresponding Secretary; Cheryl A. Todd, the Recording Secretary; and Thayne Hutchins, Jr., the Treasurer, all of whom are considered the officers of the management board.

They also have Mark Brown as a member,
William Quidgeon is a member; and Mark Sperry is a member. They also have Jonathan Hamilton, Sr. But his term is ending in October when his successor will be identified and sworn in. That individual will be subject to qualification by the Commission as well.

The corporate officers of the MTGA are appointed by a management board and they are Mitchell Etess, the CEO and Mario Kontomerkos is the CFO.

MTGA and all wholly or majority-owned subsidiaries are Native American or minority owned businesses. MTGA is currently licensed by and in good standing with a number of various gaming authorities, including Mohegan Tribal Gaming Commission. Their status is current and in good standing. The Pennsylvania Gaming Control Board, their status is current and in good standing; the New Jersey Casino Control Commission, on September 4, 2012, the term transactional waiver was approved for them and the National Indian Gaming Commission on December 31, 2012.
they were found to be in compliance with the applicant IGRA and NIGC regulations.

On the Mohegan side of the application, the investigation confirmed that all of the Mohegan related qualifiers have a successful multi-jurisdictional licensing or qualification and a history of maintaining such status in good standing.

On October 12, 1996 the Mohegan Sun casino formally opened in Uncasville, Connecticut, and remains highly successful. The Mohegan Tribal Gaming Commission is an arm of the Mohegan Tribe and is the primary regulatory authority overseeing operations at the Mohegan Sun. The Mohegan Sun is licensed by the MTGC and the Connecticut Department of Consumer Protection Division of Gaming has additional authority over matters such as individual licensing which it shares with the MTGC.

The MTGC and Connecticut Gaming report and due to the nature of the dual tribal state regulatory oversight, there are no regulatory findings or fines related to
Mohegan Sun. Mohegan Sun was fined for three violations of the liquor law during 2012 and four times during 2011 for violations relating sales of minors or intoxicated patrons.

MTGA also manages Mohegan Sun at Pocono Downs in Plains Township, Pennsylvania and Resorts Casino Hotel in Atlantic City, New Jersey. Mohegan Gaming Advisors announced in August of 2012 that they'd be entering into a consulting contract and investment agreement with Resorts Hotel -- pardon me, Resorts Casino Hotel in Atlantic City, New Jersey. MGA holdings New Jersey, LLC is an equity investor currently holding 10 percent interest of the equity interest in Resorts, Atlantic City.

Through its subsidiary Down Racing LP, MGA owns and operates the Pocono -- aforementioned Pocono Downs which I referred to in Plains Township, a 400 acre gaming and an entertainment facility, and several off-track wagering facilities located elsewhere in Pennsylvania.
The Pennsylvania Gaming Control Board first issued a license to Downs Racing on September 20, 2006, although the investigation found some examples of infractions casinos typically face. All have been identified and addressed in an appropriate manner. In fact, the Pennsylvania Gaming Control Board renewed Downs' racing license on August 21, 2013.

MTGA and Mohegan tribal qualifiers on the Pennsylvania license and the Pennsylvania Gaming IED recommended on April 29, 2013 that both entities be found suitable for licensing.

The MTGA has additional projects, and interests and entities that are owned and controlled by the Mohegan Tribe include the Mohegan Basketball Club; Mohegan Golf. They also have additional diversification projects.

They have a Cowlitz project, which -- the project deemed the Cowlitz project. The MTGA formed Mohegan Ventures Northwest, LLC in July of 2004 to participate in the Cowlitz
project, a proposed casino to be owned by the Cowlitz Indian Tribe, which will be located in the Clark County, Washington.

Mohegan Ventures Northwest, Salishan Company, LLC, an unrelated entity, and Mohegan Tribal membership interests in that operation -- proposed operation. Salishan will assist Mohegan in securing financing as well as administer and oversee the planning in Washington.

Development of the Cowlitz project is subject to certain governmental and regulatory approvals. They also propose a Menominee project in October 24. MTGA entered into a management agreement with the Menominee Indian Tribe and the Menominee Kenosha Gaming Authority. MTGA will manage, operate and maintain the Menominee project, a proposed casino to be owned by the Menominee Tribe in Kenosha, Wisconsin for a period of seven years commencing with its opening.

In Center City, Philadelphia, Skimokimming Gaming Advisors, a subsidiary of MTGA will join Market East Associates, LLP
as a partner to operate the gaming entertainment portion of the urban entertainment center to be developed in Philadelphia to be known as Market 8. MGA formed two new wholly owned subsidiaries in relation to Market 8. MGA Gaming Pennsylvania, LLC and MGA Holding Pennsylvania, LLC.

MTGA has entered a -- engaged in a large -- pardon me, has engaged a large commercial real estate developer, Finard Properties of Boston, Mass. to assist in the development of retail hospitality and water park facility in conjunction with the gaming -- proposed gaming project in Massachusetts.

The MTGA secretary and legal counsel has certified that Finard will not have any involvement in the gaming activities, gaming management or any gaming operational decision-making, nor will Finard directly participate in any gaming revenue -- in gaming revenue generated by the applicant operations.

As a result, although Finard is
currently not a qualifier pursuant to IEB standards, if MSM is found suitable, the final iteration of the MSM Finard partnership will be carefully examined during the Phase 2 process. It is anticipated however that the retail cinema and other commercial subtenants of Finard will participate with MSM to coordinate player and loyalty programs and promotional activities to better drive gaining revenue.

As to the Brigade side of the application, the parent entity is Brigade Capital Management, LLC. The investment entity will provide financing through the management of investment funds that will hold a 60 percent interest in MGA Palmer Partners if the project is chosen by the MGC for a Category 1 license.

Brigade has established a subsidiary entity, New England Gaming Partners, LLP, which will be involved in this project along with other non-qualifying Brigade entities. It was formed, this New England Gaming Partners for -- to receive an ownership
interest in MGA Palmer Partners, LLC upon award of the Category 1 license and therefore has no present ownership in MGA Palmer Partners, LLC.

Brigade is an employee owned SEC registered investment advisor focusing on investing in a global high yield market. The firm was founded by Donald E. Morgan and Patrick W. Kelley in 2006 with headquarters in New York City and a research office in Zürich, Switzerland. Brigade asserts its investment process is fundamentally driven, focusing on asset coverage and free cash flow with an emphasis on capital preservation.

Qualifier Donald E. Morgan, III, the firm's managing partner leads a team of 37 other investment professionals. Patrick W. Kelley, Brigade's president and COO leads the business management and support staff.

Brigade's total assets have reached approximately $13,000,000,000.00. Over 66 percent of Brigade's clients are pooled investment vehicles. Brigade is classified as an investment institutional investor in a
number of jurisdictions where it manages investments related to gaming properties, and requires that a gaming license either in the form of a waiver -- in the form of waiver or qualification, depending on the jurisdiction, be issued. Those jurisdictions include Colorado, Indiana, Mississippi, Ohio, Pennsylvania, and West Virginia. In all jurisdictions Brigade remains in good standing. Brigade and none of its individual qualifiers have been subject to any disciplinary action.

Brigade as a managing member of New England Gaming Partners, LLC, would not have any ownership interest in the ultimate Category 1 license applicant. Ownership interest will be held by various investment funds managed by Brigade. At this time the specific funds are yet to be determined.

Raymond Luis is the only appointed officer of New England Gaming Partners, LLC and holds the position of authorized person.

At this time, New England Gaming Partners, LLC does not have any officers,
directors, trustees, or employees.

With the exception of Neil Goldman, most Brigade related individual qualifiers have a 5 percent or greater interest in Brigade. These include Donald E. Morgan, III; Patrick William Kelly; Rosario Diminni; John Carney Hawks; Benjamin Renshaw and Ivan Krsticevic.

Other Brigade qualifiers have less than 5 percent interest in the company but hold key management positions. These are Douglas C. Pardon; Stephen Patrick Vincent; and Raymond Luis. Neil Goldman is a former Brigade partner, has been identified as a person Brigade would tend to appoint and sit on the Board of MSM.

All of the Brigade related qualifiers have -- have a history of industry regulation compliance and none have ever been the subject of any disciplinary action. The individual qualifiers are the -- pardon me. As stated above, pursuant to the limited liability agreement dated July 1, 2013 Brigade established -- is established the
managing member in NEGP.

At this time -- oh, as I indicated, at this time the specific funds are yet to be identified. However -- that are going to be used for the funding of the project.

However, the types of funds might include pension, insurance, and endowment foundation funds. Should a Category 1 license be awarded to the ultimate licensee, MSM and the MGC will be -- will be notified of the names of the designated funds, and once identified we can conduct any due -- do further due diligence if and as needed.

Overall, all of the entity and individual qualifiers were invested -- were investigated in the areas of good character, honesty, integrity, and reputation as well as for sufficient business ability and experience.

Ultimately it is the recommendation of the IEB that the applicant and qualifiers be deemed suitable. I have notes for the individual qualifiers, but given the interest of time, unless the Commission wants further
information on a particular qualifier I'll defer to the report which I know you have all read.

One matter, just for clarification that the Applicant brought to my attention. There is, in the report, a section regarding a couple of lawsuits, and the Applicant wanted to clarify there are in fact two separate lawsuits. I think it's on -- on or about page 43.

The section notes that Mohegan Resorts, Mass, LLC was named as an equitable reach and apply defendant in a lawsuit filed by the former lobbyist, The Suffolk Group of Northeast Realty Associates. The action did not accuse the Mohegan entity of any wrongdoing, rather the lawsuit requested the Mohegan entity's lease payments be used as collateral for the damages in the lawsuit.

In any event, the Mohegan entity was dismissed from the lawsuit because the court found that lease payments could not be attached.

The section also describes a separate
lawsuit filed by Northeast Realty Associates, LLC against individual Peter Picnelli. No Mohegan Sun related entity was named in the lawsuit, and was dismissed. I just want to clarify that for the record for the Applicant.

As the IEB has recommended that the -- there be no conditions on a finding of suitability, the -- the -- I would just defer to the Applicant to present their information to the Commission and why additionally they should be found suitable. I will refer the Commission to page 10 of my cover letter where I do indicate should they be awarded a license, that there should be considered by the Commission the following conditions to the license. I'll just highlight recommendation number three.

Any grant of license involving the Mohegan Tribe should be conditioned on a full and complete explicit waiver of sovereignty and waiver of tribal court jurisdiction as it involves the activities of the Tribe directly or indirectly in connection with the
Massachusetts gaming facility and related conduct.

That waiver should be memorialized in a Tribal Council resolution, the awarding of which should be subject to the approval of the Commission. As this is a commercial license, I don't see that as an issue, but I just wanted to highlight that for the Commission.

So, I'm available for any questions. And the Applicant is here, and they've brought individual witnesses to give information to the Commission.

MR. CROSBY: Anybody, any questions before we go to the Applicant?

COMMISSIONER MCHUGH: I just had -- I had one question on the point that you -- you just mentioned. And that's whether such -- were -- where certain of such waivers are valid.

DIRECTOR WELLS: Well, I think that we can --

COMMISSIONER MCHUGH: And I raise that, not because there's any -- any
suggestion of any intent other than to have
this a fully operational commercial casino,
but --

DIRECTOR WELLS: Right.

COMMISSIONER MCHUGH: -- but this is
an unfamiliar area.

DIRECTOR WELLS: I think that having
the waiver is -- and having a conversation
with the Applicant of how to do that and
working that with our legal counsel and their
legal team is an appropriate discussion
point. And it should be subject to the
Commission's approval. But I would recommend
that it at least be on the table, we have
conversation with the legal team, get a legal
opinion as to the -- as to either the
necessity or the -- how that should be worded
and whether it's valid.

So, I think that's -- that's an
appropriate point you make. But it's
something we should definitely explore just
to make sure that we're -- got all our bases
covered.

CHAIRMAN CROSBY: Does Michael and
Carroll have any insights to this issue?

MR. ATTENDEE: Yeah, this -- typically this might involve issues of tribal sovereignty and the sovereignty the tribal counsel and its governmental functions. Our review of this at this point would be that individual tribal council members who are making this representation are making it as individual tribal council members, not as the Tribe per se.

And with that, in that respect that they could be considered as a valid representation on those individuals' behalf. And that we would -- we would expect that that would be an appropriate way to view them.

If they were making that representation on behalf of the Tribe itself, there would be more sovereignty issues involved. But as individuals, we are confident that they would be a valid exercise of that individual's representation.

COMMISSIONER MCHUGH: I guess my question went a little bit deeper. They are
a sovereign nation.

MR. ATTENDEE: Yes.

COMMISSIONER MCHUGH: And the question is can a sovereign nation waive its sovereignty?

MR. ATTENDEE: Yes, that's -- that's clear. Tribal nation cases are quite common where a nation has to knowingly and voluntarily --

COMMISSIONER MCHUGH: Right.

MR. ATTENDEE: -- waivers are waived -- waivers wave sovereignty. And it's done in a commercial context quite often.

COMMISSIONER MCHUGH: Okay.

CHAIRMAN CROSBY: I had a question on the -- on the issue you raised about the lawsuit. And I just, I remember, who was Mr. Dragone? Where does he fit -- he fits with Northeast, right?

MR. KELLY: Yes, he --

CHAIRMAN CROSBY: So, and is Northeast the property owner?

MR. ETESS: Yes, they are our landlord.
CHAIRMAN CROSBY: The landlord?

MR. ETESS: Yes.

CHAIRMAN CROSBY: And there was, in the news reports there was the story about Dragone and Picnelli having had conversations about Picnelli getting out of the Mohegan deal and maybe offering something under the table to Dragone. I think Dragone was asserting that this had transpired. Did that all just evaporate, nothing -- nothing came of that? It was all found to be --

MR. CONROY: Commissioner, I can -- I can address that.

CHAIRMAN CROSBY: Okay.

MR. CONROY: The report talks about two different lawsuits. And we wanted to make this clear, because I think there's -- there's a little confusion that's caused by the report. Mohegan Sun was named in a lawsuit that -- involving -- it's not on?

CHAIRMAN CROSBY: Excuse me. Kevin, would you introduce yourself.

MR. CONROY: It's not on? Sorry. I'm Kevin Conroy. I'm outside counsel for
Mohegan Sun from the law firm of Foley, Hoag.

The report talks about two different lawsuits. One lawsuit, Northeast was a defendant in a lawsuit. They were sued by their former lobbyist, the Suffolk Group. Mohegan Sun was named as a reach and apply defendant in that lawsuit. That -- that lawsuit was trying to attach the lease payments that Mohegan Sun was making -- makes to the Northeast Group. There was no allegation of any wrongdoing on Mohegan Sun's part in that lawsuit. Mohegan Sun was dismissed from that lawsuit.

The Superior Court found that it was inappropriate to attach lease payments when -- when Northeast owned property that was worth $3,000,000.00.

The second lawsuit you're referring to in your comments is a lawsuit that Northeast brought against Mr. Picnelli relating to issues that -- of a partnership agreement or some sort of agreement they had. Mohegan Sun was not named as a defendant or not named in that lawsuit in any way. Northeast is our
landlord. The report talks about -- Mohegan Sun's landlord reports talk about we have a triple net lease with them. We make lease payments to them on a monthly basis. It's -- it's a typical landlord-tenant relationship. And -- and he is -- that entity, Northeast plays no role in any gaming operations or any decision-making operations at -- with Mohegan Sun.

CHAIRMAN CROSBY: Thank you for clarifying that. We did -- we did look -- the lawsuit, the Northeast lawsuit against Picnelli was terminated how, what -- what eventually came of that?

MR. CONROY: I -- I believe that -- I believe that Mr. Picnelli was able to get it dismissed.

DIRECTOR WELLS: That's our understanding as well.

CHAIRMAN CROSBY: Okay. We do wrestle with the issue about what the relevance of the business of land owners or lessors, the relevance of their make-up to the suitability of the lessee. So, whoever this guy Dragone
is and relative to them, they were pretty serious allegations that were made in public. And I just wanted to make sure that we were aware of that transaction. Okay.

MR. CONROY: So, Commissioner, if I may continue, I just wanted to introduce our team members here today. And we're going to make -- we know this is a public hearing. We're going to make very brief presentations today. Mitchell Etess is our -- the CEO of Mohegan Sun. Next to him is Patrick Kelly, who is the President and CEO of Brigade Capital Management, and next to him is Doug Pardon, who is a partner at Brigade Capital Management.

I also wanted to introduce the second row here. This is David Rome, who is the Secretary and General Counsel of Mohegan Sun, Massachusetts. Dave Waddell, and next to him is Robert Russell, who are with Regulatory Management Counselors, and they represent Brigade. And finally, we also have Aaron Daniels, who is Associate General Counsel. He is right behind me, at Brigade Capital...
Management.

Go ahead, Mitchell.

MR. ETESS: Thank you, Kevin. Good morning and -- and thank you, Commissioners for having us here today. We're really delighted to be here.

On behalf of Mohegan Sun, Massachusetts, I want to thank the Commission and your staff, and the investigators, and the Massachusetts State Police for the comprehensive and thorough investigation of our qualifying entities and individuals.

As an individual qualifier myself, I can personally attest to the professionalism of the investigators involved, and the thoroughness of their work. And I want to say a particular thank you to IEB Chief, Karen Wells, and all the attorneys and investigators that were assembled.

And I've said this many times in various presentations publicly, but, you know, I think you all should be very proud of the work they do, but of this entire process that you're running here. I've been involved
in several of these things and though I haven't found any one that has really matched up to this process, it is very thorough and it has been a pleasure to part of.

I take great pride in the Mohegan Sun suitability report that was issued by your Investigations and Enforcement Bureau. We recognize that the gaming industry is built on integrity and ethics, and as an organization we're very proud and we're told, and on here, the words that were said on here in the beginning, and when I see the report and I'm quoting from the summary, page eight, "that we have demonstrated to investigators a sincere dedication to ensure the integrity of our operations as well as a willingness to make timely corrected actions if and when warranted."

That -- that dedication to integrity is exactly what we've tried to achieve in the jurisdictions where we are licensed, including Connecticut and Pennsylvania and where we've got this approved management agreement, and are waiting for a final
licensure in New Jersey.

We recognize that Sections 12 and 16 of the Massachusetts Gaming Act create a very high bar of suitability. And we are pleased that the IEB has recommended that Mohegan Sun be found suitable.

We also recognize that ultimate suitability is -- decision is made by you all, and the Commission, and therefore we are here today to address any questions that you might have.

But firstly, I want to address the Mohegan Tribal Gaming Authority or MTGA. As the report notes, the MTGA is the instrumentality of the Mohegan Tribe Indians of Connecticut. It's a federally recognized Indian tribe which has ultimate owner of all of Mohegan tribal holdings.

The Mohegan Tribe has been a presence in southeastern Connecticut for hundreds of years, and in 1994 received their federal recognition through the Bureau of Indian Affairs administrative process.

Throughout the centuries the Tribe has
identified with what has become referred to as the Mohegan way. We actually extended that for marketing to call it the Mohegan Sun Way, but it's the Mohegan way. And the Mohegan way is to live and work closely and honestly with one's neighbors, and give back to the state and the community, just like they've been doing for years.

And you can look back historically to when the Mohegan Way started by deeding -- the Tribe deeded nine square miles 350 years ago to incorporate what is now the city of Norwich, Connecticut. More recently in our host community agreement that we've signed with the town of Palmer. And the Mohegan way has been evident in all years in between.

Indian gaming has been a tremendous opportunity for the Mohegan Tribe. It is now allowed the MTGA to grow into a diversified gaming hospitality and entertainment business. The new Mohegan way is to build gaming and entertainment facilities to last, to grow responsibly, with responsible gaming. To provide an unparalleled employment
experience while training and developing our team members. And provide advancement opportunities for them because we realize that our employees and our team members are the difference in all of our operations and ultimately are the core of our success.

The Tribe, through MTGA was the first Indian tribe to go to Wall Street in 1995, and we've been there ever since, operating essentially as a public company with publicly held bonds and public reporting through the SEC.

I also joined the MTGA in 1995 as part of the preopening senior management team for Mohegan Sun in Connecticut, and I've been the CEO since 2004. Our core values and a commitment to integrity, transparency and regulatory compliance and those principles have allowed us to make the successful transition from on reservation Indian gaming to commercial state licensed gaming company in Pennsylvania, and now more recently in New Jersey, and hopefully here in Massachusetts.

Mohegan Sun, Massachusetts will allow
that transition to continue as it will be owned and managed by companies formed under state law, and will be a commercial casino, just like our facilities and operations in Pennsylvania and New Jersey.

We have absolutely no issues with the licensing conditions referenced in Director Wells' letter, and the suitability report related to the Bank Secrecy Act compliance and sovereign immunity waiver. We have granted waivers in Pennsylvania, with Brigade and even our host community agreements, so it's very common for us in our financial transactions and other things to do that.

As an SEC filer, and having operated one of the largest and most successful casinos in the country for the past 17 years, our comprehensive compliance structure adheres not only to the casino and anti-money laundering requirements of the Bank Secrecy Act, as amended by the Patriot Act, and the financial crimes enforcement network rules added in 2007, but SEC requirements such as Sarbanes-Oxley and the availability of a
toll-free compliance hotline for employees. While we don't operate abroad, our compliance program encompasses also the reporting requirements for the Foreign Corrupt Practices Act and other applicable federal laws.

Our Compliance Department reports directly to the Audit Committee of our Board. And I meet regularly with the Board along with my executive team to address all aspects of our business including compliance.

With respect to sovereign immunity, as I indicated we will provide the waiver requested as we've done in other contexts.

In the same spirit of transparency in compliance that our entire nine-member Mohegan Tribal Council which is the same nine men and women that make up the management board of the MTGA proactively suggested that they be subjected to qualification in Massachusetts. We believe this is unprecedented among Tribes seeking commercial casino licenses and reflects the Tribe's recognition of the importance of transparency.
and regulation in gaining.

We intend to site our casino in Palmer on 152 acre parcel that's located just off the Mass Pike. We have a history in Palmer, we leased our site in 2008 and have had a storefront office in Palmer since 2009.

Before selecting Palmer as our site, we toured numerous sites throughout Massachusetts and we believe we found the best site in Massachusetts because of its transportation access, its rural character, and support for the casino.

Although the suitability report makes reference to the fact that our casino project will be about $775,000,000.00, we expect the proposed project will now be in the $1,000,000,000.00 range. We're envisioning two hotels, an aqua adventure water park, and many retail options along with the casino and related amenities.

Not only is the Mohegan Sun brand extremely powerful in New England, but we also think that our database of millions of customers who are already in New England
distinguishes us from our competitors and provides us with the best opportunity to bring customers here from outside of Massachusetts, one of the goals of the act.

In addition, our ability and our requirement under our partnership agreement with Brigade to market immediately to this existing database gives us the opportunity to jumpstart our operation and expedite the flow of tax revenues to the Commonwealth. As the standard ramp up period generally needed to build up your database will really be shortened.

Mohegan Sun entered into a host community agreement with the Town of Palmer in late August. A referendum is scheduled for early November. We are actively participating in the process organized by the Pioneer Valley Planning Commission to facilitate the surrounding community agreements, and we recognize the importance of mitigating the impacts of our casino and all surrounding communities.

Mohegan Sun is feverishly preparing
its RFA-2 application in the hopes that you will look favorably on our suitability and we look forward to sharing a full application with you in December, and then when we are able to to present our thing personally to you as well.

We have been a partner in the development of legal and responsible gaming, first in Connecticut, and more recently in Pennsylvania, where we were the first casino, the first casino to be licensed under their gaming law and the first to open there. If intrusted with a gaming license in Region B, our board, myself, our executive and development team, and our gaming and financial partners at Brigade Capital Management will all be working to establish a great new partnership with the Commonwealth and to maximize the capital investment, job opportunities, and other benefits and vision in the gaming act.

Another thing that distinguishes our casino project is the involvement and commitment of Brigade Capital. Brigade will
draw on its managed mutual funds for major
capital investments in the casino in Palmer.
Its funds will hold a majority interest in
the casino, with Mohegan Sun owning the
minority and also be responsible for the
management of the facility.

As you know, Brigade and ten
individuals associated with Brigade were
subject to qualification as part of the IEB's
investigation. Brigade brings its own Wall
Street savvy and experience to the project.
It is well known and respected by MTJ and
other gaming operators.

We are pleased that the IEB recognized
what we knew, that Brigade values and
demonstrates integrity and ethics to the same
level as Mohegan Sun. And while the report
reflects the financial stability and
integrity of each of Brigade and Mohegan Sun,
we believe that when you put us together it's
a case of one plus one equaling three, where
we have a very strong financial and gaming
management team capable of taking on all of
the opportunities in the inevitable
challenges of an enduring and successful legalized gaming industry in Massachusetts.

And with that, I'd like to introduce Patrick Kelly, the President and CEO of Brigade Capital Management.

MR. KELLY: Well, good morning. Thank you, Mitchell, very much, and thank you Commissioner members. This is truly an honor and a pleasure to be here to address you this morning.

I'd like -- I'd like to echo the comments made earlier related to the professionalism by which the investigation into Brigade Capital Management was completed. It is clear to me that no stone was unturned by the assigned investigative team led by Mr. Guy Michael and Mr. Bob Carroll.

The team they assembled was extremely professional and thorough throughout the entire process of data collection, interviewing and follow-up questioning. I would also like to thank the Massachusetts State Police and the Massachusetts Gaming
Commission Staff for providing our company with timely responses to all questions relating to the investigative process and further ensuring that the investigation was completed in a thorough manner.

As outlined by Mitchell, Brigade Capital Management is a hundred percent committed to this project. And believes that if awarded the opportunity by the State, the Mohegan Sun, Massachusetts development will provide for the highest level of secure investment and success for the Commonwealth of Massachusetts and its citizens.

As set forth in the very detailed investigative report, Brigade Capital takes extreme pride in all of its investment decisions. And our firm is fully committed to compliance with all federal, state and local regulatory and licensing obligations.

Under my oversight and direction, as well as fifty others will comprise our business team at Brigade Capital, we will ensure that the State has access to any and all information it requires throughout the
licensing and registration process.

Brigade has been built upon a foundation of integrity by doing business in an extremely compliant and thorough manner.

On behalf of Brigade Capital's managing director, Don Morgan and myself, we can assure you that by finding Brigade suitable for licensing and permitting our team to compete for the Category 1 license in the Western District, you will be getting a true partner that is committed to ensuring an extremely transparent and forthright process.

I like -- I'd like to now introduce my partner Doug Pardon, who is a Senior Analyst at Brigade Capital. He is also head of research, and he heads our firm's gaining investment division and who's been working hands-on with the Mohegan Sun investment team from the beginning. Thank you very much. Doug.

MR. PARDON: Thank you, Pat. And thank you Commission members. I am honored to be here today and to have Brigade Capital Management's suitability investigation up for
your consideration.

As has been stated previously, there is a great deal of anticipation about meeting this milestone in the investigation and competitive selection process. As an individual who is monitored and been actively investing in the gaming and casino industry for over ten years, the Massachusetts opportunity excites me due to its comprehensive approach to gaming and effective regulation.

The state legislature established a robust process to ensure the greatest level of investment into the State. One that will provide the greatest benefit for the citizens of the Commonwealth.

Importantly, your commission has established a thorough process that provides for the utmost transparency. The combination of a solid foundation and dedication to detail will ensure that the licenses awarded will be granted to the most talented financially capable, and committed partners to the Commonwealth.
During the State's investigative process, you have had the opportunity to learn more about the strengths of Brigade Capital Management and its partners, and have learned about our commitment to this investment and the details surrounding the Mohegan Sun, Massachusetts development.

In addition to our commitment to the Commonwealth, we are also 100 percent committed to the Mohegan Sun organization and have complete faith that they are the best casino management firm to partner with. Their commitment to both the Commonwealth and the Town of Palmer appears to be self-evident.

Upon completing my own due diligence into the Mohegan Sun Massachusetts opportunity, I had the opportunity to learn in-depth about the casino operation, marketing, and project development approaches that they have brought to the table.

This due diligence began years ago as I have had the opportunity to personally monitor the business approach taken by the
Mohegan team prior to entering the agreement which resulted in the creation of our Category 1 application to the Commonwealth of Massachusetts.

As stated by our firm's president and CEO, Mr. Kelly, we are 100 percent committed to creating a world-class one-of-a-kind gaming destination in Palmer, Massachusetts.

MR. ETES: And that is our prepared remarks, and we will do our best to answer all the questions that you have for us.

CHAIRMAN CROSBY: Thank you.

Commissioners?

COMMISSIONER CAMERON: I just had a couple of questions. Good morning gentlemen.

I was looking at the Tribal Council and the elections, and that that individual who would not know anything about gaming then takes a seat on the management board for the Mohegan Tribal Gaming Authority, is there a transition or training, or what would transpire for that individual?

MR. ETES: That's a great question. There's -- there's two sets of counselors.
There's a group of five and a group of four. They serve four-year terms, and they are elected every two years. We've had a lot of stability actually over the years, and we haven't had one -- more than one councilor leave at any one given election.

They do have a -- they -- they do a screening before the election to make sure that they actually would be basically licensable in jurisdictions. Our most recent addition, Lieutenant Colonel Kevin Brown, I think already has filed his -- submitted his materials for licensing.

And then they are often times, sometimes the councilors happen to be working in the casinos, so they do have some experience. Sometimes they don't. They are put in a very thorough, you know, kind of up to speed kind of fast-track learning experience. But they're one person, they generally take a slow approach. They have eight other people with them and it's in a very wait and see as you go. And one person where, you know, eight, the kind of take
their lead. So, it's -- actually it's been a very smooth transition and it's served us very well.

COMMISSIONER CAMERON: And one -- one other question.

MR. ETESS: Yeah.

COMMISSIONER CAMERON: It's apparent from reading the report that you successfully made the transition from tribal gaming to commercial gaming and there are many differences, regulatory differences in particular. Was that -- were there some growing pains? I know in Pennsylvania and in New Jersey you now operate commercial facilities. It's -- it seems to be that that was a smooth transition, but I'd just like to hear a little bit from your perspective.

MR. ETESS: Yeah, it really was. And I think it has a lot to do with the, you know, actually the strict regulation that we have in Connecticut as far as the Gaming Commission being there, really responsible not to us, to the Tribal Council and really focusing on Mohegan Sun. There is also
various lawyers there in terms of the State of Connecticut and some national Indian Gaming Commission as well. But I think that our discipline and our structure, and also our public debt basically we've had since the beginning has led us to really always act as a public company. So, the transition was very, very smooth.

In fact, we were the first casino to open in Pennsylvania under their new regulation. And we worked really closely with their -- with their -- its Gaming Board there as far as the pre-opening procedures and how to do things, and it was a really smooth transition. And I think a lot of it did, as I said, had to do the discipline that we had in Connecticut. So, it's been really, it's been very, very seamless.

COMMISSIONER CAMERON: Thank you.

MR. ETESS: Thank you.

COMMISSIONER CAMERON: That's all I have, Mr. Chair.

CHAIRMAN CROSBY: Commissioner?

COMMISSIONER MCHUGH: I had -- Mr.
Etess, you mentioned a toll-free compliance hotline. I hadn't heard about -- about that in other presentations before. Could you explain what that is and how it works.

MR. ETESS: Yeah, that is a -- that's basically a -- what's the word -- whistle blower line that is always there if anybody sees any compliance issues, as an 800 number that's -- I think it goes a voicemail that if you have an issue that you're concerned about, some issue of compliance that you feel you need to bring to the attention, you can use.

COMMISSIONER MCHUGH: And who -- who is -- who are the presumptive users, employees?

MR. ETESS: The presumptive users would be employees, correct. People who see things that they might be uncomfortable with.

CHAIRMAN CROSBY: And who answers the phone?

MR. ETESS: The -- yeah, it is answered by our Compliance, the Director of Compliance, Brian Richards. He's a -- he is
the head of the Compliance Department that reports up to the Audit Committee.

COMMISSIONER MCHUGH: And are these reports permitted to be anonymous?

MR. ETESS: Are they permitted to be anonymous?

MR. ROME: You want me to take the microphone there?

MR. ETESS: Yeah, you want to take the mike?

MR. ROME: I think I'll have to come up here.

COMMISSIONER ZUNIGA: It might be stuck here, the wire.

MR. ROME: Thank you. Again, I'm David Rome, R-O-M-E. I'm Corporate Secretary to the Company and inhouse counsel to Mohegan. It is the -- it's a Sarbanes-Oxley requirement to have a whistle blower hotline, so we've structured along those lines, I do -- I don't know the answer to whether anonymity is, you know, is maintained throughout the process. But I believe so.

COMMISSIONER MCHUGH: So, this is part
of Sarbanes-Oxley?

MR. ROME: Yes.

COMMISSIONER MCHUGH: I didn't -- I didn't realize that. Okay. Thank you very much. That's it.

COMMISSIONER ZUNIGA: I did have a couple of questions for the principals from Brigade, Mr. Kelly.

MR. KELLY: Yes, sir.

COMMISSIONER ZUNIGA: So, you've operated senior investment vehicles in other jurisdictions, Pennsylvania, I believe. Is that -- is that also the same kind of structure as early equity investor managing other people's money, investing that -- that type of structure?

MR. KELLY: It's certainly always us managing other people's money, as well as all of our own money are in these funds as well, I'll add. In terms of the timing of it, I'll refer to my partner, Doug Pardon to address that. It's all stages, but let me have him --

MR. PARDON: Sure. We've done both
debt and equity investing for new
development. So, we've done several new
casino and hotel projects in various
jurisdictions. We've -- we've made
investments and have lent money to existing
operations, but we also have done several new
project developments as well.

COMMISSIONER ZUNIGA: Okay. And so,
your intention is to be an early equity
partner here with funds, monies from funds
that you -- that you manage.

MR. PARDON: Mm-hm.

COMMISSIONER ZUNIGA: What happens if
along the way you get early redemptions, one
of your pension funds decides that they want
to -- they no longer want to be, you know,
invested --

MR. PARDON: Invested.

COMMISSIONER ZUNIGA: -- with this
operation. I mean, these --

MR. PARDON: Sure.

COMMISSIONER ZUNIGA: -- projects have
a very long rate of return --

MR. PARDON: Excellent question. We
manage money for some 450 entities. 100 of whom are some of the largest and best known pension plans in the world, much less America. We are constantly out raising and managing the process of formative, you know, you know, capital, raising capital. Our firm has a history that goes back to the mid-90s. So, almost 20 years of managing money for pensions.

So, although I won't disagree to say that I guess you could imagine, I couldn't imagine the circumstances. We got through '08 and we -- we, I think we were, you know, maybe down in the One-Fund we had at the time, we have many other funds now, 15 or 18 percent in terms of capital redemptions. And then we built that back up. So, I think that diversification of our investor base, coupled with the nature of the different types of funds we have all strategically structured as solution-based asset liability programs, if you will, for the -- so, we're -- we partner -- just like we partner here with the Tribe, we partner with our investors. So, it's an
ongoing dialogue and -- and it's really part of a solution-based package that they put together that we are part of.

So, and let me just add that we have enough, you know, we have a couple of, you know, 150; 180,000,000 of partner capital in the funds as well that is not going anywhere, hopefully.

COMMISSIONER ZUNIGA: Right. Right.

MR. KELLY: The only thing that I would add to that is, you know, we are managing over $14,000,000,000.00 today and this investment is a, you know, in the grand scheme of the, we run a diversified portfolio. It's not as if this is a huge proportion of that 14,000,000,000.

COMMISSIONER ZUNIGA: Understood. Would the same be true for, if there was a requirement of additional equity infusions throughout -- throughout the life of the project? Is that --

MR. KELLY: In terms of sourcing more capital?

COMMISSIONER ZUNIGA: Yes.
MR. KELLY: You know, we are constantly looking for other -- for other opportunities. We defer to Doug and the investment team, and Don Morgan for that. But we'd certainly be ready, willing and able absolutely to commit more capital in an -- on an ongoing basis. Yes, sir.

CHAIRMAN CROSBY: Mr. Stebbins?

COMMISSIONER STEBBINS: Just following up quickly with two additional questions for Brigade. The report talks about funds to be identified for this project. Are you any closer to identifying any of those resources of the funds you plan to use?

MR. KELLY: Well, I -- I believe, and Doug can comment on this as well, and if Aaron wants to say anything. But my understanding would be we -- we know the funds, we're going to raise more funds. As I mentioned, we have 400 investors; we have 100 institutional investors and we're not going to close anybody out if we get more. But we -- we pretty much know probably where we put it. It's not that we're trying to be
evasive, but it's just that we want to have flexibility and the suitability based on the terms and the pricing, and the conditions are always a function of what you put into, you know, the -- the portfolio. So, it will depend on what the deal ultimately looks like and -- and what our particular clients are in need of at the time that that has to come together.

Fortunately, we've built a broad base of investors or people that have given us money to act as their -- as their fiduciary, which we take extremely seriously.

So, we -- we have them all identified, it's just a question of, you know, where -- where it will go. I don't know if you gentlemen have anything to comment on.

COMMISSIONER STEBBINS: One of the jurisdictions that I believe you have been active and is in Michigan and Detroit. I'd be curious if you could just kind of review your interaction, and experience, and history, and investing in gaming operations in Detroit.
MR. PARDON: Sure, I'd be happy to do that. And also, Dave Waddell and Rob Russell represented us as well in Detroit. And, you know, assisted us through the licensing process there.

So, we made an investment in a casino called Greektown Casino, a commercial casino in Detroit. But the project, the casino had gone into bankruptcy. We were not involved previous to the bankruptcy, and we were approached with an opportunity to provide capital to basically finish some major construction that had gone on. Part of the reason why they went into bankruptcy dealt with construction and construction overruns, as well as the timing of the financial crisis.

So, we -- we were approached with the opportunity. We made an equity investment, so we were an owner of the casino, along with other funds. Went through that process, it lasted probably twelve months just given, dealing with the bankruptcy issues and the bankruptcy court, as well as the regulatory
issues with Detroit.

So, after about a year, you know, we emerged from bankruptcy and we were one of the owners. We went through suitability, we were found suitable.

And ultimately sold the investment several years later to Dan Gilbert, who is a big, you know, investor in the Detroit area, and is making his way into the casino business. And we closed on that transaction earlier this year.

COMMISSIONER STEBBINS: Thank you.

COMMISSIONER ZUNIGA: I have another question. Do you see any, in your future, and the future of your firm, any instance of going public, taking this partnership that you have, this employee owned partnership?

MR. KELLY: It's never been discussed.

COMMISSIONER ZUNIGA: Okay.

MR. KELLY: But having been around for a long time, we never say never. But it's absolutely never even been raised as an issue, you know, or consideration. So, I would say highly unlikely, but --
CHAIRMAN CROSBY: Mr. Etess, you said I think that the compliance officer and staff report to the Audit Committee. You apparently don't have a separate Compliance Committee.

MR. ETESS: Correct. We have an Audit Committee and a Compliance Department.

CHAIRMAN CROSBY: And what is the makeup of the Audit Committee?

MR. ETESS: The Audit Committee is made up of five of the tribal counselors. Mark Rianna is the Chairman; Kathy Regan-Pyne; James Gessner, the treasurer; Thayne Hutchins is on it, and one of the other -- and then -- Bill Quidgeon, Bill Quidgeon, the one of the five Tribal councillors.

They also have a professional group that also advises them, Phil Cahill and Leo. Phil is the COO of the Tribe, and a former public accounting auditor with Anderson. And Leo is a former CFO of the MTGA and for the local hospital. And so, they advise them as well because they don't, you know, many of the board members don't actually have the
professional expertise of audit and so forth and so on. So, those two gentlemen along with PWC, our external auditors, assist them.

CHAIRMAN CROSBY: Usually, certainly on the compliance side and I think on the audit side as well, there are outside members. You don't have any outside members. What's the thought process there?

MR. ETESS: You know, I -- I -- it's -- the whole board is made up just of the Tribe. So I can't really speak exactly to what the thought process was. I wasn't there when it was constructed, but I would imagine it's all kept inside, and Council takes care of their business, and they have these outside advisers, you know, to kind of guide them.

CHAIRMAN CROSBY: You know, you -- you have such a good report that there's no problem to solve, you don't want to solve a problem that doesn't exist. On the other hand, the principle of outsiders on an audit/compliance committee, I mean as we've now gone through this process --
MR. ETESS: Right.

CHAIRMAN CROSBY: -- it seemed that a failure of a Compliance Committee is sometimes where problems generate, problems generate and it seems to me it's a matter of best practice --

MR. ETESS: Yeah.

CHAIRMAN CROSBY: -- and something that's worth thinking about.

MR. ETESS: That's a great point. I'll definitely bring it back.

CHAIRMAN CROSBY: Yeah. Any other -- there have been some expressions of concern that our -- we have contemplated as we have been reading, as we have been considering the report.

In particular, there was a letter submitted to us on September 30th from State Senator Stephen M. Brewer, who is the Chairman of the Senate Ways and Means Committee.

The substance of his letter was a concern that there wasn't enough time between the time we announced the suitability hearing
and hearing for the public to participate. And other people have expressed that same concern. And I want to just mention because we have considered that, and as I say other people have made this same point.

Back in April -- the point here I think on net is that, twofold. A, there is an and has been an ongoing process of inviting comment from any and all public and constituencies that has gone on for a long time and will continue, A. B, the suitability process that we are going through now, culminates in a snapshot in time. The process doesn't stop.

We will -- we will continue to consider suitability up to and through the final review of your final application. And any changes in circumstances, any data that people come to us with subsequent to this event will be considered. So, suitability -- and in the end of the day, suitability is a relative consideration. One can be more suitable than another.

So, this is an ongoing process and
with multiple opportunities for people to participate as there have been in the past.

In particular, in April, the Commission established a mechanism on the website to solicit input for Investigations and Enforcement Bureau and we've repeatedly promoted that. On April 23rd, we wrote letters to all of the representatives of surrounding host communities and everybody else we could think of.

The e-mail read contact -- the letter said contact MGC's Investigations and Enforcement Bureau. That was back in April. As of this morning, the suitability report in it's redacted form is available on our website. People will have an opportunity to review that redacted report and comment to us on an ongoing basis. If you do go ahead and submit a report -- an application, there will be at least two public hearings, one of which will be held in the surrounding communities area, one of which will be held by legislative mandate in the host community.

So, there are a multitude of
opportunities for input which we will continue to welcome and invite. And I appreciate Senator Brewer's concern. As I said, I think other people have the same concern. So, I wanted to address that, so that does not become a problem for us in addressing the suitability decision.

We also got a letter, let me see now. From a Diane -- an e-mail from a Diane Pikul, P-I-K-U-L, who had a long and quite thoughtful series of observations about the application. They really didn't have much, if anything, to do with the issue of suitability. They had to do with concerns about mitigation activities which you will eventually deal with in your second phase.

So, we -- again, her comments were worth considering and will be -- but will be more appropriate when we get the final applications. I just want to --

COMMISSIONER MCHUGH: Those --

CHAIRMAN CROSBY: Sure.

COMMISSIONER MCHUGH: Can I just jump in there, Mr. Chairman?
CHAIRMAN CROSBY: Yeah.

COMMISSIONER MCHUGH: Those are part, as are Senator Brewer's letter, those are part of the public record and your attention is invited to those comments as well.

CHAIRMAN CROSBY: Yeah. Thank you. I just wanted to read one thing from the minutes of last week's meeting that reinforces the point that I was making about the suitability process being an ongoing one.

(As read:) The Commission discussed how the suitability reports will be factored in to the RFA-2 evaluation, the final site specific proposal, and agreed that the full Commission, rather than individual evaluation teams will be able to consider relative suitability in making its final determination.

This is something we talked about last week. So, I think with that, that is the extent of my comments and the extent of the recent concerns that were expressed by the public. Does anybody else have anything they want to talk about?
All right. I think we need to make a decision then, a formal decision on whether we were to find Mohegan Sun suitable.

Commissioner McHugh, do you want to formulate something?

COMMISSIONER MCHUGH: No, but I will read something that somebody else has formulated, that I fully approve of.

 Whereas, on January 14, 2013, Mohegan Sun, Massachusetts, LLC filed an RFA-1 application for a Category 1 license, which application included a business entity disclosure form and forms, multi-jurisdictional personal history disclosure forms, and Massachusetts supplemental forms for the entities and individuals who are part of the Mohegan Sun, Massachusetts RFA-1 application; and whereas Mohegan Sun Massachusetts paid all of the fees required by our regulations specifically 205 CMR 114.01; and whereas the Investigations and Enforcement Bureau conducted a thorough investigation of Mohegan Sun, Massachusetts' suitability for a Category 1 license, all as
more fully described in the report entitled Report of Suitability of Applicant Entities and Individual Qualifiers, Mohegan Sun, Massachusetts, LLC that was discussed here today and is dated September 23, 2013 and made a part of the Commission's records and incorporated by reference into this resolution; and whereas the IEB, the Investigation and Enforcement Bureau, that is, recommends that the Commission issue a positive determination of suitability to Mohegan Sun, Massachusetts, and include the addition of certain license conditions if a Category 1 license is eventually awarded to Mohegan Sun, Massachusetts as more fully described in the letter from the Director Karen Wells to the Commission dated September 23, 2013, that is made a portion of the Commission's records and incorporated by reference into this resolution, and that the Commission allow Mohegan Sun Massachusetts to proceed to file an RFA-2 application for a Category 1 license with the Commonwealth for the Commission's review and evaluation in
accordance with Massachusetts General Laws Chapter 23K and the Commission's regulations; and whereas the Commission agrees that the IEB's recommendation to issue a positive determination of suitability to Mohegan Sun, Massachusetts and the inclusion of the license conditions as described in the Wells letter, and to allow Mohegan Sun, Massachusetts to proceed to file an RFA-2 application for a Category 1 license is appropriate, now it is hereby resolved that the Commission finds after review of the suitability reports upon the IEB's investigation of Mohegan Sun, Massachusetts and the entities and individuals that make up Mohegan Sun, Massachusetts' RFA-1 application, the Wells letter, and the receipt of information at the public hearing held on October 3, 2013, that Mohegan Sun, Massachusetts meets the requirements of General Laws Chapter 23K and the Commission's regulations for suitability as an applicant for a Category 1 license, and it is resolved that the Commission hereby issues a positive
determination of suitability to Mohegan Sun, Massachusetts, and agrees that certain license conditions be included in the license if one is eventually granted to Mohegan Sun, Massachusetts. And it is further resolved that Mohegan Sun, Massachusetts is deemed suitable to proceed to file an RFA-2 application for a Category 1 license for the Commonwealth's review and its evaluation, pursuant to General Laws Chapter 23K and the Commission's regulations.

And it is further resolved that the Commission will continue to review Mohegan Sun, Massachusetts' ongoing suitability as it proceeds through the RFA-2 process and may request additional information from Mohegan Sun, Massachusetts as needed to ensure Mohegan Sun, Massachusetts' continuing suitability.

So, that is the resolution and the basis for the resolution, Mr. Chairman and Commissioners, that I would move the Commission accept.

CHAIRMAN CROSBY: Thank you. Second?
COMMISSIONER CAMERON: Second.

CHAIRMAN CROSBY: I will say that out of deference to our constituents who do business with the SEC we might need to come up with a better expression then "Wells Letter."

DIRECTOR WELLS: Yeah.

COMMISSIONER MCHUGH: That was Karen Wells.

CHAIRMAN CROSBY: I can see a whole bunch of hairs standing on end.

COMMISSIONER MCHUGH: Every -- every -- let me -- let me make it perfectly clear. Every reference to the Wells letter was a reference to the letter authored by IEB Director Karen Wells.

CHAIRMAN CROSBY: Okay. All right. Do we have any further discussion on the motion? All in favor say aye. Aye.

COMMISSIONER MCHUGH: Aye.

COMMISSIONER CAMERON: Aye.

COMMISSIONER STEBBINS: Aye.

COMMISSIONER ZUNIGA: Aye.

CHAIRMAN CROSBY: All opposed? The
Ayes have it unanimously. Congratulations.

COMMISSIONER MCHUGH: Congratulations.

COMMISSIONER CAMERON: Congratulations.

MR. ETESS: Thank you.

CHAIRMAN CROSBY: We will take a quick break and be back in five or ten minutes.

(A recess was taken)

CHAIRMAN CROSBY: Are we on? We're on. We are now reconvening Public Meeting #78 of the Massachusetts Gaming Commission. And we will go to the approval of the minutes, Commissioner McHugh.

COMMISSIONER MCHUGH: Mr. Chairman and colleagues, the minutes are found at tab -- tab -- they're found at tab 3A.

CHAIRMAN CROSBY: Three.

COMMISSIONER MCHUGH: And I would move -- those are the minutes of the meeting of September 19, 2013. And I'd move their approval in the form contained in the meeting materials, subject to any typographical or
other mechanical corrections that may later be determined -- later be found.

CHAIRMAN CROSBY: Can I have a second?

COMMISSIONER STEBBINS: Second.

CHAIRMAN CROSBY: I just had just a question. It wasn't really relating to the substance of the minutes or the form of the minutes, and I don't know whether without Director Day here we know. But it refers to --

COMMISSIONER MCHUGH: Where is the reference, Mr. Chairman?

CHAIRMAN CROSBY: It's 9:54 on page two.

COMMISSIONER MCHUGH: All right.

CHAIRMAN CROSBY: 9:54 a.m. on page two.

COMMISSIONER MCHUGH: Right.

CHAIRMAN CROSBY: We were talking about the process by which we will get clarifications of answers to RFA questions. And the staff was going to come up with a written description of that process and standards. Is that -- is that in the
pipeline somewhere, do you happen to know?

DIRECTOR WELLS: I believe we are looking at it. We have not completed it yet.

CHAIRMAN CROSBY: I see Jennifer.

MS. PINCK: Yes.

CHAIRMAN CROSBY: Okay. So, it's in the pipeline, okay. Great. Any other questions, comments about the minutes? All in favor of acceptance of the minutes as proposed, say aye. Aye.

COMMISSIONER MCHUGH: Aye.

COMMISSIONER STEBBINS: Aye.

COMMISSIONER CAMERON: Aye.

COMMISSIONER ZUNIGA: Aye.

CHAIRMAN CROSBY: Opposed? The motion is accepted unanimously. We will now go to item number four on the agenda, Administration and Legal, Catherine Blue, General Counsel and Todd Grossman, Deputy General Counsel.

COUNSEL BLUE: Good morning Commissioners. We do not have an administrative report say as Executive Director Day is not with us.
The first item we would like to consider is the legislative report. And Commissioner Zuniga is going to give us an update on that, and then there will be a vote on submitting that.

CHAIRMAN CROSBY: Okay.

COMMISSIONER ZUNIGA: Thank you. As you'll recall, I presented a draft in the last commission meeting of the report that's due to the legislature at the end of September. That covers the fiscal, the full fiscal year of fiscal year '13.

I received some edits from, you know, a couple of people, notably some commissioners. And I am presenting this report in its current draft form for approval and can take any additional edits or comments if anybody thinks necessary.

CHAIRMAN CROSBY: No, we talked about it before and I -- I thought you did a great job, and everybody expressed appreciation in your taking the lead in doing it. Any other comments?

COMMISSIONER MCHUGH: I just echo that
one. I thought it was great.

CHAIRMAN CROSBY: Yeah, you want to move acceptance of the report?

COMMISSIONER ZUNIGA: Then I will move that this Commission approve the report as drafted and send it to -- all the -- all the honorable members of the legislature, and the Governor's office that we are required to submit this report to.

COMMISSIONER CAMERON: Second.

CHAIRMAN CROSBY: All in favor?

COMMISSIONER MCHUGH: Aye.

COMMISSIONER STEBBINS: Aye.

COMMISSIONER ZUNIGA: Aye.

CHAIRMAN CROSBY: Opposed? The ayes have it unanimously.

COMMISSIONER ZUNIGA: Thank you.

CHAIRMAN CROSBY: Thank you.

COUNSEL BLUE: The next item on the list is in your section --

CHAIRMAN CROSBY: Excuse me, just one second, Catherine. Janice, we just want to make sure that we do in fact follow up on this and send this off to the right group of
folks. So, if you'll just help us to remember to do that. Okay. Sorry.

COUNSEL BLUE: Item 4B in your package is the list of outstanding policy questions. I just want to bring your attention to a couple of matters on that. The first item on that list is part of the discussion we will be having on October 17th with Executive Director Day.

And then there was a later item on this list regarding licensing. We will be addressing that in item number 7 of your package today.

In the interim, the Legal Department is looking at various kinds of regulations to address some of the policy questions in this list. We have worked with the consultants and asked them for examples of best practices in other jurisdictions, so we will be putting together draft regulations and draft suggestions to present to the Commission as the fall rolls on. So, I just wanted to let you know that we're working on that.

CHAIRMAN CROSBY: Well, are you
-- are we planning on -- we never got around
to discussing these last time, right, last
week?

COUNSEL BLUE: We did not. We're
going to discuss the licensing section today
in detail. And I think that is on the second
page of this list. It's item number 50. We
will be addressing that in some detail.
Those are the first set of regulations and
policy questions.

CHAIRMAN CROSBY: And are we going to
be discussing the other questions?

COUNSEL BLUE: We are going to be
discussing the first item on this list next
week as part of the long --

CHAIRMAN CROSBY: Right.

COUNSEL BLUE: -- and broader
discussion.

CHAIRMAN CROSBY: But all the other --

COUNSEL BLUE: The others we will as
we -- as we present options to the Commission
on those --

CHAIRMAN CROSBY: All right.

COUNSEL BLUE: -- we will.
COMMISSIONER MCHUGH: So, this is just a preview of coming attractions?

COUNSEL BLUE: Essentially, yes. Yes.

CHAIRMAN CROSBY: Well, I do have some thoughts on these, but I can take them up with Todd or somebody independently.

COMMISSIONER MCHUGH: Well, I thought the process would be -- would be like the process we used before, and that is have the questions here. This time the staff, as opposed to one of the Commissioners will prepare a recommendation in writing and then we get a chance to look at it, and then we discuss it. And then decide the policy question. Something along those lines.

COUNSEL BLUE: That is the process.

COMMISSIONER MCHUGH: Okay.

COUNSEL BLUE: And we are working with Executive Director Day on that.

COMMISSIONER MCHUGH: Okay.

COUNSEL BLUE: So, we will have a white paper, for lack of a better term, on that policy question for the Commission to consider.
CHAIRMAN CROSBY: For each of these questions?

COUNSEL BLUE: Yes.

CHAIRMAN CROSBY: So, there will be a group discussion about each of these questions?

COUNSEL BLUE: Yes, there will be.

CHAIRMAN CROSBY: Okay. All right.

COUNSEL BLUE: And that is all that we have for the legal report this morning.

CHAIRMAN CROSBY: Okay. Then we will jump to the Ombudsman report.

COMMISSIONER ZUNIGA: Mr. Chairman, can I go back to --

CHAIRMAN CROSBY: Sure.

COMMISSIONER ZUNIGA: -- part of administration. I -- I did insert a matter --

CHAIRMAN CROSBY: Oh, yes.

COMMISSIONER ZUNIGA: -- of this on the same --

CHAIRMAN CROSBY: Right.

COMMISSIONER ZUNIGA: Item number four relative to fees and stipends for individual
COMMISSIONER MCHUGH: Yeah.

COMMISSIONER ZUNIGA: I was wondering if we could have brief a discussion about that.

CHAIRMAN CROSBY: Absolutely. I think we should have -- I meant to do that, yeah. Did you want to go ahead?

COMMISSIONER ZUNIGA: Sure. There -- some of it teams that we have begun to formulate for the evaluation of the five sections include, or may include individuals. And my recommendation, some of these individuals will spend a significant amount of hours helping us read through the relevant sections of the -- of these proposals. And my recommendation is that we establish a not to exceed fee that will follow a stipend in recognition for those -- those hours. And in the instances where those individuals are state employees in another agency, that that stipend be forwarded not to the individual, but the agency in the manner that they direct us.
This is merely in recognition for the amount of time that this would take. This is under the threshold that the -- the recommended threshold that I have here is under the procurement thresholds for incidental purchases, or it's actually at that threshold. Which is why I just wanted to talk about it for the record and establish it as -- as we move forward with these evaluations.

I can take any questions.

CHAIRMAN CROSBY: Yeah, that's absolutely important and I'm glad you brought it up. And I just want to expand on that a little bit. We are -- we are each of the Commissioners is heading up one of the five evaluation criteria categories. In some cases we are procuring paid consultants to help where there's really a huge amount of work and a lot of expertise required.

But in other cases, we are simply asking citizens, just folks to help us kind of be a part of the brainstorming and evaluation advisory process. But it's --
requires enough work that we felt it was too much to ask of most people to do the kind of work that's going to be involved to review all these applications without getting some kind of payment.

And so, we've agreed that this stipend for such folks is important. And I'm certainly in favor of doing it, but I want to make sure everybody understands and the public understands what we're doing, and why.

COMMISSIONER ZUNIGA: Right. I'm simply intending as a best practice to say here's -- here's a stipend that's applicable to everybody. And we're not in a position where somebody gets more or less. It's a not to exceed fee, and it's based on level of effort, and hours, etcetera, etcetera. But establishing that as a -- as a maximum I think is important.

CHAIRMAN CROSBY: Right. I agree. Do we need a vote for this? Do you think? It wouldn't hurt.

COMMISSIONER MCHUGH: It's -- it's --

COMMISSIONER ZUNIGA: We have voted in
the past for all incidental purchases under $10,000.00 to leave to the staff. But as the Chair suggests, it doesn't hurt.

COMMISSIONER CAMERON: We have or have not voted?

COMMISSIONER ZUNIGA: We have.

COMMISSIONER CAMERON: We have.

COUNSEL BLUE: We have.

COMMISSIONER MCHUGH: I think we should have a vote. We may need to have a confirming vote down the road. This -- this is not an agenda item for today. That's my only concern.

COUNSEL BLUE: That -- Commissioner McHugh is correct.

CHAIRMAN CROSBY: Turn the mike.

COUNSEL BLUE: Commissioner McHugh is correct. This isn't listed specifically on the -- on the agenda, so we could wait until next time and have a formal vote listed then. That might be the better way to do that.

CHAIRMAN CROSBY: Yeah, so let's do that.

COMMISSIONER MCHUGH: I think we're
all --

CHAIRMAN CROSBY: We're certainly comfortable.

COMMISSIONER MCHUGH: -- we're certainly comfortable with this.


MR. ZIEMBA: Thank you, Mr. Chairman.

Before I begin my remarks, we're going to be talking about some surrounding communities. We're going to provide you a surrounding community update. Obviously mitigation of surrounding communities is a -- is a central tenet of our application process. But before I begin that review, I'd like to allow Commissioner McHugh to give a little bit of a an update regarding another very significant item of mitigation that's important as part of our application process, notably the Lottery.

COMMISSIONER MCHUGH: Yes. Mr. Chairman and colleagues, this is not an agenda item either. But I don't think any
vote is necessary.

We have been unwavering, I think is the best word we can use, in our public and private pronouncements about the importance of protecting the Lottery as this process moves forward.

In that connection, Commissioner Zuniga and I some months ago met with representatives of the Lottery to encourage them to reach out to applicants to try to arrange on agreements, Lottery agreements. All successful applicants, all licensees are required to have a license to sell lottery products, and support the Lottery. And there are other statutory conditions, so we urged them to reach out.

Later, the Chairman and I met with Lottery representatives and treasury representatives and reiterated the same thing. Apparently some question has arisen as to whether or not a signed Lottery agreement was a prerequisite to filing an application. Nothing that Commissioner Zuniga and I said or that the Chairman and I
discussed with -- with Lottery officials was intended to suggest that that was the case. But apparently there's some confusion on that part.

So, I think I am speaking for all of us when I say that even though it's not a requirement for filing an application, A, the application process will evaluate and take seriously into consideration the Lottery mitigation efforts that are contained in the RFA-2 application. There is a checklist that's part of question five, the mitigation section, that deals with that.

Question 5-22 specifically asks questions about how the mitigation efforts will proceed, and the Commission is going to pay serious attention to those.

And in addition, because of the way that the Statute is written, a license will -- agreement will have to be in place -- I'm sorry, a -- a agreement between the applicant and the licensee will have to be in place before the license decision is made. And we'll consider that as part of the
application process.

And I'm not asking for a vote on that.

I -- I'm simply trying to restate what I thought was our common understanding and see if I'm correct in what I thought was our common understanding. But if I'm not, this is a good opportunity to discuss it and make sure we're on the same page.

COMMISSIONER ZUNIGA: Yeah, well the -- and the central -- just to reiterate, the central -- the point to this was whether an executed agreement, mitigation agreement was necessary prior to submitting an application or later. Prior to being licensed or even prior to opening an operation.

That's -- that's the fine point. The Lottery -- the people from the Lottery believe that having an executed agreement prior to an application had them in a better position in terms of negotiating an agreement. But just as Commissioner McHugh suggested, prior to the licensure is also another important milestone.

CHAIRMAN CROSBY: Now I'm confused. I
don't -- I don't know what the bottom line is here.

COMMISSIONER MCHUGH: The bottom line is that we are committed to reviewing in careful and thoughtful fashion, placing emphasis on the Lottery mitigation efforts described in the application, and that we are committed to having a license agreement between the Lottery and the applicant in place before we award the applicant a license.

COMMISSIONER ZUNIGA: That's right.

COMMISSIONER MCHUGH: I'd like --

CHAIRMAN CROSBY: But not before the application.

COMMISSIONER MCHUGH: Not before the application is fine. And I thought that -- I thought that in the remarks I just made I was restating what we already had agreed on. And I wanted to make sure that that was the case, so that the Lottery understood that the Commission as a whole and the applicants understood that the Commission as a whole stood behind those two principles, careful
monitoring of mitigation efforts, agreement in place before a license is issued.

CHAIRMAN CROSBY: So, during -- so during the application process, what you're saying squares with what my impression was. That during the application process we'll be interested in knowing what their strategies are, what --

COMMISSIONER MCHUGH: Right.

CHAIRMAN CROSBY: -- their commitments are, what their ideas are --

COMMISSIONER MCHUGH: Right.

CHAIRMAN CROSBY: -- but there doesn't necessarily have to be a signed agreement in place.

COMMISSIONER MCHUGH: Not before the license -- the application is filed, but there does have to be a --

CHAIRMAN CROSBY: Right.

COMMISSIONER MCHUGH: -- signed application in place before we award a license.

CHAIRMAN CROSBY: Right. Okay.

COMMISSIONER MCHUGH: I think that's
where we've been from the --

CHAIRMAN CROSBY: Yes, it is. I'm completely fine with that. It gives me a chance, however, to -- to say something that I say all over the place, and I think it's really important. There is a very high priority in the legislation to protect the Lottery. Why? Because as most of you know, there's a billion dollars a year that goes to local aid from the proceeds of the Lottery.

In order to generate that billion dollars a year for local aid, there has to be a total of five billion dollars a year gambled by pretty much the people of Massachusetts to generate the -- what amounts to the profit which goes to local aid. $5,000,000,000.00 or $725.00 for every man, woman and child in Massachusetts, more than two times the national average.

Nobody knows what happens when you introduce expanded gaming into a jurisdiction with this much lottery gambling. So, we're under this mandate to protect the Lottery and we talk about it everywhere we go. But
there is this issue, how much money out there, how much discretionary income is there to be gambled beyond the $5,000,000,000.00 which is already gambled on the Lottery. And it's something that the public and everybody needs to be aware of, that there is this issue. We will do everything we possibly can to implement the legislative intent. But it is, it is a significant issue that none of us can predict the outcome of.

COMMISSIONER ZUNIGA: Well, I -- I would argue that our research study is going to help us to a great deal in understanding some of those impacts, outcomes and things like that.

CHAIRMAN CROSBY: We'll definitely know after the fact. But I'm saying it's hard to predict now, you know, what -- what -- what the impact is going to be.

COMMISSIONER ZUNIGA: Right.

CHAIRMAN CROSBY: Mr. Ombudsman.

MR. ZIEMBA: Thank you, Mr. Chairman. As for my update, at the last commission meeting the Commission discussed concerns
that no surrounding community agreements had yet been reached for both Category 1 and Category 2 applications.

The Commission also discussed that the constraints of time resulting from the impending October 4th Category 2 deadline might force applicants and communities into arrangements that might not be optimized for the long-term relationship between the parties.

To the best of my understanding, as of this hour, no surrounding community agreements have yet been reached. However, as one would imagine with a deadline Thursday, a significant increase in activity over the last couple of weeks since I made my report some communities may soon be able to reach an agreement.

Yet communities and applicants have both stated that they -- they need more time to reach agreements. Communities also need more time to understand what level of impacts will result from these facilities.

At the last meeting, the Commission
discussed a plan to help communities and applicants reach agreements that are mutually beneficial or to determine what is necessary for applicants and communities to determine impacts or lack of impacts with facilities.

The Commission discussed having both communities and applicants appear before the Commission in order to brief the Commission on how they can achieve these goals.

The Commission also instructed me and General Counsel Blue to brief the Commission at this meeting about any changes to the Commission's procedures that might be necessary.

In regard to how best to achieve the aims of the appearances by the applicants and the communities, we offer the following:

We recommend that each of the Category 2 applicants appear at the Commission's next meeting to brief the Commission about the status of their plans with surrounding communities, and communities that have expressed an interest in becoming a
surrounding community. Each of these applicants would explain how they plan to work with communities, so that they can understand impacts or the lack of impacts, and what needs to be done to enable communities that believe they are surrounding communities to reach surrounding community agreements, if that is appropriate.

Each of the applicants can discuss community needs or requests for technical assistance, or other resources that would be necessary to conclude agreements.

In the alternative, applicants could explain -- explain how the agreements that they are proposing provide a method for addressing such needs as more details on the project become finalized either through the MEPA process or if there are other processes that will occur in the future.

After this discussion, at our next meeting on the 17th of October, the Commission will soon thereafter have input sessions in communities. We plan to hold at least one input session in a surrounding
community for each one of the applications. At this meeting we'll receive comments from surrounding communities, communities that believe they are surrounding communities, and members of the general public.

In this meeting, communities that wish to provide comment on the status of the discussions with applicants could do so. They would have the advantage of hearing the testimony of the applicants on the 17th. Through this public dialogue, both the Commission and the public would be informed about the status of their communities.

Well before the 17th appearance by the applicants and before the public input meetings, Commission staff will continue to work with applicants, communities and regional planning agencies to try to achieve the goals that were announced last week -- two weeks ago by the Commission.

As for the second part of the Commission's directive from our last meeting, I recommend that the Commission change it -- change its procedures on surrounding
community petitions to allow for continued
dialogue between communities and applicants.

    We've been working on the final
aspects of this recommendation when we
received a request included in your packet
from one of our applicants, PPE Casino
Resorts, and a number of communities,
Lancaster, Lunenburg, Townsend, and
Westminster. They are requesting that the
Commission extend our deadline for
surrounding community petitions until October
31, 2013. This is an extension of 16 days
from our current October 15th deadline for
surrounding community petitions.

    The 15th instead of the 14th because
the tenth day for surrounding community
petitions falls on Columbus Day.

    This letter states that the applicant
and the community submit that their time and
resources would be better spent over the next
several weeks attempting to finalize
negotiations than initiate -- initiating an
adversarial proceeding before the Commission.

    We recommend that the Commission
extend this deadline. If communities which have not been designated as surrounding communities in an application reach a surrounding community agreement after our deadline, our regulations allow for the Commission to accept this agreement.

Our regulation states that an applicant may assent to any petition by a community to become a surrounding community, and that such assent shall result in the community becoming the surrounding community. Our regulations also provide that negotiations concluded after the deadline can result in an agreement that is included as part of our second review phase.

Here, by allowing the extension, we hopefully give enough time for communities to reach agreements with applicants without having to resort to the adversarial process that is specified in our regulations.

In addition to the extension of the surrounding community petition deadline, we also note that communities that have been designated as surrounding communities in an
application but have not reached agreement yet can utilize provisions of the regulations to just give them more time.

Under our regulations, communities that have been designated as a surrounding community in an application have ten days to notify the Commission that they assent to such designation. It is only after that that the Commission is required to issue a written notice designating the community as a surrounding community.

Thus, surrounding communities have at least this ten-day notice period in the time that the Commission takes to issue the written determination before the clock starts ticking on the thirty-day statutory negotiation period between communities and applicants.

The Commission has further flexibility in determining when that written determination is made, thus starting that thirty-day negotiation period.

While the above conversations between communities -- between applicants and
surrounding communities continues, the
communities still have the ability to work
with any regional planning review process
that has been started. Further, communities
will also be able to utilize any resources
that the applicant has agreed to provide.
And finally communities can still petition
the Commission for involuntary disbursements.

The Commission would need to weigh how
such reviews would be beneficial for
determining surrounding community status,
and allowing for the parties to reach an
agreement.

Our surrounding community petition
regulation does not put a limit on the time
that the Commission has to make a
determination on surrounding community
status. It merely states that communities
have ten days or 26 days if an extension of
it is granted, presumptive of this
recommendation, to file with the application
-- to file with the Commission.
Applicants have ten days to respond. Then
the Commission is required to make a
determination, but no time period is specified on how much time the Commission needs to make a determination based on the filings from both the community and the applicant.

The time in making such a determination could be used in determining what would be necessary for the Commission to make a determination on surrounding community status that is based on the facts.

I'd also like to note that an extension would be important for another reason. Under our regulations and under our application, we have a process whereby communities can notify us if they wish to receive copies of reports and copies of application sections that relate to surrounding community status. But in that regulation and that application, it requires communities to affirmatively send a -- an e-mail to us, which we would then forward to the applicants stating that communities would like to do so.

And despite efforts to publicize the
availability of that -- of that method of
being informed about the application, only a
small percentage of communities have taken
advantage of that section.

The fallback we have always had in our
-- in our process was that we are going to
make our application as publicly available as
soon as possible. And hopefully within days
of receiving the October 4th application, we
will make that publicly available. But still
each and every day that it takes for us to
get that application publicly available would
otherwise eat into that ten-day period for
communities to file their applications.

So, within this general construct of
what I've just talked about, the Commission
-- if the Commission agrees to the -- to
extend the date, I'll ask Counsel Blue or
Attorney Grossman to provide detail on how we
could actually accomplish this extension.

CHAIRMAN CROSBY: Do you want to go
ahead with that? Yeah, okay. Mike.

COUNSEL BLUE: So, the Commission
could grant this extension by granting to the
applicants -- or to the surrounding communities rather, a variance, which would extend the time frame. And as the Commission knows under 205 CMR 102.3, there are four things that need to be considered in the granting of a variance.

Those things are whether the granting the variance is consistent with the purposes of Chapter 23K; granting the variance -- whether the granting the variance will not interfere with the ability of the Commission to -- or the Bureau to fulfill its duties; whether granting the variance will adversely effect the public interest; and if not granting the variance would cause a substantial hardship to the person requesting the variance.

I think Ombudsman Ziemba makes a very good point, that this would be very helpful to the surrounding communities, and we have at least one applicant who agrees with that. So, if the Commission were to today make a motion to grant a variance for the extension of the time frame, it could certainly do
MR. ZIEMBA: One thing I'll note is that we received a late comment from the Town of Bridgewater supporting an extension to promote further dialogue that -- with that --

CHAIRMAN CROSBY: I'm not a hundred percent sure, I don't think anybody else is, exactly what's being recommended. There's a September 23rd memo from Attorney Grossman, and I thought that that was suggesting that we extend our period, our ten-day period when we have to determine whether or not the community is a surrounding community. And that -- and that the -- but the community would still have to file this -- the petition.

Are you suggesting that we waive the requirement that the -- that the community file the petition within that ten days?

MR. ZIEMBA: Yes.

CHAIRMAN CROSBY: So, we can do that.

MR. ZIEMBA: Yes.

CHAIRMAN CROSBY: Okay. I thought that was legislatively mandated and couldn't...
COUNSEL BLUE: No, that's part of our regulations.

CHAIRMAN CROSBY: Okay. So, why -- why is that a waiver? Why don't we just extend the exist -- vote to extend it?

COUNSEL BLUE: It's a variance from the regulation, so the ten-day period is in the regulations. So, you would be varying the regulation.

CHAIRMAN CROSBY: And the only way we can do that is to give a waiver to the surrounding community?

COUNSEL BLUE: To vote for a variance.

COMMISSIONER ZUNIGA: One of the --

COUNSEL BLUE: One of the ways that -- the easiest way.

CHAIRMAN CROSBY: The easiest way?

COUNSEL BLUE: Yes.

COMMISSIONER ZUNIGA: We could issue an emergency regulation.

CHAIRMAN CROSBY: It would be -- so, it would be a blanket waiver to any -- it
wouldn't be just for anybody who asked for it. It would be a blanket waiver. Okay.

COUNSEL BLUE: Yes.

COMMISSIONER ZUNIGA: Can I -- you was suggesting in your remarks that there be a presentation in the next meeting of the Commission on the 17th.

MR. ZIEMBA: Yes.

COMMISSIONER ZUNIGA: By the applicants as to the progress on their discussions with surrounding communities, but we also have scheduled a presentation from each of these applicants on Monday. It occurs to me that that could be -- that that would also be a good opportunity for them to provide a quick update.

I know everybody's been working on submitting the application and etcetera, but if each of them spend five minutes as to -- describing what process they have undertaken at that point, that might be helpful as well.

MR. ZIEMBA: I think that's a very good point. I would imagine that each of the applicants if such -- it's such a significant
part of our application, that they would
address that as part of their presentations. And hopefully they will do so. But the --
the follow-up meeting gives us the benefit of
what has occurred between basically our
application date and the 17th, and what
progress is being made. So, both would be
very important, I agree with that.

COMMISSIONER MCHUGH: On Monday,
though, the format is simply to give the
applicants 90 minutes to say what they want.
This is a good heads-up that part of what we
want, and therefore hopefully they want is an
update on, at least touching on what they're
doing with the surrounding communities.

MR. ZUNIGA: That's right.

CHAIRMAN CROSBY: This -- I don't know
whether this really matters or not, but it
doesn't -- I don't -- we're going to --
you're proposing that today we grant a
blanket waiver. So, the ten-day window is
irrelevant and it will be now until the end
of October.

COUNSEL BLUE: Mm-hm.
CHAIRMAN CROSBY: So, we're not -- we don't need any more data to decide whether or not we're going to do that. You're recommending that we do that now, so putting an additional burden on the applicants who are already here via the grapevine scrambling to get their 90 minute presentation together, that -- that is -- we've invited them to come in and present to us whatever they want to present to us, to put their best foot forward to us and in public to present their case.

You know, if they want to give us an update on the surrounding communities, that's their business. But it doesn't really seem to me that we would want to add on to their agenda telling us about the -- their status on surrounding communities.

Doing it on the 17th makes sense, but I'm not sure that it does on the 7th.

COMMISSIONER MCHUGH: I'm not proposing we add any requirements at all, Mr. Chairman. I'm simply suggesting that the sense of the Commission is that we are interested in this issue and if they want to
weave that into whatever they present on
Monday, that will be -- that will be good.
If they don't, they don't.

CHAIRMAN CROSBY: All right. Are you
okay with --

COMMISSIONER ZUNIGA: Absolutely.
That was a -- that was the point of my saying
today, hey, there's a great opportunity to --

CHAIRMAN CROSBY: Yeah.

COMMISSIONER ZUNIGA: -- tell the world
where you are on -- on this statutory
requirement, surrounding community
agreements.

MR. ZIEMBA: One further thing that I
will note is that the extension of the
deadline for the Category 2 deadline to
October 31st does bring into question what we
should do regarding the same deadline ten
days for our Category 1 applications. And I
think what we'd recommend or what I would at
least I'd recommend is that that ten-day
period probably should be re-looked at,
especially in the -- in the context of when
our applications are made available to the
general public and to communities. And obviously that we've been getting a number of different requests for additional time from communities, and that that issue bears a lot of further reflection.

There -- there's some time between now and December 31st application deadline, but that window is growing shorter every day.

COMMISSIONER MCHUGH: On that -- on that, I wonder if there isn't a lesson here for us. It seems to me that -- that at -- rather than extending a deadline now for the Category 1 process, should we consider being as a Commission, I know that -- that you have been proactively working with -- with the applicants and communities to try and get them together and think about this and focus on it, but I wonder if there isn't an opportunity for us as a Commission to -- to get behind this in some fashion.

We're going to have, under your proposal, with which I agree, the applicants come in on the 17th and tell us where they are. We're going to extend the deadline now
so that the process can work.

I would recommend that we -- we stay on the applicants after -- after this and monitor them, and -- but I wonder if it isn't, there isn't an opportunity for us to get the Category 1 applicants in here soon after we finish with the Category 2 applicants and say where are you on this. Because it's really important to us and we don't want to hold up the -- we don't want to hold up the process because you haven't addressed it.

We don't have as much room in back of the Category 1 process until the end of the fiscal year as we do here. So, that's another reason it seems to me we ought to be more proactive to try and get this buttoned up.

COMMISSIONER ZUNIGA: I would agree with that. And in I guess looking back and when we formulated the schedule, and had the numerous discussions about time lines and concurrent activities, we all assumed that there would be a lot of community --
surrounding community discussion at the same time as the host community negotiations were taking place. The reality is now looking back that almost everybody has waited until a host community has been executed, a host community agreement has been executed.

CHAIRMAN CROSBY: And the referendum.

COMMISSIONER ZUNIGA: And the referendum, for them to begin discussions with the surrounding communities. As a practical matter, they were all focused on meeting the first threshold I guess of having a positive referendum. So --

COMMISSIONER STEBBINS: I -- I agree with both of those points. I pick up on what the judge says. I mean we -- we understand that applicants have been reluctant to approach surrounding communities until the referendum in the host community agreement is earned. But we've had some referendums that are now three months old. So, you know, the value of the meeting on the 17th would be great to hear from those applicants as to what their efforts are. And I'm referring to
the Class 1 category, you know, what have	heir efforts been and what kind of reaction
have they gotten from potential surrounding
communities.

But, you know, three months have
passed, we had hoped there would be a little
progress.

CHAIRMAN CROSBY: I second or
third all -- all of that. I think we have to
really let the Category 1's understand that
their feet are to the fire here and have to
stick -- have to know that. So, I think
we're all -- think we're all on the same
page.

All right. Do you want to -- does
somebody want to -- is there more discussion
on the -- are we -- are we comfortable with
the idea?

I mean obviously by doing this, we,
for the first time really have opened up the
non-trivial possibility that we will not be
awarding our Category 2 license at the end of
December/first week or so of January as we
had planned. Now, we don't know what will
happen, but this is the first step that could lead to that.

Now, we've -- we've known that surrounding community negotiations are the biggest delay in the process, or we've learned that surrounding community negotiations are the biggest delay in the process. And we've said repeatedly we won't be a slave to the schedule; we do want to give everybody time. But -- but having said that, this is -- doesn't mean the possibility of slipping that deadline in a more formal way than we ever have before.

COMMISSIONER ZUNIGA: That's a real possibility. I would -- I would like to think, but maybe I'm too much of an optimist, and that additional days on the front end may mitigate the thirty days that we have on our schedule and then the further days that come in terms of arbitration. But we'll -- I guess we'll see.

CHAIRMAN CROSBY: Sometimes even a turtle on Ambien is going to fast. Okay. So, it sounds that we're all familiar with
that, we're comfortable with that. Does somebody want to put that in the form of a motion? We clearly do need to vote on this, I think.

COMMISSIONER MCHUGH: We do. And we need to -- we need to coalesce around some principles along the lines that General Counsel Blue laid out for us.

It seems to me that we, from the discussion here, agree that granting a variance from the -- from the regulatory scheme by extending the deadline until October 31st would be consistent with Chapter 23K because Chapter 23K really focuses on robust protective surrounding community agreements. And this gives, this -- this push back will give us an opportunity to make sure that that happens.

It won't interfere with the ability of the Commission or the Bureau. The Bureau really isn't involved directly here, but it won't interfere with the ability of the Commission to -- to carry out its duties because it will enhance our ability to make a
judgment about -- about the quality of surrounding community agreements. And -- and without having the arbitration process create involuntary surrounding community agreement. It won't adversely affect the public interest, on the contrary it will enhance the public interest because it will give more communities more time to work with the applicants. And not granting the variance would cause a substantial hardship to the applicants and to the communities, both of whom are requesting this because it would force them into an adversarial process prematurely when an adversarial process may not be necessary.

So, I think I'm restating what we all implicitly agree on, and I therefore move that we adopt those recitations as findings. And that we move the deadline for filing surrounding community designation applications to October 31, 2013.

CHAIRMAN CROSBY: Second?

COMMISSIONER ZUNIGA: And just to clarify before -- I guess we could second.
But -- but just to clarify, the deadline for submitting an application for Phase 2 for the applicant is not moving. I don't want to confuse --

COMMISSIONER MCHUGH: No, no, no.

COMMISSIONER ZUNIGA: -- any, that the real deadline which is upon us, it is -- it is about the agreement, it is Commissioner McHugh --

COMMISSIONER MCHUGH: It's just the surrounding community agreement. The deadline reminds tomorrow.

COUNSEL BLUE: Yeah.

CHAIRMAN CROSBY: And you know this better than anybody, but there's a lot of different deadlines out there. And a lot of them dimly, vaguely aware -- aware under comprehension and the surrounding communities about which deadlines are which.

So, we're going to have to be really proactive and being clean, clear and repetitive in advising the communities what we've done here. Because you know better than anybody. Any further discussion on this
motion?

All in favor? Aye.

COMMISSIONER MCHUGH: Aye.

COMMISSIONER CAMERON: Aye.

COMMISSIONER ZUNIGA: Aye.

COMMISSIONER STEBBINS: Aye.

CHAIRMAN CROSBY: All opposed? The ayes have it unanimously. What's next?

MR. ZIEMBA: Mr. Chairman, we have a request from PPE Casino Resorts for a temporary waiver of the requirement in 205 CMR 119017. That its Phase 2 application include a certificate showing that the applicant has received a certified and binding positive vote on a ballot question at an election in the host community in favor of the license.

The applicant notes in its variance request that under state election law, the Leominster City Clerk may not certify the election results of the Leominster September 24th referendum until 5:00 p.m. on October 4, 2013.

Our Category 2 application deadline is
October 4, at 2:00 p.m. The Commission has previously discussed it would entertain requests for such waivers or variances.

The minutes from the Commission's June 27, 2013 minutes state: In order to give applicants more time to provide the election certification required as part of the RFA-2 application, the Commission will consider request for a waiver of the requirement to include the certification with the submission of the RFA-2 application, as long as the applicant submits the uncertified results with the RFA-2 application and submits certification to the Commission as soon as it is available. Applicants should submit such requests as soon as possible, and the Commission will review the request on a case-by-case basis.

This variance is in keeping with the Commission's discussion on June 27th, and will have either no impact or de minimis impact on the Commission's application review. Therefore I recommend that the Commission vote favorably on this variance.
request.

We received a number of comments to this variance request of which have been included in the Commissioners' packets. Those provided comments stated that if the applicant was not able to meet the specified time frames, the variance should not be granted, that the variance resulted from haste in the local referendum process whereby the public was not properly informed about the facility, that negative impacts of the facility were not properly discussed prior to the referendum, and that studies were not completed prior to the vote.

Others have raised concerns about the facility and about how it would impact the family character of the City of Leominster.

I note that comments seem to be more wide ranging and do not speak to the specificity of the purpose of the regulation at hand. The regulation was included so that the Commission would have evidence that the election results are certified.

The comments perhaps would be more
properly evaluated in the context of the Commission's review of the degree of public support in the community and its local procedures.

The Commission will hold a public hearing in the host community where members of the public will be given the opportunity to speak directly to such issues. These comments will then be evaluated by the Commission in making its license determination.

And for these reasons, I recommend the variance.

CHAIRMAN CROSBY: Conversation?

COMMISSIONER CAMERON: I see no reason why we don't adopt this variance -- approve it, rather.

CHAIRMAN CROSBY: I just want to reinforce what Ombudsman Ziemba said about the public comments. We did get many comments urging us to not grant this variance. They had little to do with the substance of the variance, as you said they had a lot to do with really thinking that
they weren't properly informed in the election. There were a couple of people who sent in the letter that was written by the president of the Leominster City Counsel, Susan Zephir, who talked a lot about the insufficiency of the studies and insufficiency of the mitigation information.

But as you said, most of the concerns are concerns which could be addressed at subsequent events here, and don't have to do with this. But I -- since we got, I don't know, twenty or more e-mails on our MGC comments, I just wanted to highlight that. We have them all in our binders. We have thought about them and they're appreciated and taken into consideration.

Any further discussion? Somebody?

COMMISSIONER MCHUGH: Oh, yes, I -- oh, I'm sorry.

CHAIRMAN CROSBY: Go ahead.

COMMISSIONER MCHUGH: No, I don't have any further discussion. I have a motion.

CHAIRMAN CROSBY: But how about a motion?
COMMISSIONER MCHUGH: Okay. Now, I have a motion. But -- but the motion is based on my understanding of our conversation that first of all, granting the variance would be consistent with the purposes of General Laws Chapter 23K in that the requirement is simply an evidentiary requirement. It is a requirement designed to facilitate the Commission's ability to proceed with knowledge that in fact the vote has passed. So, giving another week to do that would allow the Commission to be sure that the vote in fact that passed. It won't interfere with the ability of the Commission to fulfill its duties, in fact it will enhance them.

It will not adversely affect the public interest. The comments, as we've discussed, are comments directed to the substance of the proposal and the information available for the vote, not for the -- not at the -- at the impact of the one-week extension.

And there will be a continuing process
that this is just now beginning to solicit those concerns, to get answers to the questions, to ensure that studies are available before the Commission makes any final decisions. And so, granting the variance will adversely affect it. And indeed, if the certification is not presented within a week, then the Commission simply stops the application process dead in its tracks at the end of the next week if we don't get the certification.

And not granting the variance, it seems to me would cause a substantial hardship, the variance -- the certification could be available at 5:00. It probably won't be available at 5:00, but not having it for the -- for the applicant would -- would be a substantial hardship all out of proportion to the yield to the Commission and the public interest.

So, I think those are the findings that -- that reflect the sense of our discussion and I move that we adopt those findings and allow the request for a
variance.

CHAIRMAN CROSBY: Second?

COMMISSIONER STEBBINS: Second.

CHAIRMAN CROSBY: Any further discussion? All in favor of the variance as described say aye.

COMMISSIONER CAMERON: Aye.

COMMISSIONER STEBBINS: Aye.

COMMISSIONER MCHUGH: Aye.

COMMISSIONER ZUNIGA: Aye.

CHAIRMAN CROSBY? Opposed? Nay? The Ayes have it unanimously. What's next?

MR. ZIEMBA: Mr. Chairman, the City of Boston is requesting a variance from the sequencing requirements contained in the Commission's regulation 205 CMR 115056A.

I'll first provide a summary of the comments that we've received from the public, and also the support for the variance that has been put forward by the City. I'll then give a brief summary of the context of the regulation. If the Commission has any further questions of the Applicant or the City, they are available to answer any
questions you may have.

First to the comments. We received a number of comments and calls from the City of Boston's requests, and there are also numerous e-mails that we received late in the day yesterday. I'm not certain if they are part of the Commissioners' packets. But they will be part of the ongoing record.

The comments, they noted that the City of Boston and City Council were aware of the regulations and that the licensing process should be adhered to. They -- they noted that the City and the Commission were both on notice that the Council was in violation of the Commission's rule when they allowed the vote to move forward.

They noted that the granting of the variance would weaken the credibility of the Gaming Commission and its enforcement of its regulations. They noted that the variance would prevent a full discussion about the proposed casino. They noted that if the City of Boston cannot keep the law in small things like this, then how would it -- would it be
impossible to keep the law once the facility
is up and running.

Mr. Cameron, a resident of East Boston
who had contacted the Commission both before
and after the City Council vote provided
substantial comments. Mr. Cameron contacted
and he included very specific detail
regarding the numerous contacts that he made
to both the Commission and to the City on
this issue. He noted that the City was
clearly on notice of the mistake and does not
now deserve an opportunity to have the
mistake corrected by the Commission. He also
asked that the Commission issue findings
required under the regulation and also notes
that the Commission -- the -- that other
communities have followed the Commission's
regulation, and that Boston should be no
exception.

Mayor DeMaria, who I believe is here
currently, also provided some very
significant comments. He noted that the City
of Everett when it passed its referendum and
when it followed the process leading up to
the referendum, they followed the regulations. He also notes that the reason behind the adoption of the regulation is so that the public can understand the vote at the time in the election box has no weight on the Commission's suitability determinations. Finally, he notes that such a variance would impact the perception of our overall process.

In the Boston letter of support, the City of Boston states that the public interest protected by the act and regulations will be served and the regulatory requirements will be fulfilled, albeit in a slightly different sequence. The outcome of this process was to proceed with the requested election date of November 5, 2013. Without the variance, the City would not be able to proceed with the date that the City Council determined would be in the best interest of the public. The City's governing body had a full and complete process including a public hearing with public comment. Failure to grant the variance would cause substantial hardship to
the City of Boston.

By way of background on this specific sequencing provision of our regulation, the Commission's regulation requires that prior to the request by the applicant for an election in accordance with 205 CMR 12402, the governing body of the community formally approves of holding the election prior to a positive determination of suitability having been issued to the applicant by the Commission.

On September 25th, the Boston City Council voted to approve the holding of a host community election prior to the Commission's determination of suitability of the Suffolk Downs applicant. However, this vote occurred after the request was made by the applicant for the scheduling of the election.

The sequencing and the regulation was designed to help avoid the legal complexities that would result if a community chose to move forward with the referendum without first voting that such election could be held
prior to the Commission's determination of suitability.

In this situation, the City of Boston has voted that such election could be held prior to the Commission's determination of suitability. Therefore the Commission is not faced with the legal complexities that would have otherwise been involved if the City decided to move forward with an election regardless of the Commission's requirements that the governing body must approve of holding an election prior to a positive suitability determination.

In addition to this governing body vote, in order to have the election prior to suitability, the City must still provide the Commission with a notice to be mailed to voting households that explains that the election is being held prior to the Commission's determination of suitability. Further, the City is required to provide the Commission with a description of other methods to inform the community about the Commission's determination of suitability.
standards and procedures.

As has been the case with all other applications utilizing this section of the Commission's regulations, the notice to voting households will need to be approved by the Commission prior to the election.

The notice has been designed to ensure that voters understand that even though they may approve of an application at an election, there remains the possibility that an applicant will not be allowed to proceed to the next stage of the application process.

Our regulations state that only applicants with positive suitability determinations may file second phase applications with the Commission. The notice will be mailed to all voting households prior to the election unless the application has been deemed suitable by the Commission. Both the City and the City Council have requested that the Commission determine suitability prior to the election. However, the City has been informed that although we are working expeditiously, and thoroughly, and carefully,
the Commission can provide no guarantee that
it will be able to conclude our suitability
determinations prior to that date of the
election, November 5th.

Although the City Council made its
determination with an understanding that the
Commission's suitability determination may
still be forthcoming by the election date, a
regulation contemplates that communities are
fully responsible for informing its voting
households about the Commission's suitability
determination.

At this time I welcome any questions
or discussion, and representatives from both
the City and the applicant are available for
any questions you may have as well.

CHAIRMAN CROSBY: Do you want to come
forward? Do you want to introduce
yourselves, and do you have anything you want
to say before the Commissioners ask
questions?

MS. DELLO RUSSO: Elizabeth -- is this
on? Elizabeth Dello Russo for the City of
Boston.
MS. MARSHALL: Mary Marshall from Nutter, McClennen, representing the City of Boston.

MR. STEFANINI: John Stefanini, D.L.A. Piper representing Sterling Suffolk, LLC, the applicant.

CHAIRMAN CROSBY: And do you have any -- anybody have anything to say before we ask questions?

MS. DELLO RUSSO: Thank you, Commissioners; thank you, Mr. Chairman. I'll just begin by giving some background information to the Commission, if I may, on the time line here.

By way of background, on August 27th, the City of Boston and Sterling Suffolk reached its host community agreement August 27th. On September 5th, the applicant requested a date certain for a referendum. That date certain was November 5th, which is a previously scheduled municipal election. Quite a big election in the City of Boston.

On -- the very next meeting after the signing of the host community agreement of
the City Council was September 11th.

So, the next meeting after signing the host agreement, orders were placed before the City Council. And those two orders were the two requirements of the Council, one to decide whether or not to move forward without a suitability determination; and the second being whether November 5th was the date that they would vote on for the referendum.

On September 20th, they held a hearing, a four-hour, almost four-hour hearing on those two orders. And then at their next meeting September 25th, they voted on those two orders.

So, just by way of time line, I think you can see that were the City of Boston -- the City of Boston was faced with a choice. One was could we proceed and go to the City Council prior to reaching a host community agreement to talk about having a vote without a determination of suitability. And that did not seem logical. And no other community has done so.

So, in that case, Boston waited the
very next meeting after reaching that agreement, and went to the City Council for that determination. Unlike any other municipality so far that I'm aware of, the City -- the City of Boston has a different form of government. And that form of government has -- it's modified Type A government and it allows for the City Council as one half of that governing body for the City of Boston to -- to not vote to ratify the host community agreement.

So, in other examples, there was an opportunity for municipalities to go before a City Council or Board of Selectmen to talk about the suitability piece after reaching the agreement or as part of reaching that agreement. That -- there is not that opportunity in the City of Boston.

So, that's by way of kind of background information for your discussion.


COMMISSIONER MCHUGH: I'm sorry. For anybody, could -- could you, one of you, just
spit out the legal complexities that this regulation was designed to avoid in succinct fashion.

CHAIRMAN CROSBY: You know that's asking --

ATTORNEY GROSSMAN: Succinct is not my strong suit, but I'll try.

CHAIRMAN CROSBY: Yeah, that's asking a lot.

ATTORNEY GROSSMAN: Well, as Mr. Ziemba pointed out, you do have to go back and think about why this provision of the regulation was put in place in the first place. And it's -- it's located in 205 CMR 115.05, Paragraph 6, specifically 6A, where it says prior to the request by the applicant for an election in accordance with the regulation, the governing body of the community shall formally approve of holding the election prior to a positive determination of suitability, essentially.

So, you have to try to piece together the whole process to understand why that was put in place. And that was that the statute
says that an election has to be scheduled by
the City within 60 to 90 days from the date
that the request is made by the applicant.
The Commission added in a regulation that
said you can't hold an election, however,
prior to suitability being determined.

So, you have those two provisions in
place. Subsequent to that, the Commission at
the request of a number of
applicants/municipalities enacted or agreed
to enact a provision that said okay, if you
want to hold your election prior to
suitability, even though we've said we don't
-- that's not the preferred route, you can do
it. But it's up to the municipality to
review the matter and decide that it's in our
best interest to do so, understanding that
there is a chance that there will be issues
with the suitability after the fact.

So, in order to avoid the
confrontation between the statute and the
regulation that Mr. Ziemba talked about,
which is that the statute says that you have
to hold an election within 60 to 90 days
from the date the request is made versus the Commission's other regulation that says you can't hold an election prior to suitability. We said, the Commission said by regulation if you want to hold the election prior to suitability being determined, that discussion by the City Council, Board of Selectmen etcetera, has to take place prior to the decision to move forward going.

So, in the event that the City Council was opposed to moving forward prior to suitability, the applicant would know not to submit the request and start the clock.

So, in this case, and this -- this might be going a little bit beyond. But in this case where the City Council has decided that it's okay with moving forward with the election prior to suitability, the concern and the confrontation between the statute and the regulation has been alleviated. It's -- it's not an issue anymore. So, even though they are out of sequence, the confrontation before -- between the statute and the regulation was negated by the fact that prior
to coming to you here today, the City Council has approved of having the election prior to suitability. That is, it's recognized the potential risks associated with having the suitability hearing after the election. So, that's the history of the regulation; what it was intended to prevent against.

And one could certainly argue, as I'm sure Mr. Stefanini, et al, will argue that that concern is not in play here.

COMMISSIONER MCHUGH: So, if I -- if I understand that correctly, and thank you for that thorough explanation, we're revisiting history in a way here. That regulation was put in place to ensure that the City Council was amenable, or the governing body was amenable to having an election before the suitability findings were made to prevent a situation in which a request for an election were made and then the suitability determination was not made within the 60 to 90 days, and the election could not be held in a timely fashion. It was an effort to mitigate the likelihood that that would
occur. And -- and now that -- that the --
the governing body has determined that the
election can proceed before the suitability
finding, the feared harm or the harm that
that regulation was designed to ward off
isn't going to occur anyway. So -- so the
regulation isn't necessary to serve that
purpose.

ATTORNEY GROSSMAN: I think that's a
more succinct way of saying what I said. But
I --

COMMISSIONER MCHUGH: No, no, I --
ATTORNEY GROSSMAN: I agree with that.
I agree with that.

COMMISSIONER MCHUGH: I'm just trying
to say back to you what I --

ATTORNEY GROSSMAN: Yes.

COMMISSIONER MCHUGH: -- I gleaned
from your thoughts.

CHAIRMAN CROSBY: That's why he was a
judge.

COMMISSIONER MCHUGH: Right. Right.

MR. ZIEMBA: And I'm an Ombudsman.
CHAIRMAN CROSBY: Right. Okay.
Others? I have a couple of -- of points.

A Mr. Holt wrote us an e-mail where he says if the City of Boston cannot keep the law in small things like this, then how will it possibly be able to keep the law once a billion-dollar casino is built in the City. I think that's a jump. But I do think as witnessed at this table, there have been an awful lot of lawyers involved in this process, and to have this slip through the cracks which is, I assume what happened, is a little disturbing. But the bigger -- or not disturbing, but notable.

The bigger point, there's a very thoughtful letter from Nina Estrella Luna, who was apparently a Professor of Law at Northeastern and a resident of East Boston. And he goes to the substance of the whole issue about whether suitability votes should precede -- a suitability decision should precede a referendum or not. He is hoping that we would take advantage of this kind of technical mistake to revisit the substance of the issue. And I want to set this in
context.

We originally, as the Ombudsman said, determined as the law suggested was probably right, that it made sense to have a suitability agreement done -- decision done before the referendum in order that the public could vote in a fully informed way on the pros and cons of the applicant. We then got a lot of pressure -- not pressure, but requests from cities and towns to give a waiver for that -- for -- to that policy decision for practical reasons, basically.

We thought about it and had to weigh what we think is the public interest in having fully informed referenda versus the legislative intent to have these decisions made at the local level where humanly possible, where practically possible. Somewhat reluctantly I think it's fair to say we decided to go along with this request and grant the right to have the local government call for a vote, a referendum prior to the suitability decision so long as certain conditions were met. We set those
conditions.

This procedural mistake reopens --
puts us in the position of reopening the
substance of this question because the
criteria, as Commissioner McHugh read on
other variance issues for why we can grant,
or under what conditions we can grant a
variance, include that granting the variance
will not adversely affect the public
interest.

So, my question is this. The
background check isn't done. This is a big
complicated organization with lots of
qualifiers. Nobody has any idea how it will
come out. The information good, medium, or
not good will clearly be of interest to the
people who vote on this. Are you really sure
that you want to go ahead with having a
referendum even though the suitability report
may not be completed?

MS. DELLO RUSSO: Chairman Crosby, as
you know, the City of Boston is not involved
in the suitability determinations. That
said, the City of Boston applauds this
Commission's efforts there. I -- I've --
I've seen, you know, with watching other
applicants how much work goes into the
suitability determination. And we -- we
fully hope and expect that that much work has
gone on and will be going on with the
Sterling Suffolk application. It's a very
important part of this process. But one that
is resting on the Mass Gaming Commission, not
the City of Boston.

What was before the City of Boston,
the governing body of the City of Boston was
shall we proceed with a vote if, in case
suitability is not yet determined. Our
number one hope and expectation is that
suitability will be determined. We continue
to hope for that. However, the governing
body of the City of Boston, the City -- City
Council and the Mayor have determined that
they would proceed despite suitability. And
not -- and as you know, that procedure
involves education within the community and
outreach there about what that means. So,
that determination has been made by the City
of Boston, yes.

MR. STEFANINI: And Mr. Chairman, I would just add to that, the robust discussion you're talking about, it took place last winter. At that point in time it was the Commission's expectations reasonable at the time that RFA-1 determinations would be done in the spring, then the summer, then the fall. At this point in the conversation, as you know, every applicant for a casino license has in fact had to do it prior to the RFA-1, because they have not been done. If in fact you were to revisit that and change that and apply it to only us as an applicant, the likelihood that we would be able to conduct it within the time period would be virtually mathematically impossible because our determination, if it were to take place let's say on November 1st, there's not enough time to schedule it in to have the hearings before the end of December 31st to file the RFA-2 application.

The last thing I would say is as has been noted in a lot of your dialogue, and
most notably I think Judge McHugh and the
discussion around Penn and Plainridge, this
is a land use question. It is, and lastly I
would say the City of Boston has accomplished
all of the substantive goals of the statute
under 23K and the accompanying regulations.
They have voted all of the exact things
required by the Commission.

The sequencing is off, and if you look
at the sequencing in other communities, they
literally were minutes apart. So, ours were
a couple of days apart. Theirs in fact were
seconds apart where vote one took place,
request took place, vote took place. So,
this is not a substantive aberration, it is
in fact a technical one.

COMMISSIONER ZUNIGA: I want to just
take us back a little bit to the -- to the
genesis of this, because you mentioned, Mr.
Chairman, the law. And it's really the
regulation -- the regulations that stem from
policy decisions that we made that have us in
this sequencing status.

We decided early on to bifurcate Phase
1, Phase 2 applications. That's -- that's
the earliest genesis of this. The way that
the statute is written is -- would -- would
not have anybody conclude that anybody going
to the polls would have the benefit of the
suitability determination.

When we split that into Phase 1 and
Phase 2, fast forward a little later to the
next policy decision that we made, we
concluded that would be ideal to have that
vote be part of -- be -- the suitability be
part of the information that the voters would
take with them. But as everybody have stated
here, the reality has been something somewhat
different. And I just wanted to emphasize
that there's not any waiver or any variance
from what the statute requires. It is just
like what Mr. Grossman articulate -- very
articulately put it before us, it's the
conflict, if you will, or the tension between
regulations that took place, two of them,
after policy decisions along the way.

CHAIRMAN CROSBY: Yeah, thank you for
that. You're right. Thank you for that
clarification. I -- I agree. Any other
thoughts?

COMMISSIONER CAMERON: I just think it
is important to note that we -- we all think
it -- take it very seriously that these
investigations are thorough. And like any
investigation, you have to follow through
with every single lead, additional
information that comes in and -- and I know
how thorough we've been. And anyone that's
watched us in an adjudicatory hearing knows
how thorough we've been. So, in some cases
has taken us longer to complete than we
anticipated originally. So, it's not
necessarily on the applicant that --

COMMISSIONER ZUNIGA: Or the host
community.

COMMISSIONER CAMERON: -- that that's
the case frankly.

CHAIRMAN CROSBY: Right. And we --
we will be trying hard, as you know, to
complete the background investigation if you
do go forward with the 5th, November 5th.
But it's not completely within our control.
And we will let it take as long as it takes to get it done properly.

The net of this is I think that -- and it has its roots in our earlier discussion, that whether we agree with the -- with you or not, that this is a wise decision on your part that the -- that this was a part of the process that the legislature wanted to be within the hands of the locals. And that's -- we end up being deferential to your judgment on that. So, I think we're maybe ready to go ahead and frame the issue.

Commissioner McHugh, you want to do it again?

COMMISSIONER MCHUGH: Well, I -- I would like to summarize what I think the thrust of the discussion is and -- against the four criteria.

As Commissioner Zuniga pointed out, this is not inconsistent -- granting this variance is not inconsistent with the provisions of Chapter 23K. Chapter 23K as written on its face, envisioned a situation in which no suitability determination would
have been made in any case before a vote were taken because it anticipated that nothing would be filed, or at least was capable of being read to suggest that nothing would be filed until after the host community vote. It certainly permitted that.

And the Commission, in an effort to speed the process up and ensure that the process was done economically under its power to adopt regulations designed to enforce the statute split the suitability piece from the substantive piece, and let the suitability piece go on and be hopefully completed before the substantive piece was -- was done. And in every case that's going to happen.

So, granting this variance doesn't impact the purposes of Chapter 23K. Chapter 23K really isn't impacted at all by this. Granting the variance, it seems to me from our discussion, will not adversely impact or interfere with the ability of the Commission or the Bureau, the IEB to fulfill its duties. It's been said time and time again that this is simply the beginning of a long
process of determining suitability. The initial suitability determination as Chairman Crosby said earlier is a snapshot of a moment in time.

But as we move forward, the Commission is going to continue to look at suitability as -- as new events take place, as new investors come in, as investors leave, as the composition of the -- of the applicant changes, as more information comes to light, as information is presented by the public as we move forward. The suitability determination is continuously under consideration by the Commission. And the variance allowance will not impact either the ability of the -- of the Commission to do that, or the strength with which it pursues the suitability concerns.

It won't adversely affect the public interest because the public interest is in -- not in the -- in the sequencing, the problem proposed by the sequencing is not going to arise. The sequencing was designed to avoid simply isn't going to arise in this case as
Mr. Grossman explained to us.

And there is a strong interest in allowing a vote that's unencumbered by the concerns the regulation was designed to address. And this is going to occur. So, it's not going to adversely affect the public interest.

The underlying concerns about a casino, should there be a casino, should there not be a casino, those are not implicated at all by this. This doesn't determine the outcome of that.

And finally, would a substantial hardship be visited on the applicant, the City of Boston and the applicant in this case, and the answer to that seems to me to be yes, but it would prevent a vote from being taken. It would require rescheduling, if indeed that's possible, of an election that's now already scheduled and it would upset the thinking of the public body that thought the best way to get a good turnout apparently would be to schedule this vote at a time when other things are on the voters' mind as well.
It might bring them to the polls. And of course, if the electorate disagrees with this, they have a remedy at the polls, now or in the future.

So, I think that is the sense of our discussion and I would move that we grant the variance, and adopt those findings -- adopt those -- that recitation as our findings for doing so.

COMMISSIONER CAMERON: Second.

CHAIRMAN CROSBY: Any further discussion?

COMMISSIONER STEBBINS: I just -- just a point, and I thank Judge McHugh for walking through the conditions of the variance request. And I had a question or concern, or thoughts on my mind about the ability of the party requesting the variance to meet criteria number four. And I think you explained it sufficiently enough that --

CHAIRMAN CROSBY: I'm a little less comfortable with criteria three or four than Commissioner McHugh's characterization of it, but not sufficient to cause a federal case.
COMMISSIONER MCHUGH: Even a state case?

CHAIRMAN CROSBY: Even a state case. Even a city case. Well, maybe a city case. Any further discussion? All in favor of Commissioner McHugh's motion say aye. Aye.

COMMISSIONER MCHUGH: Aye.
COMMISSIONER CAMERON: Aye.
COMMISSIONER ZUNIGA: Aye.
COMMISSIONER STEBBINS: Aye.
CHAIRMAN CROSBY: Opposed? The ayes have it unanimously. It's now 12:15, let's take a break, a lunch break until one and we will reconvene with the rest of our meeting at that time.

(A recess was taken)

CHAIRMAN CROSBY: All right. We are ready to go. We are going to reconvene Public Meeting, what, #78 at 1:00. And we will go to item number 6 on the agenda, which is our Director of Research and Problem Gambling.
DIRECTOR VANDER LINDEN: Great. Thank you. Mr. Chairman, Commissioners, the first thing that I wanted to talk about is the Responsible Gambling Forum. Something I'm very excited about.

Before I really dive into what the forum is about, I just wanted to lay a little bit of groundwork for that. So, as I understand it and as I read it, there are -- there are numerous provisions within the Expanded Gaming Act that enable the Commission to adopt regulation and take other action to mitigate harm which may occur through the introduction of casinos and the slot parlor.

To guide these efforts, I recommend that we as a Commission to adopt responsible gaming framework. It will help guide the development of regulation as well as assist the gaming operators to establish a site based responsible gambling program.

So, what do I mean by responsible gambling? In my vision of what responsible gambling is, it's -- it's -- really runs the
spectrum from talking about how do you -- how
do you gamble responsibly, all the way
through to making sure that there is a
framework or network of support for
individuals who have been harmed by gambling.

So, responsible gaming is a provision
of gambling services in a way that seeks to
minimize the harm to customers and the
community associated with gambling while
simultaneously maximizing the potential
benefits of gambling.

I've said this all along, I think that
in order for us to realize the vision of
maximizing benefits, economic, jobs,
otherwise, we need to at the same time look
at how do we minimize the harm that's caused
by it.

A responsible gaming program is kind
of a generic term that incorporates
components of consumer protection, harm
minimization and harm reduction.
Responsible gambling programs are intended to
prevent or reduce the potential of gambling
related harms. I'm going to talk a little
bit about those components in just a second.

So, to inform this framework that I'm proposing, I would like to -- I would like to have what I'm calling a Responsible Gaming Forum. I have the agenda attached in your binder. It's in Section 6A.

This forum will bring together a group of leading thinkers in this area. There is no one size fits all approach. I've -- I've looked for it; it doesn't really exist. There's many different ways to think about it. What I want is for these experts to help the Commission consider the most thoughtful way to construct a framework that will work for Massachusetts.

I've contacted numerous leaders in the area. Those include Marlene Warner of the Massachusetts Council on Compulsive Gambling; Dr. Jeffrey Mirada, who has a business, Problem Gambling Solutions. He's a former state administrator in Oregon and is now a consultant internationally. Keith White is the Executive Director of the National Council on Gambling. Judy Patterson is vice
-- I'm sorry, the Executive Director of the American Gaming Association. Dr. Robert Ladisore from LaVal University in Quebec. Howard Schaffer, who is here locally. He is with the Cambridge Health Alliance Division on Addiction; and Dr. Leah Nower, who is with the School of Social Work at Rutgers University; and last, but not least, Dr. Rachel Volberg, who is working with us on our research agenda currently.

Each of these individuals I think have a very specific take on this issue. Many have already done research in some of the areas.

As you can -- also you can see in the agenda, Section 6A, I talk a lot about what are the different components of a responsible gambling program. Some of them are -- are somewhat defined within the -- within the -- I'm sorry, within the statute already. I think that there's a lot of leeway, though, for us to kind of round that out and to create a model, to create a framework that will -- will inform what we are doing now,
and carry it out through the history or down
the road with the Commission.

The overall goals of the forum, one, I
want to provide the Commission, you, as the
Commissioners, others with the basic
understanding of what are the concepts of
responsible gambling. I want to cover what
is the most recent research on this area
specifically about the different components
on responsible gaming. I want to create this
framework. I wanted to inform both
regulation as well as policy as we begin to
construct that piece of it. With that, are
there any questions?

CHAIRMAN CROSBY: Commissioners?

COMMISSIONER CAMERON: It looks like
you've assembled a tremendous group of
experts. That's -- that's a tribute to you
and how much these folks respect you. And I
think this will be a really informative and
substantive day.

DIRECTOR VANDER LINDEN: Yeah.

COMMISSIONER MCHUGH: I agree -- I
agree with that. Fresh from our visit to Las
Vegas and our opportunity to look -- take a look at a lot of the stuff that we saw in the -- on the exhibition floor, and reading Addiction by Design, is there -- will any parts of this program focus on ways to deal with I guess what was called in that book, the zone, or the -- or the sort of trance that people can get into that keeps them going long beyond the time when they should, and specific things. And whether those things are technologically feasible.

You introduced us, I think to some folks who were going to have an exhibition down in Providence not too long from now, about -- about some of the things they were thinking of doing.

This question is getting more and more open ended, but is going to be any -- is there going to be any focus on any of the sort of practical ways that we could design regulations to deal with relevant issues, and whether those regulations are technologically technically feasible?

DIRECTOR VANDER LINDEN: Yeah, I --
yes, the short answer is yes.

COMMISSIONER MCHUGH: A short answer to a very diffuse question.

DIRECTOR VANDER LINDEN: Any other questions? I -- I think that that's really important. The zone that you're talking about refers to individuals that would sit down at a gaming machine or sit down and engage in gambling and -- and find that time, space, money slides away.

And there are -- there are ways in which you can -- you can try to put a stop to that zone, create sort of natural -- natural boundaries around a gaming session.

I think that yes, those will be addressed. And some of those natural boundaries would be does a time clock work; does a -- does a pop up on a gaming machine that would say that you have been gaming for this -- this amount time and you've spent this amount of money, would that work. I want to -- I would like to talk about all of these.

One unique thing about the forum that
I would like to introduce or to use at the end is more of a dialogue between these panel experts and Commissioners, so that those questions can precisely make -- we make sure that those get addressed.

COMMISSIONER MCHUGH: All right.

COMMISSIONER ZUNIGA: Can I -- can I ask, there's -- there's -- when you talk, the microphone is humming. Is there a way to regulate that, please. Thank you.

COMMISSIONER STEBBINS: Quick question, Mark. Was there any -- I know you were out in Vegas I guess ahead of the G2E meeting with your colleagues and counterparts from around the country. Was there any new development, new issue that emerged for you and your colleagues that you had a chance to learn about while you were in Vegas?

MR. VANDER LINDEN: Yeah, you know, there is -- we are fortunate to locally have the National Center for Responsible Gaming. And they host an annual conference that coincides with the Global Gaming Expo. It starts a day early -- earlier than the G2E
and then it overlaps by a day.

Commissioner Stebbins, you and I have attended one specific section that looked specifically about what is does a responsible gaming framework look like. I -- I don't think it's on.

COMMISSIONER ZUNIGA: Now it's off.

DIRECTOR VANDER LINDEN: So, Dr. Sarah -- I'm sorry, Dr. Debbie LaPlante from -- also from the Cambridge Health Alliance, did, I thought did a really good job of outlining some of the components that would go -- could potentially work within a responsible gaming framework. She also, I think did a pretty good job of outlining what are some of the pros and cons of some of those components, which I think that we want to be sure that we're paying attention to.

While we may have very good intentions of implementing responsible gaming framework with components that do exactly as Commissioner McHugh had mentioned, which is to, you know, remove somebody from the zone, are there any unintentional consequences that
those types of mechanisms can create. And so, Dr. LaPlante did a good job of highlighting those. And I think that we -- we need to look at all sides of each of those components, which I hope to do during the forum.

CHAIRMAN CROSBY: The panel discussion, and it seems to me the -- the forum in general is pretty focused on what we can do directly, and it's within the casino and our regs and so forth. Only the last point at the 12:45 panel discussion, Linkage with Local Treatment and Community Services talks about -- something the legislation talks about quite a bit, which is, you know, and we have money for, which is to fund whatever the best practices are outside the facility and outside our reach to -- to initially, to mitigate the occurrence of problem gambling and then to treat it when it does occur. Is that meant to be part of this framework?

DIRECTOR VANDER LINDEN: I -- I would like it to be part of the framework,
absolutely. And, you know, perhaps it needs more time. It's no small feat to make sure that when we look at what -- what does a casino look like and how does it interact within the community, and how do we make sure that there are linkages between what happens within the casino and the different community providers, that we get a model that can really stand up and can really support people who are struggling with gambling problems, who are at risk of gambling problems, who are in recovery from gambling problems that -- that this is -- this is a very important issue. And probably one that we'll continue to need to have a discussion about.

I -- I really -- and so, I don't want to gloss over that. But I also really want this -- this forum to inform the regulation that we need to be developing now in advance of the slot parlor opening up.

CHAIRMAN CROSBY: Right. Well, I -- I agree with that. It might -- maybe it makes sense to clarify that one way or the other. Maybe this is sort of principally internal if
you will, and there's still to come principally external.

DIRECTOR VANDER LINDEN: Mm-hm.

CHAIRMAN CROSBY: But I don't -- I think it -- you ought to be clear in your mind's eye and in your -- and in your mission to your panelists and so forth where you are on that continuum and what you're really expecting from them.

DIRECTOR VANDER LINDEN: Okay.

CHAIRMAN CROSBY: And related to that, is the Department of Public Health involved in this, have they been involved either in the design of it or in the -- in the event itself?

DIRECTOR VANDER LINDEN: Yeah, I've spoken with them about it. They did not actually participate in the development of the agenda, but I certainly absolutely need to be in contact with them to make sure that they're on board and --

CHAIRMAN CROSBY: Yeah.

DIRECTOR VANDER LINDEN: -- at every step of it.
CHAIRMAN CROSBY: Yeah, and their role will be more on that latter part, on the external part.

DIRECTOR VANDER LINDEN: Right.

CHAIRMAN CROSBY: I think having them be involved as much as possible early on is desirable.

DIRECTOR VANDER LINDEN: You know, it makes me wonder about, especially as we begin awarding licenses, to have almost a Phase 2 of the forum where we really pull in the -- those communities and the surrounding communities to have a strategy that informs how -- how that plays out as well.

CHAIRMAN CROSBY: I think that would be a great idea.

COMMISSIONER STEBBINS: That's great.

CHAIRMAN CROSBY: -- that would be more externally focused because it would be looking for --

DIRECTOR VANDER LINDEN: Right.

CHAIRMAN CROSBY: -- you know, the representatives of the treatment centers who are in those -- particularly in those regions
and so forth. So, I think that would be a great idea. You could -- you could bridge that now with DPH and maybe -- maybe partner with DPH in your Phase 2 forum.

DIRECTOR VANDER LINDEN: Right.

CHAIRMAN CROSBY: Or your second round of the forum.

DIRECTOR VANDER LINDEN: So, I would propose that we introduce kind of almost as it is in here. We introduce it without the intention of diving too deep into that -- that piece of it, and then as the licenses are awarded --

CHAIRMAN CROSBY: Right.

DIRECTOR VANDER LINDEN: -- we begin to very thoughtfully plan that with DPH, with the local communities.

CHAIRMAN CROSBY: I think that would be great, and to be explicit about that.

DIRECTOR VANDER LINDEN: Okay.

CHAIRMAN CROSBY: And to discuss it with DPH sooner than later.

DIRECTOR VANDER LINDEN: Sure.

CHAIRMAN CROSBY: What is -- there is
a deliverable I believe. This is not just to be a conference; the conference is over then people walk away. There's a deliverable in your mind, right?

DIRECTOR VANDER LINDEN: That's correct.

CHAIRMAN CROSBY: And then what's that?

DIRECTOR VANDER LINDEN: The deliverable is -- is the framework. My hope is that we -- we have a model -- that we have a model that's documented, that can be, that will be implemented within Massachusetts that will inform -- it will directly inform the regulation. But that I think that it will also kind of lay a -- create a model that has not been created before.

There are a couple of different models out there, responsible gaming models. In fact, a couple of the people that I'm inviting were instrumental in creating those -- those models. But what I would like to do is create a model that has a lot more direction within it, that it's less
conceptual and more operational.

CHAIRMAN CROSBY: I think that would -- that would be great. And if -- if you're -- given that you're going to -- what you want out of this is a written product that you can go back to us and say this is the proposed framework for our problem gambling program. And if you can facilitate this well, you know, and I guess that's what Jeff Mirada is doing, then if you do, you know, proper note taking and proper question asking and so forth, you'll sort of outline the framework as you go along. Otherwise if you don't do that, you'll sort of have to pull it together from the random pieces of the conference.

So, it's not easy to do, but there are facilitators who can make a -- a conference like this, you know, deliver, produce the structure, the fundamental content that you want in the eventual report.

DIRECTOR VANDER LINDEN: Right. I wouldn't -- I would not be able to facilitate and take notes the way that it deserves to be
done. Dr. Mirada is -- has experience in that. And what I envision is that he and I would co-facilitate this process. And that as we guide it we have an understanding of what the product is that we're trying to create.

CHAIRMAN CROSBY: Great. And -- excuse me. And just establish that up front, too. Make sure that at the beginning of the -- of the day people understand that this is not just a conversation we're having, this is a design to produce the content that will form the outlines at least of the -- of the final -- of the final product.

DIRECTOR VANDER LINDEN: Right.

COMMISSIONER ZUNIGA: And on that note, I, for one would be very interested in whatever documents or materials you could forward about the models that you referenced that are existing, you know, because I'm a -- think this is a great idea to take a look at what -- what is out there and try to come up with the best outcome.

DIRECTOR VANDER LINDEN: Yeah, I would
be glad to do that. Thank you. There's -- 
there's a lot of information that's out
there. What I would be glad to do is try to
narrow it a little bit to what would be
relevant for our day.

COMMISSIONER MCHUGH: I would
appreciate that, too. I think that's a great
suggestion. I'd love to read that. But I
think that the focus on operational, an
operational model is really a great idea,
because there is not -- I've read a number of
things and they are all theoretical. And if
we could create here a scheme that was
operational and worked, we would be doing
ourselves and everybody else a service I
think. So, I'm really in favor of that
approach. I congratulate you for thinking of
that.

DIRECTOR VANDER LINDEN: I think it's
-- it's just a great opportunity.
Responsible gaming frameworks have been
implemented in other places, but rarely, if
ever, have they been implemented at this
stage of the process. And so, I think that
-- that we have do a -- it's a -- it's a good opportunity.

CHAIRMAN CROSBY: Great. We've talked about this a little bit before, too. But in your -- in your mind's eye, in collaboration with Director Day, figuring out, you know, once you've got this, what your critical path steps are to getting it in place, and what the time line is and so forth is an important step that I know you're thinking about.

DIRECTOR VANDER LINDEN: Yes, absolutely.

CHAIRMAN CROSBY: On the master chart right now, the research is fairly well fleshed out. The problem gambling is not. So, that needs to get added to that.

DIRECTOR VANDER LINDEN: Right.

CHAIRMAN CROSBY: I had -- also, just curiosity, a question on the DSM-V discussion that you attached here. There's always been, as I've read it, this distinction between problem gambling and pathological gambling. With pathological being really serious; problem means you're at risk sort of, but
pathological meaning you're past the risk, you're -- you're there.

Is this -- and to qualify under DSM-V, you need four of these nine questions to be answered in the affirmative.

DIRECTOR VANDER LINDEN: That's correct.

CHAIRMAN CROSBY: Does that mean you are a problem gambler or you are a pathological gambler, or is that a meaningful distinction?

DIRECTOR VANDER LINDEN: Well, and that -- moving onto the next agenda item then --

CHAIRMAN CROSBY: Sorry.

DIRECTOR VANDER LINDEN: That's okay. This -- it is actually really interesting. So in the DSM-IV, we -- the DSM-V was just introduced in May of this year. And it is distinctly different from the previous version, the DSM-IV. And the DS-IV -- well actually, let me just give you a little bit more of a background.

So, the DSM, the Diagnostic
Statistical Manual of Mental Disorders is put out by the American Psychiatric Association. And this is kind of the key reference book of mental health disorders. It includes everything. But it also includes how do you define -- how you diagnose somebody that is -- has in the DSM-IV said, a pathological gambler as in the DSM-V it's slightly -- there is a slightly different definition of that.

So, there -- there -- in the DSM-IV, there were ten criteria. If you met five of those criteria you met the diagnostic criteria as a pathological gambler. If you take a look at the different criteria, and I've listed nine that are in the DSM-V, if you're meeting a majority of those criteria, you're -- you have a profound problem with your relationship to gambling.

And so, problem gambling was intended to identify persons that were subclinical. People that had anywhere between one and -- and four criteria, but did not kind of go over the top and meet the five criteria. So,
it's a non -- in a lot of ways it's considered a nonclinical term. But at the same time I don't want to -- I don't want to ignore the needs of persons who would be problem gamblers or don't necessarily meet the clinical threshold of full on gambling disorder.

The changes that happened within the DSM-V I think are significant. The DSM-V removed pathological gambling and changed the name to what we are calling a gambling disorder. I think that that has a lot of meaning, that -- that there was a lot of criticism about calling somebody a pathological gambler, that just that term, in and of itself can carry stigma, carries problems that are associated with it.

It also then went into an impulse control disorder not elsewhere specified, along with compulsive hair pulling or Trichotillomania, or intermittent explosive disorder, or kleptomania, or pyromania. So, it sat in a rather -- a spot within the -- the DSM that wasn't very well known. By
changing the location of it, they put it --
gambling disorder into an area called
substance related and addictive disorders.
So, it would -- it would go alongside and
within the same chapter as a substance use
disorder. And the rationale is that there's
a lot of similarities between a gambling
disorder and a substance use disorder.

There were other changes as well that
I -- I do think that are significant for how
we -- we look at this. So, the diagnostic
criteria went from being within a lifetime to
narrowing it to a twelve-month period.

So, when it was lifetime you could
have one criteria when you were 20, one
criteria when you were 28, one criteria when
you were 30, and so on and so forth until you
actually amass the number of criteria in
order to be considered a pathological gambler
and meeting the diagnostic criteria.

Under the new DSM, it's with --
captured within a twelve-month period. So,
you need to meet four criteria within a
twelve-month period in order to be diagnosed
with a gambling disorder.

Another important feature is that they took out -- there was a criterion in the DSM-IV for illegal acts. That criterion was -- was eliminated. You no longer -- that's no longer a criterion in order to meet the diagnostic threshold of a gambling disorder.

I originally had some concern about that. It seems to me that if you're committing illegal acts in order to finance your gambling, that -- that you're pretty far down the road. But that's exactly the case. It was discovered that if you are committing illegal acts, it's not necessarily a good indicator because chances are you're meeting numerous other criteria as well. And so, it didn't really hold much weight as being a criteria.

So, anyway, that -- that's the background on it. It's a -- it is a significant change. I think by and large across the field, it's been a welcome change. There are some interesting implications. What will it do to the prevalence rate of
pathological gambling -- or, I'm sorry, gambling disorders within our population. It's something that we're taking a look at right now in Massachusetts. What will it do in terms of how it's viewed within the substance abuse field now that it's alongside other substance use disorders as it's something that's going to get more attention from clinicians and from the field.

It will be interesting to see what it does with insurance coverage, too. In many states, gambling treatment is not -- not recognized and not covered by many insurance carriers. It will be interesting to see how this -- that impacts it as well.

COMMISSIONER ZUNIGA: Does -- excuse me. Does the DSM-V also have the prior two tier, although it doesn't sound like it was a two tier in the DSM-IV --

DIRECTOR VANDER LINDEN: Yeah, it --

COMMISSIONER ZUNIGA: -- the definition of problem and pathological, is there -- is there a relevant analogy?

DIRECTOR VANDER LINDEN: You know, it
-- it does not have the two tier to it. As a field we still recognize individuals that don't meet the diagnostic threshold, but -- so they're subclinical but still have -- have a number of consequences or problems that are related to their gambling.

So, even without the diagnostic threshold I think that attention is being paid to those -- those individuals that are subclinical, but still have problems.

DSM-IV and DSM-V aren't -- aren't any different, other than in the DSM-V it's five -- it's four out of nine criteria, and the DSM-IV it was five out of ten criteria.

COMMISSIONER ZUNIGA: Okay. Thank you.

CHAIRMAN CROSBY: Anybody else? Great.

COMMISSIONER ZUNIGA: I think it's a great approach.

COMMISSIONER CAMERON: Yeah.

DIRECTOR VANDER LINDEN: And just one last point. I think that it aligns it really well within a public health strategy.
Whereas right now within the Department of Public Health in Massachusetts, substance -- substance abuse treatment, substance abuse prevention are housed within the Department of Public health, as well as problem gambling. But I think that this could bring strategies more -- more closely aligned strategies in a way that -- that helps out problem gambling. We can look at prevention strategies that -- that probably are more closely aligned, always should have been more closely aligned. But now with -- with some changes, you can conceptualize it in an easier way.

CHAIRMAN CROSBY: And that would be some of -- some of the content for the next round of the forum, right?

DIRECTOR VANDER LINDEN: Yeah. Great.

CHAIRMAN CROSBY: And how you -- what that public health strategy approach would be for this -- these issues.

DIRECTOR VANDER LINDEN: Right.

CHAIRMAN CROSBY: Yeah.

COMMISSIONER MCHUGH: Great.
CHAIRMAN CROSBY:  Yeah, good stuff.
Thank you.

MR. VANDER LINDEN:  Okay.

CHAIRMAN CROSBY:  Are you doing -- or
is Commissioner Zuniga, I guess is doing the
last item there?

COMMISSIONER ZUNIGA:  I -- I can. And
I want to put it in the context of Mark's
increased involvement in the management and
oversight of this research project.

CHAIRMAN CROSBY:  Well, I didn't mean
to take it away if it's -- it's --

COMMISSIONER ZUNIGA:  Well, let me
just reference this and then turn it over to
you. And then ask for a vote to approve the
payment.

As you will recall, we engaged a team
of UMass Amherst in the research project.
And we have reached a -- what was the first
-- what is now the first milestone on the
first payment that -- it was stipulated in
our ISA or inter-service -- interagency
service agreement. So, given the magnitude
of the payment, I thought it was relevant to
come for a vote to direct the Finance Department to issue that payment. But wanted to have the opportunity to have an update in terms of the progress as well as, you know, the look ahead on the -- on the coming months on this important project.

DIRECTOR VANDER LINDEN: All right. So, I've been working very closely with UMass Amherst. Dr. Rachel Volberg is the principal investigator and lead on behalf of UMass Amherst. She and I have -- meet at least weekly, often times having communications several times a week where the project is moving forward with the input and guidance of the Commission. If we want to take a -- if you take a look at what are the deliverables of the project, those deliverables are right on track at this point.

The most recent piece of it is getting the baseline population survey in to the field, which began just after Labor Day. We are, at this point, ahead of schedule on collection of those surveys. In fact, as of Monday we were I think thirty percent ahead
of where we had anticipated that we would be, or about a tenth of the way through the total collection of the baseline population survey.

Other deliverables are -- are right on track. I -- they are working on a two-year report that needs to go to the legislature. Rachel and I have been working on that together. And all indications that -- that we will have -- that we will finish this on time.

CHAIRMAN CROSBY: What's the status of the cohorts?

DIRECTOR VANDER LINDEN: The cohort study, we are -- we are going to ask two applicants to submit applications to that. There are two applicants that have hold a kind of a unique advantage or unique perspective on this. It would be UMass Amherst and Cigna, led by Dr. Rachel Volberg.

There was also a small sort of trial or baseline study that was conducted by Cambridge Health Alliance. And -- and so they -- they would be interested in submitting a proposal that would continue
that model.

And so, we are going to, rather than have the Commission or -- make a determination on which direction we should go, we're looking at having those two entities submit applications and having it judged by external reviewers.

CHAIRMAN CROSBY: So, are you just asking them orally to sit in, or is there some kind of a formal solicitation that will --

DIRECTOR VANDER LINDEN: I'm developing an application process where they would -- they would submit -- those two entities would be invited to submit an application.

CHAIRMAN CROSBY: Great. Anything else?

MR. VANDER LINDEN: No.

CHAIRMAN CROSBY: All set?

COMMISSIONER ZUNIGA: I was, well, I was actually hoping for a vote on this.

CHAIRMAN CROSBY: Oh, sorry.

COMMISSIONER ZUNIGA: Sorry to be
formal, but I think that the amount is
important enough to reflect in a vote, if
that's okay with you, Mr. Chairman.

COMMISSIONER MCHUGH: We had a budget
that you distributed a few months ago. Is
this the number that was in the budget?

COMMISSIONER ZUNIGA: That's precisely
the case, yes.

CHAIRMAN CROSBY: Are you suggesting
that maybe if we already voted on a budget,
we don't need --

COMMISSIONER MCHUGH: No, I was just
curious as -- because -- I mean, I haven't --
I didn't have a chance to go back and look at
that budget, and I have in mind a place down
the road that -- I want to make sure we were
still on track to that --

COMMISSIONER ZUNIGA: It is very much
on track, the amount includes a ten percent
retainage that is payable at the end of the
period, including -- in other words, the next
fiscal year. But yes, this amount was
reflected in that budget accordingly.

COMMISSIONER MCHUGH: And is this the
net amount or the gross?

COMMISSIONER ZUNIGA: It's the net amount.

COMMISSIONER MCHUGH: Okay.

CHAIRMAN CROSBY: Do you want to --

COMMISSIONER ZUNIGA: So then, if there is no further comment, I will ask that the Gaming Commission authorize the Finance Department to issue the first scheduled payment to the University of Massachusetts Amherst for the economic and social impact research project for the amount of $1,037,817.00.

CHAIRMAN CROSBY: Second?

COMMISSIONER MCHUGH: Second.

CHAIRMAN CROSBY: Any further discussion? All in favor?

COMMISSIONER MCHUGH: Aye.

COMMISSIONER CAMERON: Aye.

COMMISSIONER ZUNIGA: Aye.

COMMISSIONER STEBBINS: Aye.

CHAIRMAN CROSBY: Opposed? The ayes have it unanimously.

DIRECTOR VANDER LINDEN: Thank you.
CHAIRMAN CROSBY: Who's next?

Director Acosta?

COMMISSIONER STEBBINS: Director Durenberger.

CHAIRMAN CROSBY: Director Durenberger, oh, yeah. Right.

DIRECTOR DURENBERGER: Good afternoon. Am I on?

COMMISSIONER CAMERON: Good afternoon.

COMMISSIONER ZUNIGA: Good afternoon.

DIRECTOR DURENBERGER: It's been a long time since I sat before you. Actually, it's been a month because two meetings ago I was off and we didn't make it last time, so I have a lot to talk about.

CHAIRMAN CROSBY: Nice to have you back.

DIRECTOR DURENBERGER: Thank you, Mr. Chairman. We do have an incredible amount going on in racing right now, so I do have a fair amount to talk about. I have extensively scripted myself, my apologizes. I'm just -- I'm very prone to tangents these days, it's a reflection, I think, of the
world that we're all living in, there's a lot moving parts. So I will try not to bore you with my scripted response, but rather just use it to keep myself on point.

I have an extensive administrative update to go through. I'd like to start off with some reminders about some upcoming public racing events. Currently, we have a public comment period for proposed changes to 205 CMR 3.29, and 4.52, medications and prohibited substances. That goes through this Friday at 4:00. Information about the proposed changes, including the proposed language is on the website. The public hearing on these changes is scheduled for next Wednesday, October 9th. They'll be at 84 State Street on the 7th floor, 12:30 p.m.

We note that the United States Trotting Association, which is the governing body for standard bred harness racing last week withdrew its support for some of these proposed changes. We have received to date, no public comment or stakeholder comment regarding this development. But I do intend
to provide a synopsis of the issue at the public hearing, including the written response from the president of the Racing Commissioners International, which continues to support these changes.

On the thoroughbred side, I would note --

COMMISSIONER MCHUGH: Why did the trotters go away from this?

DIRECTOR DURENBERGER: The argument is that the way that the breeds race is different.

COMMISSIONER MCHUGH: The way that the what?

DIRECTOR DURENBERGER: The way that the breeds race is different. Standard breds, for example, will compete four or five times a month, as opposed to thoroughbreds. And we can talk about that quite a bit at the public hearing, and I've got both the USTA's position paper and the regulatory response, which I will present to you next Wednesday.

On the thoroughbred side, we note that there is an online petition on the website,
horseracingreform.org. As of late yesterday, there were 237 signatures in support of these proposed changes in the State of Massachusetts.

CHAIRMAN CROSBY: Great.

COMMISSIONER MCHUGH: So what is the trotters -- what -- what is the difference in that -- and just the short version -- in the --

CHAIRMAN CROSBY: Succinct.

COMMISSIONER MCHUGH: Yeah, which I find increasing difficulty with.

DIRECTOR DURENBERGER: I'm with you, Commissioner.

COMMISSIONER MCHUGH: What is the trotter's --

COMMISSIONER ZUNIGA: Concern?

COMMISSIONER MCHUGH: -- principal objection to these?

DIRECTOR DURENBERGER: The principal objection surrounds a couple of the medications, just a couple of them.

COMMISSIONER MCHUGH: Oh, I see.

DIRECTOR DURENBERGER: And the
withdrawal times that are proposed in these changes are such that essentially because the harness horses race so frequently, it will preclude their use altogether, and they are acknowledged as therapeutic substances. They appear on the controlled therapeutic substance use. If you're only racing every 21 days and the recommended time is 14 days, it doesn't affect you as a thoroughbred the same way that it would as a standard bred.

COMMISSIONER MCHUGH: I see.

DIRECTOR DURENBERGER: On the flip side of that, is that the reason for these withdrawal times is that the potential for abuse on these medications is such that maybe it's appropriate for the industry to take a position and say that the potential for abuse outweighs the benefit of the use.

COMMISSIONER MCHUGH: Okay, I got it. Thanks.

DIRECTOR DURENBERGER: Was that succinct enough?

COMMISSIONER MCHUGH: Yeah. That's great.
DIRECTOR DURENBERGER: And that wasn't in the script.

CHAIRMAN CROSBY: Even I understood that.

DIRECTOR DURENBERGER: We have a horse racing forum scheduled for two Wednesdays from now, Wednesday, October 16th. That's going to be at the Hynes Convention Center on Boylston Street. I'm going to walk you through a draft agenda a little bit later in this report.

The Racing Division is in possession of three applications for live racing dates in the Commonwealth for the year 2014. The applicants are Sterling Suffolk Race Course, LLC, to conduct running horse or thoroughbred racing at its facility in East Boston, Revere; Springfield Gaming and Re-Development, LLC, to conduct harness horse or standard bred racing at an existing facility in Plainville; and Brockton Racing, LLC, to conduct harness horse racing at an existing facility in Brockton.

The applications are currently under
review for administrative completeness. Authorization forms for background checks would be sent to appropriate parties early next week. And we'll have to schedule public hearings to be scheduled in the respective host communities. Right now, tentatively scheduled for the week of October 28th. Recommendations from the racing division will follow, and then the Commission's final approval or denial would be heard on the Public Meeting on November 7th. That's the current time line.

In other news, yesterday was a meeting of the Horse Racing Committee. This is the committee established by Chapter 23K, Section 60, that makes a recommendation to the legislature on the proportional split of the race horse development fund monies to the standard bred and thoroughbred industries. Commissioner Cameron is the Commission's representative on the Committee. At this time, it appears that the committee's anticipated date for that recommendation would be in February.
Any notes on that, Commissioner Cameron, or is that a fair --

COMMISSIONER CAMERON: I will give a more thorough update because there will be some monies involved that I'd like the Commission to know about. But we have plans to do that on the 17th. So, I'll hold off until then for --

DIRECTOR DURENBERGER: Great.

COMMISSIONER CAMERON: -- a little more detailed update. But thank you for mentioning our proposed date. I know you wanted to get it out there because of -- the horsemen have been looking for that information.

DIRECTOR DURENBERGER: Pursuant to the authority that you recently delegated to me, I have given conditional approval to four new racing officials, two at Plainridge Race Course and two at Suffolk Downs, pending successful completion of the requisite background checks, which are almost complete.

We could turn your attention to the item in 7A in your packet. This document
appeared as part of a presentation that I
gave to this Commission a while back, at the
62nd public meeting. If I could just refresh
your memory about that. This was part of
that first hundred days update that I gave
you, the first hundred days of operation.
And we identified some areas of concern at
that time that required additional attention.
And one of those areas involved the statutory
distributions of our parimutuel takeout, and
that was what was presented here.

We're confident that the amount being
withheld from the parimutuel pool does
represent the correct takeout percentages.
But we have secured the services of an
independent auditing firm to review the break
out of the takeout, as we've started calling
it colloquially around the office. In other
words, we want to ensure that all of the
intended beneficiaries of the 128A and C
monies are receiving all of the funds to
which they're entitled.

Under review are the various funds
that we enumerated here back at the 62nd
Public Meeting. They include monies to the various capital improvements funds, the promotional trust funds, racing stabilization fund, monies to breeders, purse account, signal fees, and premiums. And we hope to have this project wrapped up by year's end. We'll update the Commission as the project progresses.

If it pleases the Chair, I would like to skip ahead to item C on the agenda.

CHAIRMAN CROSBY: I'm sorry, so the report for this is due, when did you say? For item A?

DIRECTOR DURENBERGER: For item A, we intend to have -- we hope to have the project wrapped up by the end of the year.

CHAIRMAN CROSBY: Okay.

DIRECTOR DURENBERGER: And we will give you updates as needed along the way.

CHAIRMAN CROSBY: Okay.

DIRECTOR DURENBERGER: If I could skip to item C. It's going to sort of flow naturally from this next and last item in my administrative update.
When this -- what I'd like to do right now is just to present an update to you on our thought process regarding the recommended legislative language as it pertains to 128A and C. This was a project that we worked on last winter. When the Racing Division came on board last October, we inherited the task of responding to a legislative mandate, Section 4 of Chapter 194 in the session laws of the expanding app. to review existing parimutuel and simulcast laws for efficacy and need to change.

We talked about that a lot over the winter. There was a review that was completed. Earlier this year we summarized it in a report and filed that with the legislature back in April. It was necessarily a high level attempt to modernize and harmonize the racing statutes with an enormously changed parimutuel business model in the face of a rapidly evolving landscape, in the wake of the passage of the Gaming Act.

While written submissions were requested of licensees and a series of
meetings were held with stakeholders over the course of the winter, the fiscal and operational activities of the predecessor agency continued to be housed within Division of Professional Licensure under an interagency service agreement. So, as a result, none of the specific applications of those statutes to the day-to-day activities of the Commission of the licensees and the stakeholders really had been reviewed at that point. And we've had our hands on those operations now for about six months.

We are developing an appreciation for how the law actually functions in practice and we've identified areas where the law gives us some pause. In particular, we've stumbled upon some areas where the predecessor agency's approval of or direction regarding the implementation of the law appears to conflict with our developing understanding of its provisions. In other areas we've received some additional requests for clarification from licensees.

So, the Racing Division is prepared to
author a second follow-up type of report and
set of recommendations that we see would be
fully informed by our operational experience.
And we think this would provide a critically
important second chapter to our review of
those statutes.

So, where I'm going with this --
because Commissioner McHugh looks very
concerned --

COMMISSIONER MCHUGH: No, I'm not
concerned. I'm just --

CHAIRMAN CROSBY: Succinct.

COMMISSIONER MCHUGH: Succinct.

DIRECTOR DURENBERGER: Succinct, keep
it succinct, Director Durenberger.

The sands are shifting beneath the
feet of the parimutuel industry in
Massachusetts as we speak. I've mentioned
this to you before in previous meetings, but
I think we're all feeling it now. The
immediate future of live racing in the
Commonwealth is, to use a very anemic
adjective, unclear. It's difficult for
stakeholders, operators and quite frankly,
racing division staff to focus on what could be when none of us really know what will be.

Next year we could see live racing in the Commonwealth on both classes of horses. We could have running horse racing; we could have thoroughbred racing; we might only have live racing in one class, or it could be a dark year all together, we don't know.

What we do know is that the existing Chapters, 128A and C, are set for repeal on July 31st of next year. And it appears to us that there are three options. Option one, the industry, and in the term industry I include stakeholders, operators, and the agency itself, could do nothing and let the chapters expire. So, with it parimutuel activity in the Commonwealth, and that would seem to me to be unthinkable. I hope you agree.

We could join together, we could support one last extension of existing law with some mutually agreed upon changes designed to help protect the industry in this period of transition. Or the industry could
attempt to propose replacement legislation
all together, hastily fashioned, served by
self-interest and lacking the requisite
foundation necessary to create solid and
meaningful long-lasting change.

CHAIRMAN CROSBY: Sounds perfect.

COMMISSIONER ZUNIGA: It happens all
the time.

COMMISSIONER MCHUGH: That's the
normal course, right?

DIRECTOR DURENBERGER: Usually my goal
is to make you all laugh at least one time
during the meeting.

To that end, I think the sensible
approach is to work with racing stakeholders,
reach a consensus on what form one last
extension of existing law could take. I
think if this agency, the breeders, the
occupational licensees and the operators,
could join together on a single proposal that
would incorporate the necessary tools to help
navigate these uncharted waters ahead of us
and form a bridge to the future, I think it
could be well received and I might be naive
about politics in Massachusetts, but it seems to me that I would challenge our industry's leaders to work together and combine the efforts of the regulator and the regulated for the immediate protection and stabilization of the parimutuel industry we serve, and all of its many agra-business extensions.

Once the dust has cleared from the award of the gaming licenses and the construction, we'll be in a position to have an intelligent, participatory, and fully informed discussion about the next chapter of the Massachusetts parimutuel industry. We could find ourselves presented with the opportunity to participate in creating a historic piece of replacement legislation. We'll have some certainty about what facilities will be operating live racing. We will have some certainty about the amount of monies available to the race horse development fund. We will have had the operational experience, the time, and the ability to think clearly about the future
challenges to our industry, and our response will be fully informed by the lay of the land. Our eyes will be wide open, and we have none of that at this time.

I believe I heard the Chairman say at our last meeting that haste makes waste. And as much as I believe that the existing racing chapters would benefit from complete overhaul, and as much as we made that recommendation to you over the course of the winter in that project, and as much as I believe the legislature was looking to this agency to help get that done, I think now is the time to seek reinforcement and stabilization of our regulatory structure and not out right reform.

Our stakeholders right now, as we speak, are doing their best to make their business plans in the face of uncertainty, which is why we -- one of the reasons why we've scheduled this horse racing forum for Wednesday the 16th.

The way that we have it set up is that the morning session would be an educational
format on the state of the thoroughbred and standard bred industries from the national perspective. But I'd like to dedicate the afternoon to discuss the state of the industry in Massachusetts as it stands on the precipice of expanded gaming.

And while the Commission is wise to maintain the Chinese wall between gaming and racing, we can't ignore the elephant in the room any longer. Racing is an existing activity in the Commonwealth, which this Commission regulates and there are timing and logistical details of the gaming licensing process that are having very real and practical effects on the industry as we speak.

The time line is what it is, and those of us on the racing side of the wall appreciate -- we're resigned to the timing. Timing is not good for the industry, but it is what it is, and I think we're resigned to that.

But parties are trying to negotiate things right now. For example, their purse
agreements for next year's racing meets. It would seem to me that they're attempting to negotiate in the dark. They're working on their best assumptions, their best estimates of what the landscape will look like, as we all are. How much money will be flowing in and out of the Race Horse Development Fund, what that split is going to look like, and while I can't ask the Commission to have a crystal ball, I think to the extent that some of those whens might be answerable. Some of the underlying assumptions we can talk about, and have an open and honest discussion involving some potential scenarios.

That would help the Racing Division begin to consider drafting regulations or identifying potential changes to be incorporated into any suggested extension of the existing statutes.

Again, our goal here is just to protect and nurture the industry over these next critical months, and so we've prepared this draft agenda for the forum. Again, the morning being more of an educational, the lay
of the land. Because what happens at a national level certainly informs what happens at the local level.

And then in the afternoon, I guess I'm going to call it either the anxiety relieving or the anxiety provoking part of the day, which is dedicated to some policy discussions.

I think the deliverable -- the deliverables there, in anticipation of the Chairman's question, will be to help us focus on areas where we can start to look at drafting some regulations, have a policy discussion.

I've said for a long time, when people ask me questions about how 23K works, I always laugh at them and say, that's not my statute because I've got 121A and C to worry about, and those are -- those are headaches in and of themselves. But the reality is that there are things in 23K that affect racing and we need to start looking at doing some regulatory framework for those provisions.
So, I think the deliverables for the afternoon session of the forum will be to help the parties achieve certainty where we can, and help us identify areas where we can develop sensible regulations or even look to places where we might incorporate some language into whatever forum the replacement or extension legislation would take.

I will pause there before we go into the agenda, unless you want me to go right into the agenda?

CHAIRMAN CROSBY: No, I think you can stop there. That's good.

COMMISSIONER MCHUGH: And I think it's a good place to stop. So, do I understand now, from that presentation, that we're abandoning the legislation that we have pending up on the Hill?

DIRECTOR DURENBERGER: I don't think there's any abandonment at all. I don't think that there's anything in that report that I would say that we needed to back away from or apologize for.

I think it was very strong in and of
itself. But I think it was a high level, philosophical type of review, and I think after actually having some of the operational knowledge now, there are a lot of the nit-picky things that we didn't really explore at the time. And I just use the word nit-picky in a very flippant sense.

COMMISSIONER MCHUGH: No, but I thought we had legislation, actual draft legislation up there.

DIRECTOR DURENBERGER: We filed a report. We did.

COMMISSIONER MCHUGH: No, I know we filed a report, but didn't the report contain legislation that we were urging --

DIRECTOR DURENBERGER: It did.

COMMISSIONER MCHUGH: -- the legislature to adopt?

DIRECTOR DURENBERGER: Did we urge? I -- I --

COMMISSIONER MCHUGH: Let's not play with words. Was there draft legislation as part of the report?

DIRECTOR DURENBERGER: There was a
recommendation and there was draft legislation, yeah.

DIRECTOR MCHUGH: Okay. Are we now in a position -- I mean, is it your position that that legislation is not legislation we would like the legislature to enact as is?

DIRECTOR DURENBERGER: Parts of it, yes, and parts of it, no. So to the extent, for example, there was a recommendation about the removal of premiums. Looking at the --

COMMISSIONER MCHUGH: Let's not go into -- I don't mean to cut you off. But I'm just trying to get at a -- at a picture of where we are because we've got a -- we've got a proposed legislation up there. And I've been actually curious as we get closer and closer to July 31st of where -- where that is. But are we -- are we going to ask -- are we going to ask the legislature to pass that, or are we going to formulate a recommendation to replace parts of what we have up there with something new, or what is your -- what is your view of where that should be going?

DIRECTOR DURENBERGER: Thank you for
focusing the question. So, I think that there are some things that we've identified that we think are important to the industry in this period of this transition that should be added to that language. And there may be some things in that proposed language that could be harmful right now in this transition period. So --

CHAIRMAN CROSBY: So it seems like -- seems like what you're saying in effect is we ought to pull that back and refashion it for whatever today's set of priorities are and the schedule that you're suggesting.

DIRECTOR DURENBERGER: Maybe where I'm getting hung up on is the pull it back. I don't -- maybe I misunderstood what we did with that report. I thought it was filed, but I didn't know that it, for example, had a bill number or was going -- going through. I thought that it was a recommendation or report as opposed to --

CHAIRMAN CROSBY: I don't -- I don't think it has gone anywhere.

COMMISSIONER MCHUGH: No, it hasn't
gone anywhere.

CHAIRMAN CROSBY: But as a practical matter, wherever it is in the pipeline we don't want the legislature to suddenly pick that up, and file it, and move forward. What we -- what we want is to revamp our recommendations pursuant to a lot of new data.

And so, basically I think we want to eliminate that as a current piece of legislation idea, recommendation, and start over again, and fit it to the new circumstances.

DIRECTOR DURENBERGER: And so that's maybe one step more. I had looked at it as perhaps submitting a Chapter 2. But that may be the more sensible approach. Yeah.

CHAIRMAN CROSBY: Whatever, but as a functional matter we want to stop that one and replace it with something else.

COMMISSIONER MCHUGH: What happens if nothing happens? The legislation -- the existing legislation, 128A and C disappears
as of July 31st, right?

DIRECTOR DURENBERGER: That's it.

DIRECTOR MCHUGH: So, there's no more legislation. That was your first scenario. So we've got to do something by then to replace the current 128A and C, or just have 128A and C extended for a while. That's part of your possible scenario, right?

DIRECTOR DURENBERGER: Correct.

COMMISSIONER MCHUGH: We -- and we need to make a decision about that fairly quickly, don't we?

DIRECTOR DURENBERGER: Correct.

COMMISSIONER MCHUGH: Okay. And is it -- is your preferred course, or do you have a preferred course, that we, instead of simply seeking an extension of 128A and C, modify them slightly, or that we modify the legislation we've proposed slightly, or that -- or what? Or do you have a recommendation?

DIRECTOR DURENBERGER: I do. I challenge -- I do challenge the industry and all of the stakeholders to come together.
And I think that what you're looking at, what seems to make the most sense would be for an extension, a bridge piece of legislation an extension of 128A and C, the existing statutes, with some modifications that would help protect the industry during this transition time.

And then the recommendation that we made and the language that appears in what we called 128D, the legislative language, would be the piece after that. So, for example, it seems as though 128A and C get renewed on a two-year cycle. So, 128D, if you will, might be something that comes down the road in 2016, but with enhancements.

Now that we have the operational experience, now that we understand the application of the law to the day-to-day activities, the landscape will be a little bit clearer. So, I think it'll be a more informed report. That 128D was envisioned as a hybrid chapter of both A and C, A being live racing, C being simulcasting, and so we looked at a hybrid chapter. It may be that
enough disruption would be caused by that
kind of complete reform at this moment -- at
this critical moment in time in the
Massachusetts parimutuel industry, that it
may do more harm than good.

Not that it's not a good thing and not
that it's not change that's needed, but this
might be really bad timing.

COMMISSIONER MCHUGH: So this October
16th gathering is designed to produce or
provide a platform for producing that bridge
legislation, is that right?

DIRECTOR DURENBERGER: I don't think
so, actually. I think it's more the
mechanics of the application of some of the
provisions in 23K that affect racing.
Administration of the race horse development
fund, for example, timing for some of the
awards of things like the gaming licensing
fund, who the potential applicants are is
something that is a very interesting
question.

When the legislation was introduced it
was anticipated that the existing racing
licensees would be applicants for gaming licenses, and it's a little bit of a changed landscape now. So I -- my intent, and we can change it, we can amend it, we can -- we can bolster it. But I think my intent was to get more at some of the regulation questions that we're getting, which are how is this going to work, when is this going to happen.

COMMISSIONER MCHUGH: If we -- okay. I'd like to come back to that in a second.

COMMISSIONER DURENBERGER: Sure.

COMMISSIONER MCHUGH: Because I think that's a great idea. But how are we going to get at and when are we going to get at the desired -- the changes you think in 128A and D -- A and C, would be appropriate for this bridge legislation?

DIRECTOR DURENBERGER: I think having --

COMMISSIONER MCHUGH: And how do we -- how do we formulate a consensus around that, because time is short. And I guess my understanding was that there is some disagreement as to -- among stakeholders as
to the content of 128D. It would be unusual if there weren't.

COMMISSIONER DURENBERGER: Correct.

COMMISSIONER MCHUGH: But how do we -- how -- what's your plan for the bridge legislation and getting support to coalesce around you?

DIRECTOR DURENBERGER: So, Director Day and I have had a couple of meetings with some of the stakeholders -- affected stakeholders in anticipation of this.

I think that the overall time line is to have conversations. Whether or not they all be public forum, or if we go out to the stakeholders as we did last year, with the thought of coming together with the recommendations after the first of the year and finding a sponsor, you know, after the first of the year in January, when the January session starts.

COMMISSIONER MCHUGH: So, we would have something that was finished from our standpoint, and ready to go, and ready for a
sponsor by sometime in early January?

COMMISSIONER DURENBERGER: From the Agency's standpoint I don't think there's a lot of tweaking that needs to be done to A and C. I think we've identified some areas where it would be helpful to help protect the industry. And I think our stakeholders have some pretty good ideas too. The challenge, of course, will be to develop consensus.

And I'm mindful of the fact that this is not a popular subject when it comes up every so often in the legislature, which is why I think it's important if we can come together, the regulator, the regulatees, if we can all come together on some kind of consensus document it would be more palatable.


COMMISSIONER ZUNIGA: I'm curious about the timing because the -- when we first did the report and the initial -- we had those discussions about 128D. The big elephant in the room was, you know, who the
license might go to, and the survival of, or not, a racing operation without a gaming license. Will that still be the case if we present in January, which legislation? We will not yet know, necessarily, at least one operation. Does that still present a bit of a sequencing problem?

DIRECTOR DURENBERGER: It's -- there is a sequencing problem, but that's one of the reasons why extending the existing is probably a better way to go right now than the complete overhaul. Of course, we would like to have a fully informed discussion about the future of the landscape. But the reality is we won't. And so what is the best thing we can do in the interim, and I think this is a sensible approach.

CHAIRMAN CROSBY: So, we may be -- we may be setting up for an extension for an industry which doesn't exist, we don't know for sure. But we just -- we need a prophylactic so -- and yes, the elephant is in the room, but we don't have any choice.

DIRECTOR DURENBERGER: Yeah.
CHAIRMAN CROSBY: We have to get something done in case and in hopes that there is an ongoing industry come the middle of the summer.

COMMISSIONER ZUNIGA: Right. Which would appear that the only reasonable thing to do is to extend --

CHAIRMAN CROSBY: Right.

COMMISSIONER ZUNIGA: -- there's other changes --

CHAIRMAN CROSBY: With as few other changes as possible.

COMMISSIONER ZUNIGA: There's other changes that -- that are going in there and -- anyway, I'm just thinking time wise how this becomes something to consider.

COMMISSIONER CAMERON: Director, have you had preliminary conversations with stakeholders about getting together, trying to have some consensus around -- not the overhaul, but just continuing for another year with some modifications, have you had those preliminary discussions?
DIRECTOR DURENBERGER: There have been a few preliminary discussions.

COMMISSIONER CAMERON: And is there -- does there seem to be, this is -- this is something that's a good idea? Is that the feedback you're getting?

DIRECTOR DURENBERGER: We've had positive feedback. I have the sense that perhaps some of the people we've spoken with are just a bit overwhelmed by the situation in general, which is why I think it's great if we could take the lead on this.

I would assume that in years past when it was time for an extension that it was the stakeholders themselves that directed that legislation. And so, it may be more appropriate for us to be in that spot at this point. But the feedback has been positive.

COMMISSIONER CAMERON: Okay.

CHAIRMAN CROSBY: I think following up on Commissioner McHugh's point, it would be -- I'd like -- and I think it makes sense to do the race horse development fund type issues at the conference on the 16th. But I
think it would make sense, maybe in that second segment in the afternoon, to have this be the place where you try to start -- at least start, if not end, the developing a consensus on this interim bridge step. You have everybody in the room and you invited -- you know, you could tee up the conversation, try to figure out what the minimal tweaks are, let everybody talk about the minimal tweaks, make sure legislators are there. I think that would be a very valuable addition.

COMMISSIONER MCHUGH: I think so, too.

CHAIRMAN CROSBY: To the proposal and no better time to do it to the plan, and to the forum. And no better time to do it than that -- than that. Are legislators invited?

DIRECTOR DURENBERGER: I was going to get through this meeting today since this was a draft agenda --

CHAIRMAN CROSBY: Okay.

DIRECTOR DURENBERGER: -- and get any feedback from you, and then tomorrow that was on my list of --

CHAIRMAN CROSBY: Okay. Yeah, because
I think that would --

DIRECTOR DURENBERGER: -- things to do.

CHAIRMAN CROSBY: -- obviously that would be valuable if we could -- whoever the key legislators are in the House and Senate, if they could -- they or their staff could be here, that would be very valuable.

But I -- I think it makes a lot of sense to pursue the plan you're talking about, but to add it to the agenda on the 16th.

DIRECTOR DURENBERGER: Okay.

CHAIRMAN CROSBY: And be as explicit as we can that that's what we're trying to do.

DIRECTOR DURENBERGER: Okay.

CHAIRMAN CROSBY: And try to, you know -- you know, the dynamic of the group more, but whatever, you know, if you need to bring in big guns to help do it, if there are outside speakers, you know, if we should speak, or do something, whatever. But to try to coalesce that alliance ASAP, that'd be
good.

COMMISSIONER MCHUGH: Yeah, I think --

I agree with that.

I also think that to the extent we discussed these other topics, which I think are key topics as well, we ought to have some idea of what the goal is, because quite frankly I'm not sure what -- what the issues are, I guess, that are paramount in each of those areas.

And it'd be helpful to have some understanding of what they are, so that we could listen attentively or participate in a discussion that's designed to form a consensus. So that at some time before this it would be helpful to get a list of those -- of those things that -- issues that seem paramount to you.

DIRECTOR DURENBERGER: And so what I've done on the agenda items that did appear is I've been creating issue statements for items A, B, C, and D.

COMMISSIONER MCHUGH: Great.

DIRECTOR DURENBERGER: And they're
fairly lengthy. So, I may also do an
executive summary. But we could do a similar
thing for -- I think what I'm hearing is
we're going to bifurcate the afternoon and do
some of -- do these things first, or whatever
the order is, but have two different pieces
in the afternoon. So, I could do the same
thing for the legislative part of the day.

CHAIRMAN CROSBY: Yeah, that would be
great.

COMMISSIONER MCHUGH: Is there going
to be enough time to do that, both of those?

DIRECTOR DURENBERGER: I am game to
put as much effort into it as I need to, the
question is --

COMMISSIONER MCHUGH: No, I know --

DIRECTOR DURENBERGER: -- on the other
side.

COMMISSIONER MCHUGH: -- but I mean --
but realistically, if -- I mean, you know the
-- you know the stakeholders better than we
and what the divide is.

It seems to me that in terms of
timeliness, and I may be wrong, that forming
a consensus around the statutory replacement for -- or the statutory extension of 128A and C is paramount, because we've got to get something drafted and final promptly. And that the regulatory pieces are of secondary importance and there's no -- in terms of temporal -- temporal importance. And there's no reason we can't do this again. It probably is a good idea to have periodic meetings with the stakeholders.

But am I wrong about -- so the question is, can we really get both of these things done that afternoon, or should we pick one of them and just allocate the time necessary to get it done, and cinch down.

DIRECTOR DURENBERGER: So, there's a tremendous amount anxiety -- of anxiety among the stakeholders regarding some of the issues that appear here. Some of the timely issues, in particular, sort of, you know, the future is unknown types of questions.

COMMISSIONER MCHUGH: Some of the ones that are in A through D?

DIRECTOR DURENBERGER: Yes.
COMMISSIONER MCHUGH: Okay.

DIRECTOR DURENBERGER: And to the extent that the -- some of the smaller stakeholders are trying to make their business plans for next year. I mean, we -- everyone -- like I said, everyone is resigned to the timing of the award of licenses and that's fine. But to the extent that if they know the whens, the when will we know, that in itself relieves quite a bit of anxiety, you know, because we know, we don't know, but when will we know what we don't know.

CHAIRMAN CROSBY: If I can make a suggestion?

DIRECTOR DURENBERGER: You can.

CHAIRMAN CROSBY: You could -- you could make it a working lunch, have only a half hour, we've added a half to the evening by doing that -- to the afternoon by doing that. Then, pursuant to what Commissioner McHugh is saying, make the bridge legislation first, so we don't run out of time, and then make the A, B, C, D second. And if we run out of time, we run out of time. But we will
have done -- we will have done the one that
we have to get done. And try not to run out
of time because I understand what you're
saying, that people need to know these
things. But if we switch the order then we
surely won't run out of time.

COMMISSIONER MCHUGH: And we could end
with a commitment if we do run out of time
just --

CHAIRMAN CROSBY: To come back
together.

COMMISSIONER MCHUGH: -- reconvene and
not let people walk out of the room without a
commitment to reconvene at a specified time.
But at least we'd be able to start the
statutory process moving.

CHAIRMAN CROSBY: Does that make sense
to you?

DIRECTOR DURENBERGER: That does make
sense to me. So, I think the limiting -- the
critical factor, then, is not necessarily the
amount of work that I can put into it, but
whether or not interested staff,
representative, senators would be available
-- is that -- did you -- you wanted me to invite them?

COMMISSIONER ZUNIGA: Well, stakeholders --

CHAIRMAN CROSBY: Stake --

COMMISSIONER ZUNIGA: More importantly stakeholders I would argue.

CHAIRMAN CROSBY: Well, the stakeholders --

DIRECTOR DURENBERGER: The stakeholders are intending to come.

CHAIRMAN CROSBY: Yeah, that'll --

DIRECTOR DURENBERGER: Yeah.

CHAIRMAN CROSBY: -- they'll be there. But I mean if you can't get the legislators, it doesn't matter, we'll take whatever we come up with to them.

DIRECTOR DURENBERGER: Yeah.

CHAIRMAN CROSBY: But it would be nice to get them there if we possibly could, and staff. But it's not a -- it's not a gaming item.

COMMISSIONER MCHUGH: And we don't have to have a legislation drafted --
CHAIRMAN CROSBY: No.

COMMISSIONER MCHUGH: -- by that meeting, as long as we have concepts --

CHAIRMAN CROSBY: Right.

COMMISSIONER MCHUGH: -- to discuss.

CHAIRMAN CROSBY: Yeah. And if we could -- yeah, if we could agree on the concept, agree largely on what, if any, tweaks we felt we had to have --

COMMISSIONER MCHUGH: Right.

CHAIRMAN CROSBY: -- the easiest thing would be to simply do it again -- the same thing again, no tweaks. But whatever tweaks we feel we have to have and, you know, then maybe some little working group or some process for finalizing the legislation and getting it going forward. Okay.

COMMISSIONER STEBBINS: Is there any reason we can start a little bit earlier, pick up a half hour?

DIRECTOR DURENBERGER: Janice?

MS. REILLY: Yes.

DIRECTOR DURENBERGER: Yes.

COMMISSIONER STEBBINS: I believe I'm
saying that the --

CHAIRMAN STEBBINS: Yeah, you can
spend the night in Boston. Yeah, there's an
hour we just picked up in those two, by
shortening lunch and starting a half hour
early, we've added an hour to the full
process. So, we ought to be able to get this
done.

DIRECTOR DURENBERGER: I'd like to
point out actually that the morning we have
some heavy hitters coming. These -- these
gentlemen that are going to be attending the
educational part of the forum, I think this
is a testament to our industry, that we
reached out and said, we'd like a little help
and some education. And they dropped what
they were doing.

October is an extremely busy month in
horse racing. The National and World
Championships for both breeds are going on,
there's some very significant race meets.
And they all wanted to come, they were very
enthusiastic, so --

CHAIRMAN CROSBY: Great.
COMMISSIONER MCHUGH: Great.

COMMISSIONER CAMERON: Director, one more question. In looking at these policy discussions, a lot of them are legal in nature. Do we have enough time to prepare to be -- to have a fully informed discussion within the next two weeks?

COUNSEL BLUE: A number of these discussions have been ongoing, we have been looking at them. And I also want to advise the commission that we have started on a markup of the tweak of the legislation, we've been playing with that too. So we've -- so we've been having some ongoing internal discussions about these, we should be okay.

COMMISSIONER CAMERON: Yeah, I -- I just wouldn't want stakeholders to think we're going to have all these answers and time lines will be exacting because that may not be possible.

COUNSEL BLUE: No, I agree, but we should have at least some basic format.

DIRECTOR DURENBERGER: I think just the dialogue, too. I think the industry --

DIRECTOR DURENBERGER: -- is looking to the dialogue and they want to understand that you understand the issues.

COMMISSIONER MCHUGH: Yes.

COMMISSIONER CAMERON: Yeah.

CHAIRMAN CROSBY: Yes. One last thought, since we're here to give you our gratuitous suggestions.

DIRECTOR DURENBERGER: That's why that's presented to you.

CHAIRMAN CROSBY: The idea -- I think we ought to -- my suggestion would be that another thing that we -- you announce, is that May 1st, or some date certain after the A and B decisions will have been made, there will be another such forum. And I think we ought to pick the date now and -- at which we will then have all the data, and then we'll talk about whether this industry, but it's, you know, we're all waiting with baited breath to know what's going to happen to the licenses. And every other conversation we
have is just sort of treading water until we know that.

So -- but if you were to say you will be getting this industry together, you know, a week later, I think that might be constructive.

DIRECTOR DURENBERGER: Duly noted.

COMMISSIONER MCHUGH: I would just like to -- amplifying on that a bit, you used the phrase, Director, the wall between racing and gaming, did I -- I think you used that phrase.

CHAIRMAN CROSBY: She said the Chinese wall.

COMMISSIONER MCHUGH: Fire wall. Fire wall?

CHAIRMAN CROSBY: Chinese wall, she said.

COMMISSIONER MCHUGH: Yeah.

DIRECTOR DURENBERGER: Chinese wall, yeah.

COMMISSIONER MCHUGH: Yeah. Well, I -- I conceptually, I don't view there being any wall, or if there is a wall I think it
should come down. I mean, this is one entity. It's an entity in which racing is a critically important part, not only for the farms and others that the legislation supports, but as this report that you prepared describes some 3,000 jobs in the tracks themselves.

And so, if there is a sense of a wall between the two parts of this singular entity, today is not the time to resolve this.

I think we ought to -- ought to discuss that at some point in an appropriate fashion and form, and tear the wall down. Because I don't think -- I don't think -- I don't think it's good that there either be a perception or a reality of a wall existing. So, that's just a little throwaway, but I am concerned about that.

COMMISSIONER ZUNIGA: Yeah, I would agree. Actually, there's quite a bit of that nonexisting wall in Chapter 23K, that cross over in terms of requirements, of gaming licenses, about simulcasting --
COMMISSIONER MCHUGH: Integration.

COMMISSIONER ZUNIGA: Yeah, exactly, exactly.

CHAIRMAN CROSBY: When you referred to that, what were you referring to?

DIRECTOR DURENBERGER: I think we're all mindful of the fact that we have an existing racing licensees and other applicants. And so I think we're mindful of just not crossing that line.

CHAIRMAN CROSBY: Yeah. But I think it was sort of a, it was a narrower reference I think that --

DIRECTOR DURENBERGER: It was a narrower reference, yeah.

CHAIRMAN CROSBY: Yeah, but nevertheless, there are -- there are a lot of factors which contribute to keeping the units somewhat separate. That -- that's the one of them, the biggest one.

But -- but our geographic locations, where we're physically located, how long we've been around, you know, what we spend our day working on. I mean, there is a lot
of other reasons why, you know, it's easy to sort of shift off into a perceived gaming and other, or racing and other, and I think that it's important for us to keep in mind, as the Commissioner said, that that's not what we want to be either actual or perceived.

DIRECTOR DURENBERGER: So, I think the date, whatever date certain, as you referred to it, May 1st, whatever it be, is the day that the wall comes down.

CHAIRMAN CROSBY: Yeah. Right.

DIRECTOR DURENBERGER: The licenses will be awarded and -- yeah.

CHAIRMAN CROSBY: Yeah, all -- everybody's interest has become substantially congruent at that point, right? Okay. Good. Thank you for that. Where are we now?

DIRECTOR DURENBERGER: Where are we now? Should we turn to 7B, occupational licensing structure?

CHAIRMAN CROSBY: Yes.

DIRECTOR DURENBERGER: And I'm told by employees of our predecessor agency that the occupational licensing fees for participants
in horse racing have not had an increase since 1989.

We've done a 38 state parimutuel survey of licenses in the rest of the country. Our existing fees really aren't significantly out of whack, out of balance with the rest of the country's, but there are some updates that we think we should make.

And we've identified some additional categories of licensees that we think are appropriate and we'd like to recommend them. But there's a threshold issue that needs to be discussed, and that is that our occupational license fee structure appears in another agency's regulations, they are housed over an Administration and Finance, 801 CMR4.

So, the question that we would have for the Commission is whether we simply request changes in the fee structure, propose them to A and F, have them undergo the rule making process, or if we should proceed with requesting that that entire structure be re-honed, if you will. That way the licensing regulations for racing and gaming would
reside side by side. Again, tearing down the wall.

Legal has been in contact, I think, with the folks over in A and F. It doesn't seem like an overwhelming process, but as a matter of timing we may actually need to do both. Our licenses -- our current occupational licenses all expire in December. They're calendar year licenses, they'll be done December 31st. So as a practical matter, making some suggestions now in October, I'm not quite sure we'd get all of that done by the end of the year.

CHAIRMAN CROSBY: Off the top of -- go ahead.

COMMISSIONER MCHUGH: Oh, I was going to say it seems to me we ought to have all of our fees with us. You -- you know how the A and F --

CHAIRMAN CROSBY: Well, there's something about the role that A and F either has imposed or has some role, but I don't know exactly what it is. But what I was going to say, I wonder whether it's worth
doing this now or whether we ought to lump
this into everything else, which is let's
just keep our powder dry on everything other
than the one essential we need, which is the
bridge, and put everything into the post wall
coming down bucket.

COMMISSIONER MCHUGH: Right.

CHAIRMAN CROSBY: I mean, it sort of
seems like to go through a -- you know, a --
trying to get this done in time for maybe one
racing meet, you know, is it worth the
trouble?

COMMISSIONER MCHUGH: Especially if we
are going to reform, you know, and that that
would be coming at a later date. This is
just the bridge, that doesn't make sense.

CHAIRMAN CROSBY: Yeah, I don't feel
strongly about it. If you feel strongly that
there are proactive reasons why we should do
it, I'm fine with that. But it's hard for me
to imagine it's going to make much difference
if we do this again for -- if we keep it the
way it is for a year and just wait until we
know what we're doing.
DIRECTOR DURENBERGER: In the absence of identifiable harm, other than we could increase revenue for my operating budget, there's no other identifiable harm for continuing the structure as it currently exists.

CHAIRMAN CROSBY: Well, recovery --

COMMISSIONER CAMERON: And would that be fair to increase revenue, again, not knowing the landscape. It would seem the better -- the better time --

CHAIRMAN CROSBY: Right.

COMMISSIONER MCHUGH: -- to do that would be when the landscape is known and the revenue is coming in and --

CHAIRMAN CROSBY: And there's optimism again in that.

COMMISSIONER CAMERON: Yes.

DIRECTOR DURENBERGER: Duly noted.

CHAIRMAN CROSBY: Okay.

COMMISSIONER CAMERON: All right.

DIRECTOR DURENBERGER: That moves us to 7D. Report from the independent accounting. We've got some documents there.
Earlier this year we had an independent auditor examine licensee procedures regarding telephone account wagering at two of our licensees, Plainridge Race Course and Raynham Park. The results of those examinations, as well as some recommendations regarding existing regulatory structure inherited by this Commission are in your packet, along with an executive summary that I produced.

I'm happy to walk you through the reports, or the summary, or I could let them speak for themselves. I would just note that several of the recommendations that appear in the recommendations part of the report have already been incorporated into the draft revised 205 CMR 6 and 7, which we've been sitting on. We're in the process of reviewing the remaining recommendations. We've also received some suggestions from other folks in the industry about how other states regulate this particular area. So I will look to you for guidance, how detailed we want to get into those reports right now.
CHAIRMAN CROSBY: What's -- what's your plan to -- what do you plan to do with these reports? What's the consequence of these reports at this stage of the game?

COMMISSIONER ZUNIGA: Well, they were required by statute, for one, and they provide recommendations. I know the question is to you, but they provide recommendations that I think are very relevant, especially in the last two points. Two agenda items that we've discussed, for in terms of regulating going forward.

CHAIRMAN CROSBY: So, what was that? I didn't --

COMMISSIONER ZUNIGA: Well, I think these recommendations are -- there's recommendations here in this report that would enable a better oversight of the racing operations and the simulcasting as well.

I think just like we discussed in the last two agenda items, there's an element of timing. When I read these, I figured let's see if we can start implementing some of
these recommendations as soon as possible, but there's all these other things going on.

The genesis of this audit is what -- as I mentioned, these audits are required by statute --

CHAIRMAN CROSBY: Right.

COMMISSIONER ZUNIGA: -- which is how we came about on these -- on these reports.

COMMISSIONER MCHUGH: But the recommendations can broadly be divided into two categories, can't they? One is regulations designed to fix existing problems and two, regulations and statutory changes decide -- designed to bring us up to the world as it exists today.

COMMISSIONER ZUNIGA: True.

COMMISSIONER MCHUGH: Which is a -- which is a more fundamental change. There's a lot of stuff in here about pretty raggedy practices, quite frankly. And some of the regulations are designed to fix that. Would it make sense to try to fix those and incorporate the more broad recommendations, the updating, bringing us into the twentieth
century, into this second piece that we're
going to do later in any event?

DIRECTOR DURENBERGER: So,

Commissioner McHugh I think, read the racing
division's mind on that. We -- we, this
summer went to you, you know, came to you and
said, we want to revise 6 and 7. 6 and 7 of
the 205CMR regulate the betting, the
wagering. And we identified very early on
that there were some significant security
issues, not necessarily with our licensees,
but in general that wagering security is very
important to the industry at large.

And just like 128C, the regulations to
regulate 128C go back to a time when the
model was very different. Before
simulcasting started there was debate whether
or not it would ruin the industry and now
it's the lifeblood of the industry.

And these regulations haven't really
been updated much more than the statute has.

So there are some areas where we think
change is appropriate right now and we can do
that very painlessly. We have a draft,
205CMR6 and 7, with some -- I was going to say minor changes, they're not minor changes, they're few in number, but they're significant changes. And then -- but it's also difficult to rewrite regs for a statute that you're looking to either revise or replace. So I think that Commissioner McHugh, a bifurcated approach is perfect. So, we'll incorporate a few but important changes over the winter so that by the start of next year we can have that strength, the regulatory strength and clarification where we need it. And then we will look to do a more comprehensive revision of these two chapters along -- it would make sense to parallel any kind of statutory change going forward.

CHAIRMAN CROSBY: All right. So none of the -- in your term, would be statutory, they would be all regulatory --

DIRECTOR DURENBERGER: In the regs, yeah.

CHAIRMAN CROSBY: -- themselves?

Right.
COMMISSIONER MCHUGH: Yeah.

CHAIRMAN CROSBY: That makes a lot of sense to me.

COMMISSIONER MCHUGH: Yeah, that's good.

DIRECTOR DURENBERGER: Wow, we're doing sensible things in racing today. This is good.

The draft annual report, and I apologize, it looks like the piece that got in your packet had some red ink and some formatting errors, which did not appear on the version that -- when I opened on my computer. So, I don't quite know what to attribute that to.

So, the history here traditionally, in this state and other states that have summer racing, racing reports are issued on a calender year, rather than a fiscal year basis. The preliminary draft is here, we're not asking for your vote for approval today because you've had a busy last ten days or so, but I wanted to put it in front of you in case you did have any preliminary discussion.
COMMISSIONER MCHUGH: Right.

DIRECTOR DURENBERGER: We would come back to you with the proper formatting and ask for your approval at the October 17th meeting.

We remind everybody that it was the Division of Professional Licensure that was managing these activities of the old state Racing Commission through an inter-agency service agreement through last year. So, we maintained the same format as previous years' reports.

These statutory requirements for the content were previously found in Chapter 6, but they were repealed by the Gaming Act, they were repealed on May 20, 2012. And we don't see any express replacements in Chapter 23K, but we kept all of the same information that was in the previous reports.

We've got a library that we put together of annual reports from other jurisdictions. We're going to create an entirely new template for the 2013 report.
We're going to provide more than just a recitation of numbers, we're going to present it in a way that's proactive and educational for people.

These reports really are the subject of quite a few public records requests, so -- particularly from students that are in various agra-business equine industry programs. So, to the extent that we can provide information that's of more benefit than to just the legislature, we'd like to do that in the future. We think we can -- we can provide some pretty neat reports going forward. But for this year we did keep -- choose to keep the status quo.

CHAIRMAN CROSBY: Okay. I would just point out that --

DIRECTOR DURENBERGER: So, I can entertain --

CHAIRMAN CROSBY: -- Tim Murray is no longer the Lieutenant Governor.

DIRECTOR DURENBERGER: There you go, that's a fantastic change.

CHAIRMAN CROSBY: I've earned my pay.
DIRECTOR DURENBERGER: That's it.
That's it, we can all go home now.

CHAIRMAN CROSBY: I can go home.

DIRECTOR DURENBERGER: That's great.

All right. So, that should have been in red ink, huh? No one ever reads the cover page. No one ever -- right? No one proofreads the cover page. There we go. What else can we talk about? How about one more thing?

The form of the approval of the racing licenses. So, we talked earlier about how we had three applicants.

Now, legal came to me with a very interesting question of how we think that the Commission should issue its decisions regarding these applications. The past practice appears to have been a motion and a vote at the Public Meeting closest to that November 15th deadline. Then the Commissioners would affix their signatures to an eight and-a-half by eleven piece of paper with the seal of the Commonwealth on it, and then there were a series of brief letters that were sent, signed by the program
coordinator, which would signify the approval of the dates, the simulcast schedules, premium free period, special events, and account wagering providers.

But I am in complete agreement with legal that I'd like to suggest that you consider issuing your determinations in a manner that parallels that what you're doing with the gaming licensing process. I think this is termed a decisional format -- is that the right terminology?

COUNSEL BLUE: That's correct.

DIRECTOR DURENBERGER: So, this would enable you to recite findings of fact, specify conditions perhaps, and it would afford you other discretionary flexibilities that are not provided by the past practice. And it seems to make sense, again, as we're tearing down the wall, for the racing processes to parallel those of the gaming processes.

COMMISSIONER MCHUGH: It strikes me as a really good idea. There's a bunch of -- particularly this year, there's a bunch of
concerns that potentially we will have that
more -- more appropriately fit into a set of
findings and conditions. So, I would like us
to adopt that format, at least in principle,
and see how it plays out.

CHAIRMAN CROSBY: Are those -- will
those be adjudicatory, or will those be just
Public Meeting?

COUNSEL BLUE: They're just, by
statute, public hearings. So, we will have
the public hearings and then put together a
draft decision that the Commission can then
deliberate on in public at the next available
public meeting.

CHAIRMAN CROSBY: Sounds good to me.

DIRECTOR DURENBERGER: It may be
something else for 128A revision down the
road.

COUNSEL BLUE: Oh, yes, definitely.

DIRECTOR DURENBERGER: Yes,
definitely, says General Counsel.

CHAIRMAN CROSBY: Is that it?

DIRECTOR DURENBERGER: I think that
concludes the Racing Division's report.
CHAIRMAN CROSBY: Thank you.

COMMISSIONER MCHUGH: Great. That was very, very thoughtful.

DIRECTOR DURENBERGER: Thank you.

COMMISSIONER CAMERON: Thank you, Director.

CHAIRMAN CROSBY: Thank you. Good stuff.

COMMISSIONER MCHUGH: Good stuff.

CHAIRMAN CROSBY: We will have a quick break and then reconvene with, I think Director Acosta. Okay.

(A recess was taken)

CHAIRMAN CROSBY: Director David Acosta, item number 7.

DIRECTOR ACOSTA: No, item number 8, Mr. Chairman.

COMMISSIONER CAMERON: 8.

CHAIRMAN CROSBY: Item number 8, as I said.

DIRECTOR ACOSTA: Chairman Crosby,
Commissioners, good afternoon.

COMMISSIONER CAMERON: Good afternoon, Director.

COMMISSIONER McHUGH: Good afternoon.

DIRECTOR ACOSTA: Good afternoon.

Before you, in your package, there are five memorandums dated October 3, 2013, which lists recommendations from licensing. With respect to five questions, we're hoping that we can get some direction from the Commission, so that the Legal Department and licensing can commence drafting regulations as it pertains to licensing.

Now, the first memorandum talks about application originating through the gaming establishment versus individuals having the ability or requiring that individuals file the applications, and not originating from gaming establishment.

I've had experience with both methods of submission. I am recommending that applications originate from the gaming establishments.

One of my arguments for that is,
that in New Jersey we had applications filed directly by individuals and not through gaming establishment. And one thing that we found was that individuals would invest time, effort, and money to file an application only to be told that they are unemployable. We often found individuals requesting full refunds of application because they're unable to find a job. Having an application originate from the gaming establishment, at least gives the appearance, at a minimum, that a job has been promised.

In addition to that, there could be a mechanism in place where the individual can offset the cost of the application through an agreement with the gaming establishment through payroll deduction, because the person may not have the initial fees for a gaming application.

I also indicated in the argument that by having the individual go through the gaming establishment that is an initial vetting level that is incorporated into the process, eliminating -- or not eliminating,
but minimizing the number of individuals that would submit an application and for lack of understanding what the requirements are with respect to suitability they have no opportunity of getting a license.

Your guidance in this particular issue would help us to formulate how the regulation should read with respect to the filing of an application.

CHAIRMAN CROSBY: Jill, could you come up?

COMMISSIONER CAMERON: Director, I certainly think we want to -- we certainly want to rely on your expertise. This makes perfect sense to me, but you did mention on page three, an exception. And I was wondering -- which -- which also made sense, that there is a mechanism if someone did want to, but what did you have in mind for an exception, which as you say, should be -- should not be the norm? What were you referring to? Give me an example.

DIRECTOR ACOSTA: There are individuals who wish to file an application.
Information on the application may be required by the commission, but it's not information that the individual wants to share with the employer. For the application to originate through the gaming establishment, it, in essence, gives the gaming establishment all information that's required on the application.

In New Jersey there were a number of individuals who did not want to disclose, for whatever particular reason, all of the information that was required to be disclosed in part of the application. And they just did not want to do that.

We did have a process in which the gaming establishment will give them a letter referring to registration -- back in those days referred to hotel registrations, where they will get a letter indicating I have promised this person a job, but he has indicated that he wishes to apply directly through the Commission, and they were okay with that.

I don't know if the letter from the
casino would necessarily be part of this process. It was in New Jersey, but to allow an individual to file the application on their own, at least the process is there if there is reasons to do that.

COMMISSIONER CAMERON: Was there an exception in Ohio?

DIRECTOR ACOSTA: No, in Ohio it was strictly --

COMMISSIONER CAMERON: Through the -- through the applicant?

DIRECTOR ACOSTA: Through the applicant. And the reason -- one of the main reasons --

COMMISSIONER ZUNIGA: Through the gaming establishment.

DIRECTOR ACOSTA: What's that?

COMMISSIONER ZUNIGA: Through the gaming establishment.

DIRECTOR ACOSTA: Yes. But the statute in Ohio specifically stated that the gaming establishment would be billed for the application fee. So, it was clear there
that, you know, we would bill them directly and there was no other -- no other choice.

Other states, like Maryland, also initiate an application via the gaming establishment, so it's a practice that's common in a number of other states.

COMMISSIONER MCHUGH: How do you -- if you do it -- your recommendation makes great sense to me as well. But how do -- how do you ensure that you're going to deal with a focus on hiring local people as opposed to out of state people? Or -- or -- let me put it another way. Is -- do you know if either way is more conducive to getting local people licensed than it is -- than the other way is?

DIRECTOR ACOSTA: My experience in both states have found that neither system really encourages local employment. In New Jersey for a number of years it was required by statute that the applicant be a New Jersey resident, and there was language to say that you must provide verification that you were a New Jersey resident. For example, a copy of a voter registration or a driver's license.
DIRECTOR ACOSTA: That requirement did go away. In Ohio that didn't -- didn't happen in the casinos that bordered other states. For example in Toledo, where it bordered Michigan, there were a significant number of individuals who applied from the state of Michigan. They were probably closer to the casino than other residents of Ohio.

DIRECTOR ACOSTA: The same thing occurred in Cincinnati. However, the dynamics in Cleveland and in Columbus was that it was primary local individuals, because it's expensive to relocate and the commute would be, you know, cost prohibitive.

CHAIRMAN CROSBY: I'd like to expand on that because I had the same thought that -- I agree with others who have said this looks like it's the most efficient system. I can see what the advantages of it are, but it starts all of a sudden to get right to the heart of issues of local hiring, diversity,
hard to employ groups.

The casino is going to have a premium, is going to put a premium on efficiency, on speed. To some extent, as we've heard, about upward mobility for their own people, they're going to be under certain constraints. Their HCA constraints and whatever, you know, conditions are on our license. But they aren't going to have the same interests that we have and that the Commonwealth has in local diverse and so forth. So, if we -- what we do is create a bottleneck, which easily could be a bottleneck for -- well, let's say it could be easily used as a way to facilitate the casino's fast tracking the people that they were interested in getting.

So, if we're going to do this, first of all I'd like to have your folks, advisory folks think about this, you know, and is this an issue. And we need to make sure that these regs are reviewed by people who bring the perspectives to the table that some of your advisory groups do.

But if we go down this route, we need
to make sure that we've written regs about it in a way that don't run counter to our other important public policy objectives.

DIRECTOR ACOSTA: One thing I can say is, in reviewing the application, there are a number of questions that are being asked from the potential licensees as to how they are going to address the issue of hiring local individuals. So, the Commissioners who will be evaluating that particular section can look and see which casino has the best plan.

It will be our job after the awarding of the license to gather information data to find out if what they presented is being supported by facts. We're in the process of putting together a licensing system. And I've had conversations with other staff in which we're looking at trying to gather information that would enable us to review how, in fact, the casinos are complying with this, who are the individuals they are hiring; where do they come from, you know, what groups are they -- are they groups -- are they females, are they Hispanics, are
they --

CHAIRMAN CROSBY: Well, I think that's well said and I -- I agree with that. And as I said, there are -- there are other mitigating factors to this. But we just want to make sure that we don't set up an institutional structure, which is institutionally built to be -- to be countered. We don't want to be constantly running up an institutional structure which doesn't really facilitate our public policy objectives. So, we just need to take both of those sides of the -- both of those different public policy interests in mind when we're drafting the regs that will implement this.

Do you have any particular perspective on this one way or the other?

DIRECTOR GRIFFIN: No, I'd like to better understand the implications in terms of diversity in local hiring. And as you suggested, Director Acosta and I have been speaking about bringing in work force development stakeholders and folks who are concerned about diversity to have some of
these discussions.

CHAIRMAN CROSBY: All right. Okay.

COMMISSIONER MCHUGH: It may in fact be -- that's interesting. It may in fact be easier to hold people's feet to the fire if you had --

CHAIRMAN CROSBY: True. Good point.

CHAIRMAN CROSBY: -- a license -- a vendor based licensing system, because then you know exactly who they're applying for and can pick up demographic data much more easily.

CHAIRMAN CROSBY: Right. And who's accountable.

COMMISSIONER MCHUGH: Who's accountable, right.

COMMISSIONER STEBBINS: I had a little bit of a different opinion, David, with your -- with your recommendation. And certainly understand I think in a ramp up period when we know licensees are looking to hire at a rapid pace, bring people on board, get them trained, regardless of what training they may have already gone through in the first place.
And certainly see a window where not clogging up the licensing system with people that are just throwing license applications, but as opposed to let's handle the license applications for people that are -- to a degree, and probably a higher degree, guaranteed some form of employment.

But I certainly see a period where after these licensees are up and running that if I'm an individual and I choose to go through a training, I want to position myself for a job at some point, that I should be able to apply for a license regardless of whether I have an offer of a job. But be able to market myself as saying, I have the training, I have the skills, I've been through any number of training programs and I'm licensed by the Commonwealth. I would think that positions that individual to be a more attractive candidate when a -- when a applicant has an opening and wants to hire somebody.

So, I agree with the context of the initial hiring process to again, not clog our
system with people who either don't have a job or we may ultimately find unsuitable. But finding a way through our regs to position a process where after the startup period somebody who chooses to want to pursue this career as we see in any other -- many other occupations, where you go out, you get trained, you get licensed, and then, you know, hopefully that makes you more marketable in applying for a position.

I don't know if there's a way to -- whether I'm the lone voice in this or not, whether there's a way to kind of allow for that adjustment in the regulatory process. I know you also mentioned talking about, you know, non-gaming vendor registration should originate also through the gaming establishment. Again, I think there's a marketability for a company that wants to be a non-gaming vendor to be able to say, I'm licensed, I've been, you know, reviewed by the Gaming Commission, I can easily supply widgets and gadgets, you know, to you, Mr. Casino, a licensee.
So, I -- I just kind of look at your recommendations, kind of, under two viewpoints. That initial early startup viewpoint and then an ongoing operation of the system, you know, in the months or years to -- you know, years ahead, after a license has been awarded.

DIRECTOR ACOSTA: Duly noted. Again, I -- I try and answer the question about what are the exceptions. In the exceptions, maybe an example like what you just provided could be part of that.

Again, I can only say I hate to be the person to tell an individual who went through training, who got a license, and for some reason the casinos are looking for somebody who smiles a certain way, and that person cannot smile that certain way.

COMMISSIONER STEBBINS: Right.

DIRECTOR ACOSTA: And doesn't find what they're looking for, and gets totally, you know, frustrated. And comes back to us and says, I want my money back, this didn't get me nowhere, what can I do with this.
COMMISSIONER STEBBINS: And to a degree, I think that has a lot to do -- and not only our responsibility, to put out as much -- as much information as we can in advance, and hopefully direct the public to look at that information. But certainly in a, you know, our partnership with the community colleges, they think about screening vetting all these people that, you know, hopefully the system at the bottom of the funnel won't get clogged up with those people who are not -- have no chance, as you pointed out the other day over at Bunker Hill, have no chance of being found suitable.

So, you know, some ability or some responsibility back on our part to put enough information out there that we don't -- I hate to keep using the word, clog up because -- but you know, fill our system with people that we're just going to spin our wheels on and ultimately not find suitable for our license.

Again, I just don't know how that translates into regulatory language to make
DIRECTOR ACOSTA: With respect to vendors, the process I'm familiar with the states that have registration, Pennsylvania and New Jersey, you have a product that you want to sell. The vendor registration is just a basic, you know, name, rank, and serial number form that is submitted via casino. I enter into an agreement, the Purchasing Department of sends it to Licensing Department. We then have an application that's a little bit more in depth and tell the individual you have so many days to fill this out on the registration, because it's a registration. That person will then fill out the registration form that's a little bit more in depth and we will then start monitoring the level of business that is being conducted by that company. Once they're registered they can do business with anybody else, they don't have to re-register. I don't know what other way would really be efficient, for a lack of a better word, for a non-gaming vendor registrant than
going to the casino and saying, look this is the product I have, it's just a registration versus a license, where -- a vendor license, obviously, a gaming vendor license, that has to be independent from -- from originating from -- from a casino. That individual who is considered a gaming vendor should submit an application directly to the Commission without having to go through a casino. Ones that have their license, they can go in and negotiate with whatever casino they wish.

And again, those individuals, the vetting process is much more significant, it's much more longer, the companies are bigger --

COMMISSIONER STEBBINS: Right.

DIRECTOR ACOSTA: -- they're much more complicated, you know. So, they need to apply directly to the Commission. The employees and the registrants I strongly recommend, understand your -- your position, and I'm sure that -- I believe our department and licensing will get together and try to draft regulations. We'll have some
consideration to make those exceptions and
particular to the ones that wish to go and
apply, you know, after they've completed a
training, keeping in mind the other
stakeholders, that being colleges, the job
training programs, and that kind of stuff.

MR. STEBBINS: We had, you know,
another topic that came up in a meeting we
had the other day. Talking about, you know,
small business opportunities are -- for folks
that are going to need financing to be able
to build their capacity to be a qualified
vendor. And, you know, the brainstorming
came back around the idea of, well, if you
directly approached an applicant and the
applicant was giving you some sign or
guarantee of work, how could, you know, a
potential vendor kind of take that not almost
guarantee of work and translate it into some
type of collateral for financing from any
number of lending institutions.

But interesting dynamic in terms of
how our licensing process may end up helping
a small business be able to position itself
for more work, or guarantee work, or
guarantee the resources that they need to
have the capacity to make sure they can
service that contract. So, a little creative
thinking on our part maybe.

COMMISSIONER MCHUGH: I wonder if we
could come back to -- Commissioner Stebbins'
thought about -- about the initial ramp up as
opposed to the later licensing for
individuals. And simply create now, because
you do need to get started on this, a
licensing scheme that predominantly focused
on casino based licensing. Take a look and
set a deadline internally for looking at what
that's produced and hasn't produced over a 18
month period, and then take a second look at
how we're doing things.

My concern is, although I understand
what you're saying, is that the secondary
regulatory apparatus that we might have to
put in place in order to make that work is
something I think we need to take a look at
and think about. The educational pieces, the
certification pieces, do we need any of those
things.

There's a paper here that we're going
to get to in a minute. But we'll have a much
better idea of what this thing looks like,
who's being excluded, what the experience of
the Mass Community College Training Institute
is after 18 months to 2 years, say. And then
can take another look at how we go about this
and have a streamline thing that gets
everybody up and running initially, and moves
forward.

CHAIRMAN CROSBY: Okay. You got the
gist of that?

DIRECTOR ACOSTA: Yeah, I'm taking
notes on it.

CHAIRMAN CROSBY: Good.

DIRECTOR CROSBY: The next question
memorandum is a question pertaining to the
Commission's role in the approval of
licensure.

And that one is one that --

CHAIRMAN CROSBY: Which one is this?

COMMISSIONER CAMERON: The second one.

DIRECTOR CROSBY: Mr. Grossman and I
have had a number of conversations, as well as other staff. As you probably read in the -- in the memorandum -- and you may want to hopefully join in, there are sections of the -- of the act that talk about the IEB's role in the approval. And there's also sections on the act that talks about the Commission issuance of a license.

My past experience has been that the Commission has reviewed and approved all gaming related vendors, all key and qualifiers, and any recommendation that contains derogatory information. And that is something that I'm hoping is practiced here in Massachusetts, in the Commonwealth, but still take into consideration the language that currently exists.

I think it is important for the Commission to look at who are the policy makers in the gaming world. Who are the CFOs, the CEOs, the head of security, the head of audit. And the Commission have an opportunity to view the investigative report to determine whether or not this person has
met the standard, the bar that's been
established by the Commonwealth.

My recommendation is that those
individuals be presented before the
Commission, that a recommendation report be
presented to you at a Public Meeting. And
the Commission at that point, can decide
whether or not the issuance of a license is
appropriate.

With respect to registrants and gaming
licenses that do not contain derogatory
information, that is the authority of the IEB
and the IEB can grant that license without
any further review by the Commission.

COMMISSIONER CAMERON: Director, is it
your experience in New Jersey and Ohio that
there's an appeal process for someone who may
disagree with an IEB licensing decision?

DIRECTOR ACOSTA: My understanding of
the way the statute reads that if the IEB
recommends -- if the IEB denies a license,
the individual is able to request for a
hearing before the IEB. And the IEB has an
established procedure how that's going to
take place. If the individual decides that
IEB's decision is not one that they're
comfortable with, they can at that time
appeal that decision to the Commission and
the Commission will hear it as a whole.

COMMISSIONER CAMERON: That -- that's
reasonable.

COMMISSIONER ZUNIGA: Go ahead.

ATTORNEY GROSSMAN: Let me just pick
up on one point, just to make sure we're all
on the same page, because I think this is an
important part of what David is saying.
Licensing, as you're probably all aware, is
largely governed by Section 30 of Chapter
23K, and a process set out by law relative to
the different types of licensees, this
doesn't really touch on vendors, but more the
individuals.

So, there's three classes of licenses.
You have your key gaming employees, your
gaming employees, and the gaming service
employees who don't have to be licensed, but
only registered.
And what this statute does is it talks about, as -- as David was mentioning, the process and the interaction between the IEB and the Commission. So, we thought, as a preliminary matter, that it's important that everyone's on the same page in its reading of Section 30 and understanding what it says. Because a quick read of it would lead you to believe that there may be some inconsistencies, but there is a way we believe -- or at least I believe, I think we believe, to read it harmoniously. That is to be able to reconcile each of the different sections and ensure that what the IEB is doing is consistent with what then the Commission does.

And what I think is being suggested is essentially you have to start to understand how the flow of applications would go. In that -- and then, of course, we also have to talk about at some point what role the Division of Licensing would have because the statute doesn't talk about the Division of Licensing, it just talks about
the Bureau. Though clearly the way the
organization has been set up, the Division of
Licensing will play a substantial role in
this process.

But what the statute talks about, I
think a fair reading suggests, anyway, is
that an application would come in to the
Commission, the Division of Licensing or the
Bureau would vet it, make sure that it meets
all of the administrative requirements,
perform a full background check, do whatever
else it is that is decided that they have to
do, and essentially make a recommendation to
the Commission to either approve or to deny.

And to pick up on what Commissioner
Cameron was just saying, in the event that
the IEB recommends that an application be
denied, the statute talks about an appeal
process that one could follow. The first
appeal would go to the IEB. So, the first
decision that gets made by the Division of
Licensing/Bureau is really an administrative
decision on the papers alone, there's no
hearing or anything like that. Where the
Bureau finds that, for whatever reason, there's a problem with this application. Whether it's a conviction or some other matter that would lead one to find an individual unsuitable. Notice goes to the person saying we find you unsuitable, we can't issue the license. The person has an opportunity to appeal to get a hearing at the IEB level. A hearing gets conducted.

The IEB, at that point, either affirms its previous decision saying that there is a problem here, or it reverses it and says okay, after, you know, further consideration, we approve.

In the event -- in either event, at that point, the Commission would -- would then likely get involved. In the event that the IEB affirms its decision that an application should be denied, the individual then has a chance by statute to appeal to the Commission.

To have that matter heard, they could bring the issue to you and say, here's the conviction, here's the issue, you know, you
should issue me a license anyway.

In the event that it's approved, the IEB either approves it in the first instance, on the paper, or after a hearing. This is really I think the key -- one of the key policy considerations. After we ensure that we're on the same page as to what the statute says, one of the key considerations is how does the Commission want to handle the approval process. So that is, once the IEB recommends the approval of the license application, what role does the Commission want to play.

And I think it's important to look at the approval process for each of these three categories of licenses perhaps separately. The registrations, the gaming employees, and the key gaming employees. And perhaps you'll have a different level of deference to the recommendation of the IEB, depending on the class of license we're talking about.

And there are different ways to look at it. I have seen, in my past experience, that assuming there -- for the registration
type issue, of course, for starters, if an applicant meets all of the prerequisites, the IEB does their background check, they recommend approval. Perhaps they just come into the Commission and they say, here's a list of a hundred people who have applied for registration, we did a thorough background check, we recommend approval. And you, as the Commission say okay, approved.

As opposed to perhaps, with the gaming -- the key gaming employees. Maybe you'll want to look at each one a little more closely given the position they'll have at the -- at the establishment. So, that gets down to the approval process and that's something that I think needs to be fleshed out a little bit, is how are you going to deal with the recommendations for approvals, and what involvement do you want to have in that process. Do you want to just defer, essentially, the judgement of the IEB and Division of Licensing, or do you want to have a more active role? What type of proceeding would you want to engage in? And so those
are, I believe, the issues that we'll have to wrestle with as we move forward.

As a footnote to the conversation, there are, in your existing regulations, provisions for administrative hearings for appeals, that have already been set in place. So, it's important to reference those as we move forward.

But I think -- and that doesn't get into the vendors, which I haven't actually closely studied the vendor statute yet. But as a preliminary matter we took a look at Section 30, which deals with this. And those seem to be the issues that we sought your guidance on to make sure that when we start drafting regulations, that we do it in a fashion that you'll find to be consistent with the statute and as a matter of policy, kind of covers all the bases.

CHAIRMAN CROSBY: Comments?

COMMISSIONER ZUNIGA: Yeah. I -- I like the thought of being involved on the key -- having -- having the report, if you will, on the key employees. I just want to make
sure, how would we define -- is it defined, is the key employee defined currently, or is that something that we need to define better by regulation?

DIRECTOR ACOSTA: No, it needs to be defined better by regulation. There is some basic language that talks about a key. But that needs to be defined because there are some -- for example, a pit boss in one state is a key because they have discretionary decision, they're able to approve credit for high levels; they're able to approve complementaries, etcetera. But in some jurisdictions, in Ohio a pit boss is not required to have a key. In other states, a pit boss is required because of those things. So, a list of some of the functions that need to be -- needs to be defined a little further through regulation as to who is key.

I'm recommending, for example, at a minimum, that every shift in the security department is supervised by an individual who holds a key. They have significant authority
over the security of a big, you know, big corporation. And who knows what happens on a Friday at 1:00 in the morning that requires a supervisor to make some real significant decision. And that person should be vetted and licensed to a very high standard. We need to ensure that --

CHAIRMAN CROSBY: The answer to the question is we need to be -- we have to do more work.

DIRECTOR ACOSTA: Yes.

COMMISSIONER ZUNIGA: Yeah, but that's -- I appreciate those examples. Could you also just help me understand the idea behind these recommendations relative to anybody's whose application contains derogatory information?

DIRECTOR ACOSTA: An individual may have an application that does not have any arrest information, but owes a significant amount in child support. And there may be an agreement in which this individual -- in the state of New Jersey we used to practice this, and it was actually very popular with respect
to other state agencies. There will be an agreement that's signed, and the agreement will be considered at a Commission level, where the person's -- an order will go out to the employer and say X amount of dollars will be taken out of his paycheck to address his child support. The amount that's in arrearage. That type of decision would be a decision that's made by the Commission because it requires an execution of an order to allow for payment to be taken out of his paycheck to address a child support. And I'm just giving you one example of a potential derogatory information.

COMMISSIONER ZUNIGA: That's fine. I may have termed it not as derogatory, but you know, private or confidential, but be that as it may I understand your --

COMMISSIONER MCHUGH: My concern, my thoughts are that if we could -- I think the language of the statute is capable of supporting almost any approach that we want to take. And -- and it seems to me that we ought to have at the Commission level, a
volume of routine applications that we can
give meaningful review to.

I'm concerned about getting a list of
300 people with assertions that we've
investigated all these people, and they're
all qualified, and we recommend you issue a
license. I don't know what that additional
formality brings to the process and it
invites, I think, a level of cavalierness, if
that's a word, that's inconsistent with --
with what should go on at our level.

I would much prefer to have a system
under which denials got a right to appeal to
us and the top supervisors got the right --
automatically came to us for approval with
some kind of a writeup that we actually took
a look at and considered.

Personally, I'd feel more comfortable
with that kind of a regulatory regime than I
would with one that had 200 -- 200 people or
a 150 people to approve every couple of
weeks. The startup period is going to be
different than the flat state, I know, but
that I -- I just throw that out for
consideration.

CHAIRMAN CROSBY: How do you -- how do you -- are you suggesting that maybe we should have a different standard at the beginning when there's just going to be such a high volume?

COMMISSIONER MCHUGH: No, no, I'm suggesting that in the -- that key -- not necessarily all key gaming employees which were defined in the statute as anybody who has -- has supervisory authority. And I know we have to refine that more. But that not -- that they don't automatically come to us for licensing. That the -- that the licensing buck stops with the IEB unless there's a denial. Then everybody gets the right to come to us, but that we define a layer of supervisory authority that's closer to the top, and those people automatically come to us for the final approval. So that you -- we approve the final -- give final approval to the people at the top as a routine matter. Maybe it's the top 50 people in a casino, or the top -- I don't know, some number, but
some number that's manageable that we can actually do something with, rather than just all be equipped with a rubber stamp.

CHAIRMAN CROSBY: Yeah, I'm -- I guess, if the issue is volume, that's going to change dramatically from the first X period of months to steady state operations.

If the issue is what level of responsibility is really worth the Commission's review, which I think is the question, then we ought to let the volume sort of go wherever it goes. You know, the question is what level of supervision really requires us to review it, but if it means that for the first six months we're sort of swamped, that's okay, but --

COMMISSIONER MCHUGH: I think that the two are more intertwined than that because as a practical matter, giving review, meaningful review at our meetings, bi-weekly meetings, has something to do with the amount of time we have available to look at the packages represented and the information we get in those packages. And that is certainly going
to be greater at the beginning than it is in a steady state. But it's going to be significant in a steady state.

I don't know what the turnover is in these positions, but we could have 50 -- we meet 26 times a year, we could -- if we have it -- anybody who has supervisory authority, we could easily have 50 per meeting, it seems to me, just on a steady state. I got that number out of the air.

CHAIRMAN CROSBY: That's 2500.

COMMISSIONER MCHUGH: Yeah.

DIRECTOR ACOSTA: In New Jersey, the keys were actually broken down into two categories similar to what you're describing. There was that key qualifier level, which were the real high keys, and then there was another category that we referred to as basic keys, the -- supervisors, the security supervisors.

CHAIRMAN MCHUGH: Right. Right.

DIRECTOR ACOSTA: But yes, they are vetted to a higher standard than a gaming
employee, but not need to complete a multi-jurisdiction form with a supplemental form. And there was a condensed key application that was greater than a gaming application, but not as great as the key qualifiers.

So, your suggestion has been practiced in New Jersey where the keys are broken down. And this is something that we can -- when we define what are keys, we can break it down into level. There have been other practices in other states.

COMMISSIONER MCHUGH: I would -- I would really like to explore that.

CHAIRMAN CROSBY: I agree with that. I think that's a great suggestion.

COMMISSIONER ZUNIGA: Yeah, it sounds like we're in all in agreement and it's -- the point is, just who is a key.

CHAIRMAN CROSBY: Yeah.

COMMISSIONER MCHUGH: Right.

COMMISSIONER ZUNIGA: How many and what's the -- what does a chart look like?

COMMISSIONER MCHUGH: Right.
CHAIRMAN CROSBY: So, you've got a direction. I have two quick, I hope quick questions. One is -- both this question and the one before refer to temporary licenses.

We've never discussed temporary licenses, I don't know what they are, but that's another --

ATTORNEY GROSSMAN: I think the statute, it talks about temporary licenses.

CHAIRMAN CROSBY: What does it -- does it define them?

ATTORNEY GROSSMAN: I don't know that it defines it. Basically --

CHAIRMAN CROSBY: Let me just -- we -- just obviously another question is, what is a temporary license, what is sufficient justification for a temporary license, what process awards it.

I didn't want to just all of sudden start talking about temporary licenses without everybody having determined what they are, where they come from, how many there are, what the process is.

DIRECTOR ACOSTA: My understanding of
the temporary license, because I -- what I read is similar to it in New Jersey. During the time of suitability investigation, the gaming establishment will submit a request to the Commission saying this person is urgent to our operation, we need them to commence employment sooner than suitability. In particular with keys because the suitability investigation for a key may take -- New Jersey was taking, you know, ten weeks, twelve weeks. So, it would allow the casino to demonstrate an urgent need to the Commission to issue a temporary license for a period of time to allow for the suitability investigation.

CHAIRMAN CROSBY: Okay. I -- I understand that. And I'm sure there will be some such situation that we would accept. But I'm just bringing it up as something we're going to need to define to determine what -- what the process is. And that's the kind of thing where everybody could be temporary, you know, it could become, sort of, the norm, it happens in the state all the
time. So, I just -- I'm just raising that as something that is a new term to us that needs to be figured out.

Secondly, does the statute call for IEB to be the decision maker on licensing? I'm gathering the way you speak, the answer is yes.

COMMISSIONER CAMERON: Some licenses. I mean, that's where we're going to need regulations to clarify where they -- where are they authorized on behalf of the Commission to make those decisions.

CHAIRMAN CROSBY: Well, we're going to delve --

COMMISSIONER CAMERON: Yeah.

CHAIRMAN CROSBY: Right. Well, yeah. But what strikes me as a little funny, and maybe this is wrong, is that it seemed to me the Licensing Department should be the department that makes decisions on whether or not somebody gets a license. The IEB should be what the IEB is to us, which is the finder of fact, and does the investigations, and
goes to the Licensing Department whose expertise is to say, okay, under these circumstances you're in or you're out. Does that --

COMMISSIONER CAMERON: Doesn't make sense to me, because the investigation is what you're making that judgment. And certainly the IEB has a better sense of the investigation of what that means. That's not the way I understand licensing, although there is some clarification on pieces that licensing could do, i.e. fingerprints, and assist, and do the early -- the front-end work for the IEB.

COMMISSIONER MCHUGH: The statute really talks about filing applications with the Bureau and registering with the Bureau, is what the statute talks about.

Now, certainly regulations can be created to create and effect an interface between the Licensing Division and the Bureau. So, there's a lot of ways that that can be done.

CHAIRMAN CROSBY: Right. I mean, we
could delegate whatever responsibility. Do you -- do you have a sense? I mean, you now know our structure. Does it -- in your experience does it make sense to have IEB be the decision maker on who gets what licenses, or the Licensing Department make the decisions on who gets what licenses?

DIRECTOR ACOSTA: Both New Jersey and Ohio, the IEB or the equivalent of the IEB made the decision to recommend or deny based on their findings. The License Division was the administrative arm that carried on the process to the point of issuance of a license to creating a credential, to ensuring that that credential is issued to the appropriate person.

CHAIRMAN CROSBY: And that feels right to you?

DIRECTOR ACOSTA: And that feels right to me. It's worked in other places, I think the IEB here will be --

COMMISSIONER ZUNIGA: The difference --

DIRECTOR ACOSTA: -- for that role.
COMMISSIONER ZUNIGA: -- the
difference being administrative versus
investigatory.

COMMISSIONER CAMERON: Yes.

CHAIRMAN CROSBY: Well, there's three
phases. There's administrative, there's
investigatory and then there's decision
making. But whatever. So, shall we move on
to the next one?

DIRECTOR ACOSTA: The next one is
licensing fees, registration fees. I'm
recommending that the Commission establish a
set fee for gaming employee license and
registrants. And that key qualifiers have a
fee that it is an initial deposit, and you
can bill up to a certain amount to cover
whatever cost is incurred to complete
suitability. That has been practiced in
other places.

In New Jersey there was an initial fee
of $750.00 and they could bill a maximum of
$4,000.00. The average cost of the key
license in New Jersey was about $2,800. The
state of Ohio, there was an application fee
of $2,000.00. At a time of licensure, there was another $500.00 and then $46.00 associated with fingerprints.

The end result is that the application fee for a key is pretty much close, but there were circumstances in New Jersey where the background investigation exceeded the 25, $2,600.00 that other states established. And this mechanism of establishing a deposit, a minimum deposit, and up to a maximum is one that I found to be a most efficient practice by a number of other states.

You will see, there's a chart attached to it there lists different fee structures of some of the states that we were able to verify. And you will see that some of the states have similar things where there is an application fee, and at the end of the day the cost exceeded that amount they will be billed.

For gaming employees, an established fee, that's -- incorporates some of the costs associated. In the state of New Jersey it was $350.00, that included fingerprints. In
the state of Ohio it was $250.00, and at the
time of application it would be $46.00 for
fingerprints, and at time of licensure there
was another $250.00 that was due, that was
billed directly to the casinos. And the
casinos would pay the Commission. And the
casinos would work out some type of payment
agreement between the employee and the -- and
the perspective applicant.

In New Jersey the cost was $350.00,
which was a lot less than 500. When the cost
to investigate a background for a gaming
employee exceeded the $350.00, the Commission
was able to bill as administrative cost into
the billing of the casinos, and therefore
only $350.00 was recouped from the applicant.

In Ohio there was a straight budget.
There was no way to bill back to the company
any additional cost. So, that's why it was
essential for them to establish an initial
license fee that was significantly higher
than other states.

I would say that the average is about
$300.00 for a three-year license fee. I
would recommend to be along those lines with respect to fees.

We should also consider what the fee will be like for renewals, because there's another question that we'll be talking about in here that I think goes along with this fee structure. And that is if you establish a fee -- because renewals have already been established as three years for keys in gaming, that if we establish a fee of $350.00, to ask the individual to file an application on the timely basis that there'd be some carrot. So, for example, you're having $350.00 for three years, but if you renew on a timely basis it's $350.00 for four years or $300.00 for four years. It encourages the individual to file the application on a timely basis. They do not file the application on a timely basis, then at that point you revert back to the initial license fee. So, there's some incentive there to file the application on a timely basis.

When considering fees, the renewal
factor also has to be considered. With respect to registrations, I know the State of Delaware -- New Jersey was a little bit different, but the state of Delaware has a fee for five years. After the five years they re-register and there's a fee there. In New Jersey it was a one time registration fee, then they added a caveat that if you were out of the industry for three consecutive years, your registration became inactive and you're required to re-register.

In talking to Commissioner Wells, I think the five years re-registration with a nominal fee would probably work best here. We would at least get the updated information.

With respect to registration, we're hoping to incorporate a process that in New Jersey we used to refer to as a the flag system, in Ohio we just referred to it as the rat back system, and that is we will provide a list to the state police, the state police will monitor this list. And they will notify us when an individual on that list has been
arrested. The investigation enforcement unit will then investigate the circumstances around that arrest and bring action if suitability is now in question.

There was a fee associated with maintaining that list by the state police. In New Jersey that list became well over 300,000 and the cost became very prohibited, and that's when they put the provision where if you were unemployed, out of the industry for a period of three years, you're not registered any longer and you'll be off that list. So, keep the cost down by asking that you re-register every five years, we can control that as well.

Rat back, flag system, I don't know what they would call it in Massachusetts, currently doesn't exist. My understanding is that that is being looked at in other areas. And hopefully, we can be a part of that as well.

Again, I'm recommending keys be a fee that's minimum a deposit up to a certain amount, that the gaming applications be a
flat fee, the registrations be a nominal fee. The registrations will be with people who will be working in hotels, restaurants, etcetera. Gaming -- gaming vendors will also be -- be similar to keys where there is a minimum deposit and there is a maximum amount billed, and may also include, depending on the number of qualifiers that that company may have, there may be additional costs per each qualifier because of the extent of the bill, the background investigation the cost associated with that.

For vendor registrants, there is a level of business that they must establish before they become suitable for registration. That there'll be no fee once they reach a certain level of business, and they now trigger the license fee. Then at that time there would be a fee associated with the -- with that application.

CHAIRMAN CROSBY: Comments?

COMMISSIONER MCHUGH: That all sounds good to me.

COMMISSIONER CAMERON: Yeah.
COMMISSIONER MCHUGH: I mean, I think that's -- that sort of sensitive approach tailored to the position, sounds like -- sounds like a good approach.

COMMISSIONER ZUNIGA: That's --

COMMISSIONER MCHUGH: The details, I'd be happy to take your recommendations as to what the fees are.

COMMISSIONER ZUNIGA: Same here.

Sorry for interrupting, but I -- I wonder, it occurs to me that as we invest in a licensing system, if we were to apportion all the costs of licensing, we may not be able to defray all of the costs on this particular licensing structure. Which is fine, we have the ability to assess our applicants and we will -- we will do that.

But what -- what -- I suspect the threshold that you recommend is arrived at trying not to put too much burden on the employees because ultimately they are the ones who bear that cost. Is that -- is that a fair statement?

DIRECTOR ACOSTA: That is a fair
statement. That is correct. In particular for registrants who are people who are probably most in needs for finding these jobs are the unemployed, the ones who probably will have the most difficulty in paying for license, fee at the very -- very beginning. Once they are employed, obviously, you know, the circumstances may change and they -- they could afford that. But yes, that -- that is the thought process for this recommendation.

COMMISSIONER ZUNIGA: I think your recommendations are very sound.

CHAIRMAN CROSBY: I -- just to follow up on that, I hope that we would be at the low end of the cost scale for just that same reason that you're already sensitive to. We don't want this to become a barrier in any way to the audiences that we're most trying to attract or serve.

DIRECTOR ACOSTA: We touched a little bit about the licensing, registration and renewals with respect to fees. The Commission has already made a decision that the initial license period for keys and
gaming is for three years.

There was no mention, and I haven't read anywheres where there's been a recommendation for a time period for registrants. I'm recommending that the registrant period of time the five years. And then they re-register.

With respect to keys and gaming employees, that after the initial three years, that a year will be added to the renewal, so that the second time that they renew on a timely basis will be four years versus a three-year license. And we can leave the license fees the same, but the incentive would be to file early is that extra year of licensure. I think four-year cycle is sufficient with respect to going back and reviewing suitability. We should be able to keep track of individuals. The section in the statute that talks about a duty to disclose, so it's the individual's responsibility to tell the Commission anything that is material during the period of time from the issuance of a license to the
time of renewal. If they fail to do that, and we discover that, we can take action for failure to disclose. Especially if they've committed an offense that may jeopardize their suitability.

COMMISSIONER MCHUGH: Sounds good.
COMMISSIONER CAMERON: Yeah.
CHAIRMAN CROSBY: This is another area where I was hoping Jill, that your -- you and your people would -- would review this with a really sensitive eye, because, you know, this is a lot of steps, you know. You've got to go to a computer, you got to do a lot of things and it's the kind of process that some people will have a hard time with.

And maybe I'm oversensitive to it, I don't know. But people who are not oversensitive to it who know about this, I think should review this. So, that's one thing. Go ahead.

DIRECTOR GRIFFIN: No, I think you're sensitive to it and I think that's great. I think there does need to be a discussion about how folks get help maybe filling out,
and there are resources. So, that could be part of the discussion.

CHAIRMAN CROSBY: Yeah, right. And cures for missing deadlines. There's a whole bunch of stuff. But anybody who is --

DIRECTOR GRIFFIN: Right.

CHAIRMAN CROSBY: -- who works with this target audience will read these bullet points and be able to say is this really problematic or not.

DIRECTOR GRIFFIN: Okay.

CHAIRMAN CROSBY: The second thing is that you propose the gaming service employee required to undergo a standard background and a CORI check. I guess we haven't decided what the result of the CORI check necessarily means. But this is something we talked about for a year now, that -- that CORI, credit and drugs are going to be a problem for some number of people.

And I think we want to think through what -- what level of results under CORI, credit and drug are going to be a problem -- problematic. So, it's -- I didn't want this
to just go unnoticed, that we've automatically, you know, decided that gaming service employees, people who are making beds are going to go -- undergo -- no, sorry this is -- yeah, gaming service employees, like people who are making beds are going to have a CORI check, if that automatically implies if something comes up they are out. So, I just think this is a -- this is a content area, this is a policy area, and this again, involves you, Jill, that we want to talk about really carefully and try to figure out how can we apply thoughtful law enforcement, you know, and thoughtful protection of the public and of the integrity of the facility and so forth, while not compromising our ability to employ target groups.

COMMISSIONER MCHUGH: All three aren't necessarily on the same level. The credit piece is going to be pervasive.

CHAIRMAN CROSBY: Right.

COMMISSIONER MCHUGH: In the part of the community we want to attract undoubtedly. And that -- and that is conceivably different
than CORI or drugs.

CHAIRMAN CROSBY: Right. I agree. I just think all three of those --

COMMISSIONER MCHUGH: Right.

CHAIRMAN CROSBY: -- we really need to -- we really need to spend some time --

COMMISSIONER MCHUGH: Right.

CHAIRMAN CROSBY: -- to hash out what -- what our standards are. And to have the help of people who work with the -- those appropriate demographic groups.

DIRECTOR ACOSTA: The last piece is a policy question pertaining to suitability. That if a person is granted a license just based on suitability, or that it also include an education piece. And I am recommending that there be strong language to encourage that the casinos hire people who are trained and that they work with the employment and training programs, that they work with the community colleges. But the actual verification of education not be included as a piece of licensure.

We did that in New Jersey. It was --
we had a whole unit that was assigned to do that. It was very labor intensive, it was rather expensive. And I don't know if that's the most efficient way to go about it. There's only one state that I know of at this time that does require licensure to also include education as well as suitability, and that is the state of Pennsylvania.

I remember a number of calls while I was still in New Jersey from individuals who worked in New Jersey, were educated in New Jersey who went to work in Pennsylvania, were having a difficult time obtaining a license because they were unable to verify to Pennsylvania that they did have in fact the educational requirements.

There were a number of schools that went out of business, they did not have their certificates. They were unable to get their certificates. The State didn't have their certificates. These individuals had to take courses in Pennsylvania in order to get a license. It became a real hardship for people that really needed to work.
I understand the piece of requiring education. I understand the intent of partnering with the colleges, partnering with the employment and training. I think this is another area that we can look at while you're doing the evaluation for licensure as to how these companies are going to be fulfilling that.

We can write in internal controls, stringent procedures to ensure that they do have qualified individuals. And if they don't they could be subject to penalties and fines without having to require licensure to be suitability and education as well.

COMMISSIONER CAMERON: So, the burden is on the casino and their hiring folks as opposed to the Commission.

MR. ACOSTA: Correct.

COMMISSIONER CAMERON: And we have the compliance piece, which is if we find out you're not doing it properly, there are fines and whatever else. Is that what you're saying?

DIRECTOR ACOSTA: That is correct.
COMMISSIONER MCHUGH: It seems to me that -- that approach flows from a decision that we're going to have primarily casino-based licensing.

COMMISSIONER ZUNIGA: Yeah.

COMMISSIONER MCHUGH: Because from the school to the casino, to the licensing board. Or from the background and experience to the casino, to the licensing board in the market, the market interest in qualified employees is parallels the casino's interest in qualified employees. The casino doesn't want an incompetent blackjack dealer or an incompetent croupier.

So, it seems to me that that makes sense, and it also removes a big chunk of regulatory mechanism that otherwise we would have to have in place with probably imperfect results. So, I -- I think that makes sense.

COMMISSIONER ZUNIGA: I agree.

CHAIRMAN CROSBY: I agree. Okay.

That was easy enough.

DIRECTOR ACOSTA: That concludes --

CHAIRMAN CROSBY: All right.
DIRECTOR ACOSTA: -- those five questions.

CHAIRMAN CROSBY: Thank you.

COMMISSIONER MCHUGH: That's great.

That gets us --

COMMISSIONER CAMERON: Thank you.

CHAIRMAN CROSBY: This old horse is smelling the barn.

DIRECTOR ACOSTA: And I want to thank Todd for -- Todd and Karen Wells for helping me walk through all of this. It's not easy.

COMMISSIONER MCHUGH: Good team effort, yeah. Thanks.

CHAIRMAN CROSBY: Item number 9, Director Griffin.

DIRECTOR GRIFFIN: Mr. Chairman, Commissioners, I know I'm between you and the door. But --

COMMISSIONER MCHUGH: The barn door?

DIRECTOR GRIFFIN: The barn door. But this is an important issue. So, Chapter 23K, Section 1-6 states that promoting local small business and the tourism industry including new and existing small business is
fundamental to the policy objectives of this chapter.

So, I'm here today recommending that Mass Gaming Commissioners define small business. And I'm here asking you to do this, or to clarify for a number of reasons.

One is that on the federal definition of a small business is simply inadequate when you describe the Massachusetts economy. The federal definition has a threshold of 500 employees, or a revenue size of up to 35.5 million, depending on the NAICS code or the type of business.

So, in Massachusetts, according to that definition and this is according to Bob Nelson, Massachusetts District Director of the SBA, according to that definition, 98 percent of businesses in Massachusetts would be considered a small business. According to the U.S. Department of Commerce census that was done in 2008, the latest census, 85.5 percent of the businesses in Massachusetts have 20 or fewer employees. Only 7 or 8 percent have more than 100.
Outside of greater Boston,

approximately 95 percent of the firms have
fewer than 10 employees. So, you know, if
you're looking at the western part of the
state, you know, this is really a concern.
After our vendor advisory task force, members
suggested that we issue a clarification to
applicants.

The other reason, in addition to the
inadequate federal definition, there's a real
difference between a business, and I'm sure
you know this, but a multimillion dollar
operation and hundreds of employees, you
know, and a really small business. They have
different perspectives, radically different
needs. For example, access to capital, the
day-to-day operations. And an applicant or a
licensee may want to radically change their
procurement policies or other -- other
thought processes if they were targeting a
much smaller business in a vendor/supplier
capacity.

So, some of the things we've looked at
are existing definitions of small business in
the Commonwealth. And there does -- the Commonwealth has a couple of definitions that are related to a specific program. For example, the Mass Growth Capital Corporation adheres to the federal definition of a small business. Whereas the -- and I think I attached the small business purchasing program which adheres to a much smaller definition, which is 50 full-time workers or less than 15,000,000 average gross annual revenues over a three-year period. And these are businesses based in Massachusetts in business for at least one year.

The other definition, which is -- which is similar -- a similar threshold, is the Mass Group Health Insurance definition of a small business which also looks at up to 50 employees.

So -- so, I guess what I'm suggesting is that we issue a clarification of what is a small business or what are the targeted sizes of small businesses that we would like applicants to think about.

And I'll just add, we've had
discussions with Bill Vernon from the National Federation of Independent Businesses; with Andre Porter from the Office of Small Business and Entrepreneurship; with Chris Garren from the Associated Industries of Massachusetts. You know, all agree that the federal definition doesn't seem to serve our purpose.

So, I think there are two choices. We can adopt an existing definition, say the one that the small business purchasing program uses of 50 employees, or we could land somewhere in the middle. Andre Porter suggests that perhaps 100 employees wouldn't rule folks out, but it would at least target a little bit more. So --

COMMISSIONER CAMERON: Director, are we in -- I mean is there -- is there a formula? I understand the federal model doesn't work for us, but just creating our own, are we in any jeopardy of how did you come about that, what standards do you use, is it -- does it make more sense to use one that's already in existence for that reason?
If it fits our needs, obviously.

DIRECTOR GRIFFIN: I think it makes sense to adopt a program that is in existence, like the one I included in your packet.

COMMISSIONER MCHUGH: Do we -- do we have an idea -- we have certain kinds of businesses that are logically going to interact with the casinos, right? We have -- we have linen supplier; we have food suppliers; we have restaurants; we have others we can see. And then during the construction phase we can identify a whole bunch of others that are going to interact. Do we have any idea of what the impact of one or more of these definitions would have on that target group? I was thinking as you were talking, about restaurants. We are trying to ensure that -- that the casinos interact with restaurants. Does -- certainly the corner -- the corner restaurant employees less than 50 people, so it would be a small business.

DIRECTOR GRIFFIN: Yeah.
COMMISSIONER MCHUGH: Does the -- does the higher end restaurant, that you'd also want to be part of this, employ more than 50 --

DIRECTOR GRIFFIN: Yeah, usually the definition focuses on full-time permanent employees.

COMMISSIONER MCHUGH: Right.

DIRECTOR GRIFFIN: And so, you know, I -- I wouldn't think it would have a huge impact on the restaurant industry. You know, and -- and I think the local neighborhood restaurants and some of the local businesses that we are trying to grow would potentially have a positive benefit.

COMMISSIONER MCHUGH: Yes. I -- I don't disagree with that. I -- it's not the -- it's not so much the benefit of the --

DIRECTOR GRIFFIN: Yeah.

COMMISSIONER MCHUGH: It's -- it's who are we potentially excluding. That's just what I just was --

DIRECTOR GRIFFIN: Well, I guess we're not trying to exclude anyone. What we're, I
think trying to get applicants to think about is, I think that very large businesses don't, you know, have no problem doing business with a larger businesses.

COMMISSIONER MCHUGH: Right.

DIRECTOR GRIFFIN: What we're trying to maybe get them to think about is how do you work with a local business that has maybe, you know, smaller capacity.

COMMISSIONER MCHUGH: Right.

DIRECTOR GRIFFIN: You know, do you split contracts, do you, you know, that sort of thing.

COMMISSIONER MCHUGH: Right.

DIRECTOR GRIFFIN: And I'd invite Commissioner Stebbins to join in since we've been discussing this.

COMMISSIONER STEBBINS: Did you have something you wanted to --

COMMISSIONER ZUNIGA: Well, I -- I was, I did. Perhaps we should also -- I think the definition of small business is important, and I think, you know, we should continue exploring that. I also would --
would point to some of the approach that the Operational Services Division has taken and also the Supplier Diversity Office, which is to recognize that you may be contracting with a large business, but that business itself may have a larger or smaller participation of small business. And that should be accounted for --

DIRECTOR GRIFFIN: Right.

COMMISSIONER ZUNIGA: -- because even though initial purchase order may be only fulfilled by a large conglomerate, they themselves have a lot of activity, some of them -- some of which could be local and some of which could be small business as well. Now --

DIRECTOR GRIFFIN: Absolutely.

COMMISSIONER ZUNIGA: The -- so -- so this takes me back to a previous point relative to measuring. How do we keep track of this, but I would sort of leave it at that. We wouldn't want, you know, the second subcontractor to measure where they buy from necessarily. But -- but I think the first
relationship, the sub of that first supplier is an important thing to consider.

DIRECTOR GRIFFIN: Absolutely. I would agree, and definitely something we need to figure out how to measure.

COMMISSIONER STEBBINS: I would -- I would just comment to say, you know, we had this discussion a long time ago when we were going through initial set of policy questions. And I think we all remarked as we have today, that, you know, 500 employees just seemed ludicrous as a definer in Massachusetts as a small business.

Certainly, you know, healthcare legislation and other programs, come along, and maybe give us better definition. I was looking at, you know, the small business purchasing program sheet, and not only does it delineate a small business as 50 or fewer full-time equivalents, but an interesting piece is it has its principal place of business in Massachusetts.

DIRECTOR GRIFFIN: Yeah.

COMMISSIONER STEBBINS: You know, the
notion of an applicant telling us they're working with small business, you know, a small business like Microsoft, but who only has 40 employees in Massachusetts I think would be a little disingenuous. You know, I would -- I would like to suggest, again I'm not feeling that we're under a serious time line to get this issue addressed. Maybe, you know, floating the question out on our comments line as to, you know, should a small business in Massachusetts be defined as 50 or 100. And certainly I like the definition or adding to the definition in having its principal place of business in Massachusetts. Put it out there for a week or so and see what kind of comments and feedback we get, so we don't, you know, inadvertently X somebody out or put somebody at a disadvantage.

I mean, we've had some comments from people that, you know, are part of our stakeholder group that have asked for changes in the definitions, or define it a little bit better. But you know, if we have some time we should put it out and see what kind of
comment and feedback we get.

COMMISSIONER MCHUGH: Your -- your comments led me to a second thought. And that is what are the consequences of our definition. I mean, apart from the practical impact on employers. The -- the consequences are -- begin to appear as we evaluate the applications, right?

COMMISSIONER STEBBINS: Mm-hm.

COMMISSIONER MCHUGH: So, some of the evaluations -- some of the applications are going to be here tomorrow.

COMMISSIONER STEBBINS: Right.

COMMISSIONER MCHUGH: So, it's too late to affect probably the content of those. But that -- but that does mean that we ought to deal with this quickly, right. Do the -- and what are the -- I mean, so we've got -- we've got questions in the application that talk about how you -- how we're going to deal with small businesses. And that would be affected by this definition. What other --

DIRECTOR GRIFFIN: Right.

COMMISSIONER MCHUGH: What other
regulatory impacts would this definition have?

DIRECTOR GRIFFIN: I don't know that this is regulatory. The -- many of the host community agreements, the applicants have specified that they will --

COMMISSIONER MCHUGH: I see.

DIRECTOR GRIFFIN: -- work with the local communities and hire local vendors and small businesses.

COMMISSIONER MCHUGH: Okay. So, it would have an impact on the host community agreements and -- and the target groups to satisfy the obligations under those agreements.

CHAIRMAN CROSBY: And the legislation doesn't set out any thresholds, right?

COMMISSIONER MCHUGH: No, it doesn't.

CHAIRMAN CROSBY: It speaks to promote these --

COMMISSIONER MCHUGH: Right.

CHAIRMAN CROSBY: -- kind of -- but it leaves open any kinds of specifics.

COMMISSIONER MCHUGH: Right, right.
CHAIRMAN CROSBY: Yeah. I'm certainly comfortable with Commissioner Stebbins' idea of putting this out. Has you -- have you run the proposal of using the small business purchasing program by that advisory group?

DIRECTOR GRIFFIN: Not by the entire advisory group. We've reached out to a handful of members.

CHAIRMAN CROSBY: Those people by definition would be as good a group as any to review this.

DIRECTOR GRIFFIN: Yeah.

CHAIRMAN CROSBY: Say send it out to the whole group. And in -- but I think inviting broader comment is fine. I also agree that time is pretty short because if the Category 1 folks are going to have a chance to speak to it, it's going to have to happen, you know, fairly soon.

But in general I think the small business program is fine. I mean it's arbitrary, 50 as opposed to 45 or 65 is kind of irrelevant. But these are commonsense numbers. And it's been practiced, and it's
tried-and-true for the State. So, I think
that sort of having a presumption that this
is the way we want to go. Run it by our
Expert Advisory Board and invite outside
comment, and give it a week or so and see
what we come up with. But with the
presumption that this idea is good.

COMMISSIONER STEBBINS: I just -- I
just think having to, you know, to Jill's
efforts, having a conversation about this
because I think people are more mindful of
the SBA definition, which, you know, 500 as a
small employer in Massachusetts is somewhat
laughable. You know, looking at the optics
of it all of an applicant saying I'm
supporting small business and, you know, I'm
contracting with people who are at 500 I
think, you know, the reaction of the general
population would be that's -- that's not a
small business.

So, I think kind of drawing a
delineation or at least some type of
editorializing that the SBA definition kind
of goes out the window here in Massachusetts,
and that there are some reasonable alternatives that have been produced to, you know, the public sector I think will balance the equation and the conversation and the results a little bit better.

CHAIRMAN CROSBY: Good. I agree.

DIRECTOR GRIFFIN: Thank you.

CHAIRMAN CROSBY: So, we've got a plan. Do we have anything else?

COMMISSIONER MCHUGH: How could we?

CHAIRMAN CROSBY: Do we have a motion?

COMMISSIONER MCHUGH: I move that we adjourn.

CHAIRMAN CROSBY: Second?

COMMISSIONER CAMERON: Second.

CHAIRMAN CROSBY: In favor? Aye.

COMMISSIONER ZUNIGA: Aye.

COMMISSIONER STEBBINS: Aye.

COMMISSIONER MCHUGH: Aye.

CHAIRMAN CROSBY: Unanimous. Thank you, folks.

(Proceedings concluded at 4:17 p.m.)
GUEST SPEAKERS:

Mitchell Grossinger Etess, Mohegan Sun
David Rome, Mohegan Sun
Patrick W. Kelly, Brigade Capital Management
Doug Pardon, Brigade Capital Management
Kevin C. Conroy, Foley, Hoag
John A. Stefanini, DLA Piper
Elizabeth Dello Russo, City of Boston Law Dept.

MASSACHUSETTS GAMING COMMISSION STAFF:

Catherine Blue, General Counsel
Todd Grossman, General Counsel
Jill Griffin, Director of Workforce Supplier and
Diversity Development
John Ziemba, Ombudsman
Mark Vander Linden, Research and Problem Gaming
Jennifer Durenberger, Racing Division
David Acosta, Licensing Division
CERTIFICATE

I, Pauline L. Bailey, an Approved Court Reporter, do hereby certify that the foregoing is a true and accurate transcript from the record of the proceedings.

I, Pauline L. Bailey, further certify that the foregoing is in compliance with the Administrative Office of the Trial Court Directive on Transcript Format.

I, Pauline L. Bailey, 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 7th day of October, 2013.

PAULINE L. BAILEY
Notary Public

My Commission expires: November 7, 2014