

THE COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION
PUBLIC MEETING #91

CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

Gayle Cameron

James F. McHugh

Bruce W. Stebbins

Enrique Zuniga

November 21, 2013, 9:00 a.m.

BOSTON EXHIBITION AND CONVENTION CENTER

Room 151A

415 Summer Street

Boston, Massachusetts

1 P R O C E E D I N G S:

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3 CHAIRMAN CROSBY: Thank you
4 everybody for coming early. I am pleased to
5 call to order public meeting number 91 of the
6 Massachusetts Gaming Commission at 9:00 at the
7 Boston Convention Center on November 21, 2013.
8 The first item on the agenda as always is the
9 approval of the minutes. Commissioner McHugh?

10 COMMISSIONER MCHUGH: We have two
11 sets of minutes, Mr. Chairman, the November 7
12 and the November 14. The November 7 minutes
13 are in tab 2a. I would move that they be
14 accepted as written with the reservation of the
15 right to correct any mechanical or
16 typographical errors.

17 CHAIRMAN CROSBY: Second?

18 COMMISSIONER CAMERON: Second.

19 CHAIRMAN CROSBY: Any discussion?
20 Does anybody have any issues? All in favor
21 please say aye, aye.

22 COMMISSIONER MCHUGH: Aye.

23 COMMISSIONER STEBBINS: Aye.

24 COMMISSIONER ZUNIGA: Aye.

1 COMMISSIONER CAMERON: Aye.

2 CHAIRMAN CROSBY: Opposed? The ayes
3 have it unanimously.

4 COMMISSIONER MCHUGH: The second set
5 of minutes are those for November 14, 2013 are
6 in tab 2b of the books. I would make the same
7 motion that the Commission accept them as they
8 appear in the book reserving the right to
9 correct any mechanical or typographical errors.

10 CHAIRMAN CROSBY: Second?

11 COMMISSIONER STEBBINS: Second.

12 CHAIRMAN CROSBY: Any discussion?

13 All in favor say aye, aye.

14 COMMISSIONER MCHUGH: Aye.

15 COMMISSIONER STEBBINS: Aye.

16 COMMISSIONER ZUNIGA: Aye.

17 COMMISSIONER CAMERON: Aye.

18 CHAIRMAN CROSBY: Opposed? The ayes
19 have it unanimously. We now get to item number
20 3, Research and Problem Gambling. We are
21 starting with this?

22 MS. BLUE: I believe, Mr. Chairman,
23 that has been moved to December 5.

24 CHAIRMAN CROSBY: That item's been

1 moved?

2 MS. BLUE: Been moved to the
3 December 5 meeting.

4 CHAIRMAN CROSBY: Okay. So, we will
5 talk about the legislative report on research
6 activities, now that you mention it, I do
7 remember that, to our next meeting. So, we go
8 to Ombudsman Ziemba and the Ombudsman's report.

9 MR. ZIEMBA: Thank you, Mr.
10 Chairman. So Mr. Chairman, today we hear a
11 number of petitions. We are deciding on a
12 number of petitions for surrounding community
13 status. On or before October 31 of this year,
14 the Commission received nine surrounding
15 community petitions, five petitions remain
16 outstanding, Dighton and Bridgewater relating
17 to the Raynham Park, LLC applicant and Bolton,
18 Fitchburg and Sterling relating to the PPE
19 Casino Resorts, LLC applicant.

20 Of the remaining four communities,
21 all of which relate to the Raynham Park
22 applicant, Middleboro was designated as a
23 surrounding community on November 11. Berkeley
24 signed a nearby community agreement on November

1 18. Lakeville signed a nearby community
2 agreement on November 18. Rehoboth executed a
3 nearby community agreement on November 18.

4 The Commission has already conducted
5 four public hearings during which testimony was
6 received from communities seeking a surrounding
7 committee designation on November 14 of this
8 year and October 21-23. Communities that are
9 designated as surrounding communities have the
10 authority to participate as surrounding
11 communities in the host community hearings
12 scheduled for December 3-5.

13 In addition, upon designation as a
14 surrounding community, such communities will
15 have 30 days to negotiate a surrounding
16 community agreement with applicants, prior to
17 the onset of arbitration if necessary. In
18 order for applications to be complete,
19 agreements with all designated surrounding
20 communities must be reached.

21 Yesterday, the Commission received a
22 letter from the town of Seekonk asking to be
23 designated as a surrounding community. Since
24 this letter was received well past the original

1 deadline for surrounding community petitions,
2 October 4, and also well past the extension to
3 October 31, it is not being presented to
4 Commission for decision.

5 CHAIRMAN CROSBY: And they know
6 that?

7 MR. ZIEMBA: We called them
8 yesterday, but I did not reach them. We
9 received the application yesterday. This does
10 not preclude their ability to reach a voluntary
11 agreement with the applicant as long as it is
12 done today. And to the degree that anything is
13 reached in the future days that would require
14 further variants of the Commission because
15 today is the deadline for designations or
16 agreements.

17 CHAIRMAN CROSBY: When you called
18 them, did you leave them that message?

19 MR. ZIEMBA: No.

20 CHAIRMAN CROSBY: Do they know that?

21 MR. ZIEMBA: I did not.

22 CHAIRMAN CROSBY: It wouldn't
23 preclude them from having access to the
24 community mitigation fund, which is in the

1 legislation for other issues, right?

2 MR. ZIEMBA: That's correct.

3 CHAIRMAN CROSBY: You don't have to
4 be a surrounding community to get access to the
5 community mitigation fund if there are
6 problems.

7 MR. ZIEMBA: That's correct.

8 CHAIRMAN CROSBY: Okay.

9 MR. ZIEMBA: As was noted in my
10 November 5 memorandum and as presented at the
11 November 7 Commission meeting, staff and
12 outside consultants through the Commission put
13 together reports on each surrounding community
14 petition, which are included in your packets.

15 These reports include details from
16 the petitions made by the communities,
17 responses by the applicants, reviews completed
18 by regional planning agencies, reviews that
19 were made part of the MEPA process and
20 consultant and staff reviews of such
21 submissions.

22 The reports have been arranged to
23 correspond with the applicable section of our
24 surrounding community regulations. Now I'd

1 like to give you a brief summary of each
2 petition with the Commission discussion and
3 determination after each. We are joined I hope
4 -- I know that there is a couple folks still in
5 transit. -- by representatives from Green
6 International, Mark Vander Linden, and Jennifer
7 Pinck who worked with our sub consultant on
8 housing issues.

9 CHAIRMAN CROSBY: Let me just
10 restate this to make sure it is clear to
11 everybody who is watching. There are five
12 communities who have petitioned to become
13 designated as surrounding communities. And
14 there is a debate, a dispute between the
15 applicant and the community as to whether or
16 not they should be a surrounding community.
17 And they are therefore petitioning us to make
18 the decision, which is a decision we are
19 authorized to make in our enabling legislation
20 about whether or not they are a surrounding
21 community. And we'll go through those five
22 communities one by one and the Commission will
23 make a decision in this public meeting.

24 MR. ZIEMBA: Right. Just one

1 further bit of background. We have received --
2 There have been a number of agreements that
3 have been reached up to this date. As we
4 discussed, the Commission extended the deadline
5 date for surrounding community petitions in
6 order to allow communities and applicants more
7 time to reach conclusions that were not based
8 on an adversarial process.

9 To date, we've received surrounding
10 community agreements from Mansfield, North
11 Attleboro and Wrentham. Foxboro has been
12 designated as a surrounding community by the
13 Penn applicant. Further PPE related agreements
14 Lancaster, Lunenburg, Townsend, Westminster and
15 Princeton. And Raynham has reached agreements
16 with Taunton as a surrounding community
17 agreement and Berkeley, Lakeville and Rehoboth
18 as nearby impact agreements.

19 We have certain designations where
20 each community -- the communities that have
21 been designated as a surrounding community by
22 the applicant under our regulations, those
23 communities must assent to such designation.
24 We have received from Foxboro, Middleboro and

1 West Bridgewater letters of assent to such
2 designations.

3 Under our regulations, the 30-day
4 clock to begin negotiations under the statutory
5 30 day negotiations does not begin until the
6 Commission issues a written determination after
7 the receipt of the letter of assent by the
8 communities. And as Counsel Blue has
9 recommended, what we will do is after this
10 meeting, after we conclude the surrounding
11 community discussions, we will thereby issue
12 the staff written designations of assent to
13 those communities that have sent those letters
14 of assent. I don't think I've missed anybody,
15 but in case I did, we will double-check that.

16 What that would do is as we make
17 determinations on surrounding community status
18 for those that have petitioned, they would be
19 on the same statutory 30-day timeframe as those
20 that have assented to such designations but
21 have not reached an agreement as of yet.

22 CHAIRMAN CROSBY: So, that's the two
23 30-day windows would start?

24 MR. ZIEMBA: That's right. In order

1 to get into the applications, just let me give
2 you -- In the beginning of your packets on page
3 two of your packets, so the packets are broken
4 down by applicant and by community. I will
5 give you the page numbers as we go through the
6 presentation. As I mentioned in the beginning,
7 there are three for the PPE Casino application.

8 CHAIRMAN CROSBY: Which is Cordish
9 in Leominster.

10 MR. ZIEMBA: Which is Cordish in
11 Leominster and that is Bolton, Fitchburg and
12 Sterling. We will go alphabetically for each
13 one of these applications. Each one of these
14 communities has a very specific packet. And
15 the packet describes the six criteria that the
16 Commission should consider in making its
17 determination.

18 The six criteria are proximity,
19 proximity to both the host community and to the
20 gaming facility. The impacts on the
21 transportation infrastructure. Development
22 impacts, impacts that are related to the
23 construction period. Operational impacts, our
24 regulation has a catchall for communities that

1 determine that they're experiencing impacts
2 that aren't readily caught in those above
3 categories. Then six, the regulation says that
4 the Commission may consider positive impacts in
5 its determinations of surrounding community
6 status.

7 CHAIRMAN CROSBY: These are the
8 criteria that are set out in the law for us to
9 use.

10 MR. ZIEMBA: And our regulations.

11 CHAIRMAN CROSBY: And our
12 regulations, right.

13 MR. ZIEMBA: Okay. So, let's turn
14 to the Bolton applicant. Look at page three of
15 your packet. So, proximity, as I mentioned
16 proximity both to the gaming establishment and
17 to the host community as a criteria in our
18 regulations. The town of Bolton claims that it
19 is five miles to the east of the proposed
20 facility. It is closer than a number of
21 communities that have already reached an
22 agreement with the applicant.

23 The applicant argues that the town
24 of Bolton is more than five miles away from the

1 facility. That the town center is
2 approximately eight miles from the facility.
3 And that comparisons to other communities that
4 have reached agreement with Bolton (SIC) are
5 irrelevant.

6 Just one more background, so, I am
7 obviously just giving a summary of very lengthy
8 and detailed presentations that have been made
9 by both applicants and communities. And very,
10 very detailed sections included in the
11 applications and numerous other reviews. The
12 Commissioner's packet includes all of the
13 sections. For ease of reference, we've
14 included the summary that all of those sections
15 that have been included in their remarks are
16 obviously part of the question.

17 So, if communities or applicants out
18 there are hearing only some of their arguments,
19 what we've tried to do is to distill some of
20 the essence of what their petition's made. As
21 we discussed, we've already had four public
22 hearings on it and there is very detailed
23 presentation.

24 CHAIRMAN CROSBY: And the audience

1 should know, we all have that big folder like
2 you have in front of you. And each of the
3 Commissioners has read, if not literally every
4 word, at least virtually every word in these
5 extended presentations on the issues.

6 MR. ZIEMBA: To continue on on the
7 proximity issue, during the Commission's
8 deliberation on surrounding community policies,
9 the Commission rejected establishing a mileage-
10 based threshold for determining which
11 communities are surrounding communities.

12 What that means is we determined
13 that just because a community is within a mile
14 or within three miles or within five miles that
15 does not mean that one reaches surrounding
16 community status by that designation. The
17 reason why we did that, one of the reasons why
18 we did that is because the Legislature actually
19 rejected amendments that would have said
20 exactly that.

21 They had amendments stating that a
22 one-mile threshold or a three-mile threshold or
23 a five-mile threshold would automatically make
24 you a surrounding community.

1 Instead, they asked us to take a
2 look at the overall impacts, as I mentioned, in
3 concert with a review of the geographic
4 proximity. But I do mention that the
5 Legislature did include those amendments of the
6 two-mile, three-mile and five-mile standard as
7 perhaps an indication that they meant to have
8 some limit to the outward geographic proximity.

9 Again, we don't have a mileage-based
10 standard, but this is a measuring guideline.
11 It is not a hard and fast rule. As you'll see
12 from our review of the petitions, just because
13 one community is within two miles or within
14 three miles again, that is not an automatic
15 determination of surrounding community status.
16 But this measuring stick of two, three and five
17 miles could perhaps be instructive as to some
18 of the range of considerations that you take a
19 look at.

20 CHAIRMAN CROSBY: I think that's a
21 really important point though that people need
22 to hear that this is not about proximity alone.
23 The mere fact of being close, is not in and of
24 itself. What the Legislature and we are

1 concerned about its impacts, independent. And
2 maybe proximity can be sort of advisory to
3 impacts but it is impacts not proximity which
4 are really determinative here.

5 MR. ZIEMBA: That's right.
6 Commissioners can move to page 10 of the
7 packet. I will discuss the traffic
8 infrastructure. So, I am going to continue. I
9 am going to go through each one of the factors
10 and then we can go back to our experts with any
11 further questions.

12 In regard to infrastructure, the
13 town of Bolton argues that Route 17 (SIC)
14 provides ready access to the proposed
15 establishment for traffic off of Route 495.
16 And that according to the applicant, at least a
17 quarter million new vehicle trips can be
18 expected to pass through Bolton annually.

19 Bolton contests the projections made
20 by the applicant and states that it expects as
21 many as 30 to 45 percent of the patrons who
22 will actually reach the applicant's facility by
23 traveling Route 17 (SIC) through Bolton
24 compared to the 11 percent projected by the

1 applicant. Thus, the number of the annual
2 vehicle trips traveling through Bolton could
3 approach one million. Bolton argues that those
4 that regularly travel Route 2 will avoid it and
5 instead will utilize the Mass. Turnpike, Route
6 495 and then Route 117. Bolton also argues
7 that Route 117 is a heavily congested roadway
8 with an approximately three-hour rush between
9 4:00 and 7:00 PM where traffic slows from 10 to
10 15 miles an hour.

11 The applicant states that its market
12 study traffic study show that there will be
13 very limited impacts to roadways in the town
14 and that these impacts will be solely limited
15 to Route 117. The applicant noted that traffic
16 studies completed to date show that the project
17 will increase volumes at 117, I-495 Northbound
18 ramps intersection by only 2.2 percent. An
19 estimated 54 PM peak hour vehicle trips will be
20 added to the existing 2480 vehicle trips
21 passing through the intersection as reported by
22 the town.

23 Similarly, the applicant argues that
24 the addition of 54 peak hour project trips on

1 the western edge of Bolton represents a very
2 modest 3.3 percent increase in traffic volumes.
3 And that the same peak hour trips between I-495
4 and Route 110 will use less than two percent of
5 the traffic capacity of Route 117.

6 Further, the applicant argues that
7 its traffic is countercyclical and is after the
8 PM commuter peak hour. Finally, the applicant
9 notes that the attractiveness of Route 2 as an
10 option will improve planned improvements in
11 Concord.

12 A peer-review conducted by Woodard
13 and Curran and Transportation Engineering
14 Planning and Policy of the applicant's traffic
15 impact study found the study to reflect
16 professional practice and the proposed project
17 appears to have minimal traffic impacts.

18 Green International who is sitting
19 with us now did peer-review of all of the
20 traffic included in each one of these
21 applicants. And they made the following
22 findings. They made many findings, but I'll
23 just reflect a few of them.

24 Comments made from Mass. DOT and

1 contained in the ENF certificate indicate that
2 at a minimum the DEIR, the draft environmental
3 impact report should include both signalized
4 intersections at the I-495/Route 117
5 interchange in the town of Bolton. This is
6 directly due to the levels of the casino
7 generated traffic as presented to date by the
8 applicant that would travel to the project site
9 in Leominster via I-495 and Route 17 (SIC) from
10 the south and east respectively.

11 This Stantec report, which is the
12 traffic report by the applicant assumes that 10
13 percent of the site traffic will use Route 117
14 to the east of I-190 though more detailed
15 market analysis trip distribution presented by
16 the project proponent indicates that
17 approximately 13.5 percent of the site traffic
18 will use Route 117 to the east of I-190 with
19 approximately 11 percent traveling through the
20 town of Bolton.

21 Route 117, continuing with Green's
22 analysis, Route 117 is the primary route
23 through Bolton that would be used to access the
24 Leominster site. It is primarily a two-lane

1 highway. Based on general observations and
2 knowledge of the corridor, it operates with
3 constraints at certain intersections, in
4 particular at the I-495 interchange at
5 Wattaquaddock Hill Road in the Bolton town
6 center and the intersections with Route 70 and
7 Route 110 in Lancaster during the weekday peak
8 periods as well as during portions of Saturday.

9 There is a high probability that the
10 use of I-495 and Route 117 has been
11 underestimated. And that these noted traffic
12 increases will be greater. In light of the
13 several factors including the relative close
14 proximity that Bolton is to the proposed casino
15 site, the direct route that Route 17(SIC)
16 provides between I-495 and the project site and
17 the reach of the casino being between 60 and 90
18 miles and that there would not be any other
19 nearby competing facility, it is conceivable in
20 our opinion at this stage the applicant's trip
21 projections to the east along Route 117 may be
22 low.

23 It is likely that patrons of the
24 site would avoid the I-95/Route 2 route due to

1 more congested conditions often experienced on
2 I-95 relative to I-495 and the several
3 bottlenecks along Route 2 in the towns of
4 Lincoln, Concord and Acton, i.e. traffic
5 signals along Route 2 and/or the Concord
6 Rotary.

7 It is conceived that Route 117 in
8 Bolton could provide access for 20 percent or
9 more of the traffic related trips. If that
10 were to occur, the increases in traffic on
11 Route 117 would exceed five percent and
12 approach and exceed -- five percent and
13 approach and exceed 10 percent during certain
14 periods and become more significant and
15 measurable impacts.

16 As a result of the level of casino-
17 related traffic estimated to pass through the
18 town of Bolton while traveling through to the
19 casino site based on the information that has
20 been reviewed and evaluated and based on the
21 above factors considered in this surrounding
22 community evaluation, it is our opinion that
23 there would be a significant and adverse
24 traffic impact.

1 CHAIRMAN CROSBY: Can I make a
2 suggestion here? If I'm saying this correctly,
3 our job here is to determine whether or not a
4 community is a surrounding community.

5 MR. ZIEMBA: Yes.

6 CHAIRMAN CROSBY: On any one of
7 these criteria, we could make that
8 determination. If we were to make it on an
9 early criteria, it doesn't matter what the
10 other criteria say.

11 MR. ZIEMBA: Yes.

12 CHAIRMAN CROSBY: Since we have an
13 objective review here on the issue of traffic
14 that differs from the applicant's assessment,
15 it seems to me -- But I'm going to ask the
16 Commissioner's whether you agree with this. --
17 it's worth us stopping now, talking about
18 traffic. If it turned out we thought this was
19 a circumstance which required them to become a
20 surrounding community, we wouldn't have to go
21 through the rest of the issues.

22 COMMISSIONER MCHUGH: That's an
23 interesting point. I was just thinking about
24 that the other day, Mr. Chairman. It could be

1 an all or nothing kind of thing. On the other
2 hand, I am not sure that if there is a traffic
3 impact and that's the only impact that causes a
4 town to be a surrounding community that the
5 Commission would then advance money for housing
6 studies or problem gambling studies or other
7 kinds of things.

8 Or that the Commission would
9 anticipate that the parties would enter into a
10 surrounding community agreement that would
11 include those criteria, perhaps get hung up on
12 those criteria and a traffic mitigation plan
13 could be achieved and solved that only problem
14 for which the Commission found them to be a
15 surrounding community.

16 So. I wonder if it wouldn't be at
17 least helpful, I don't think our regulations
18 really provide for us to say you are
19 surrounding community for traffic purposes.

20 CHAIRMAN CROSBY: I wasn't saying
21 that.

22 COMMISSIONER MCHUGH: No, no, I
23 understand that. But it seems to me that it
24 would be helpful for the Commission to say what

1 it was that triggered the Commission's
2 surrounding community determination, both to
3 provide guidance for us in the future and to
4 provide guidance for the parties that then will
5 attempt to negotiate a surrounding community
6 agreement.

7 That would mean going through each
8 of these. It doesn't mean you can't stop here
9 and discuss traffic. But it would mean going
10 through these and saying if it turns out that
11 way that way that traffic is the only one.

12 COMMISSIONER ZUNIGA: I completely
13 agree with that notion. I think this will make
14 today a very long meeting, but I think it's
15 very important that we discuss, weigh in on
16 what we think is this a factor or factors that
17 make somebody a surrounding community. That in
18 my opinion would hopefully guide the
19 arbitration process. First the negotiation
20 process and then eventually the arbitration
21 process that could result from this.

22 As I understand, in an arbitration
23 process all factors could conceivably be
24 considered, whether we thought one was

1 significant or not. But I completely agree
2 with the notion that it's important for us to
3 at least discuss, weigh in and opine on the
4 significance of factors, of each of the factors
5 that they put forward.

6 MR. ZIEMBA: I will note that
7 although my last summary was rather involved,
8 each one of these applications is different.

9 In Bolton, the application by the
10 potential surrounding community was very, very
11 detailed when it came to traffic, but among the
12 other factors there wasn't that much detail.
13 So, I spent a good amount of time on that
14 application.

15 So, if we're thinking we're going to
16 be here for four or five days, that's probably
17 not going to be the case, but I know that
18 preview probably didn't give you much comfort.

19 COMMISSIONER MCHUGH: Probably not
20 going to be the case?

21 COMMISSIONER CAMERON: And I would
22 agree with Commissioner McHugh and Commissioner
23 Zuniga. And the other piece of this, one of
24 the six criteria are the positive impacts. And

1 that could be a weighing mechanism for us as
2 well. So, it's important to discuss it all.

3 CHAIRMAN CROSBY: Are you suggesting
4 -- So, we would go through each of the criteria
5 and we would say because of criteria -- If we
6 say they're not a surrounding community, that's
7 one thing. But we would say which criteria we
8 judge to be a trigger mechanism. Does that
9 then preclude the other criteria?

10 COMMISSIONER MCHUGH: No, it
11 doesn't, I don't think, as a matter of law.
12 But it does guide the communities if they come
13 to us say and want to do a -- get money for a
14 housing study. And we've already found that
15 the housing isn't a piece. It guides them and
16 us in dealing with that.

17 And it also guides our determination
18 as to what the triggers are, guides the
19 applicant and the community as to the focus we
20 think they ought to put into a surrounding
21 community agreement. It may make it easier for
22 them to reach one than if the door for
23 everything is wide open.

24 CHAIRMAN CROSBY: I was pretty sure

1 I was going to wind five-zero on this one, but
2 I was wrong. That's fine. Go ahead.

3 COMMISSIONER ZUNIGA: Were you done
4 with the introduction?

5 MR. ZIEMBA: I have a few other
6 sections, development, operation and other and
7 positive impacts.

8 COMMISSIONER ZUNIGA: Because I do
9 have a general question for our consultants
10 that applies to just about everybody. So,
11 let's continue and we'll get to that.

12 MR. ZIEMBA: Okay. Development, so
13 this relates to impacts prior to operation,
14 construction impacts, etc.

15 The town of Bolton argues that it is
16 inevitable that a significant portion of the
17 construction vehicles will use the shortcut
18 from 495 through Bolton. The applicant states
19 that it will direct its construction team to
20 avoid local roads and to utilize the major
21 highways for all construction traffic.
22 Furthermore, it states that the town cannot
23 demonstrate that any noise or environmental
24 issues, if any, caused by the project will have

1 a significant or adverse impact on the town.

2 Green International found that the
3 applicant has stated the construction related
4 heavy vehicle traffic would be controlled and
5 remain on the area's major roadways. With I-
6 190 adjacent to the site, this would be
7 expected to provide the major route of access
8 for transporting materials to the site
9 particularly long-haul trips. However, there
10 is a potential for I-495 use and with that the
11 potential for Route 117 be used by nonlocal
12 construction traffic.

13 While it is fairly early in the
14 process now definitively the sources and
15 materials and construction traffic and the
16 source of materials would be controlled to a
17 large degree by the applicant. This would be
18 important with respect to minimize the
19 potential use of 114 (SIC) by this type of
20 traffic.

21 If you turn to page 48, this
22 discusses operation. The town of Bolton argues
23 that increased traffic volumes and the fact
24 that the facility serves alcohol will increase

1 the number of accidents and arrests or related
2 mutual aid calls.

3 The applicant includes letters from
4 the Leominster police and fire departments
5 stating that they do not expect any mutual aid
6 from Bolton. Further, the applicant notes that
7 the addition of Leominster police station at
8 the facility in addition to State Police and
9 Gaming Commission personnel. Finally, the
10 applicant notes that based on a review of crash
11 data along Route 117, projected traffic would
12 result in less than three incidents per year.

13 There's no description in other.
14 They were adequately captured in the other
15 categories. Then at positive impacts, the
16 applicant noted several positive impacts from
17 the development including approximately \$20
18 million that may be spent annually on local
19 goods and services.

20 Obviously, I'm not going to go into
21 depth about each one of these applications, but
22 each one of these applications obviously comes
23 with a very significant new employees at the
24 facilities, impacts their purchases and others

1 in the general area and in the region.
2 Significant revenues that can be attributable
3 to the host communities and obviously very
4 significant revenues that will be received by
5 the state among many other positive impacts.

6 So, that concludes the six factors,
7 and we welcome your questions that you may
8 have.

9 COMMISSIONER ZUNIGA: I have a
10 couple. In your prior remarks, earlier remarks
11 you were reading off of over this and you
12 mentioned Route 17, but every time you were
13 referring to it, it's really Route 117. I just
14 wanted to make that --

15 MR. ZIEMBA: Yes my mistake.

16 COMMISSIONER ZUNIGA: I had a
17 general question on traffic that applies to
18 just about everybody. So, I might as well ask
19 it now. I know that there's a lot of analyses
20 that gets to particular intersections and where
21 the flow is coming from and what level of usage
22 is currently and anticipated, etc.

23 As I read through this packet, I
24 wondered if both sets of applicants or the two

1 applicants in question here start from
2 generally the same amount of overall traffic
3 that could come to each of these facilities.
4 That the analyses is very different, has been
5 done by a couple of different parties
6 obviously, has been verified by our
7 consultants. But I did wonder if they are both
8 generally talking about the same total number
9 of vehicle trips per day.

10 MR. SCULLY: Approximately. They
11 both forecast traffic in different ways. On
12 the Raynham Park side, DOT has asked for more
13 supporting documentation to look at a different
14 method of forecasting. But in terms of total,
15 Raynham might be a little bit higher in their
16 numbers right now, but they're roughly the
17 same.

18 COMMISSIONER ZUNIGA: Thank you.

19 MR. ZIEMBA: I think it's been
20 reported to me that for example, Raynham uses
21 the method that has been pushed forward by DOT,
22 which is you take three comparable facilities
23 and do some of the analysis based on that. Is
24 that correct, Bill? But their numbers actually

1 might be a little bit conservative in relation
2 to that DOT method, if I understand correctly.

3 MR. SCULLY: I apologize, it's
4 probably more opposite, John, on that one.
5 Leominster, I think, went with the approach and
6 they may even have to provide more supporting
7 documentation as they are going through the
8 environmental process with the state. But the
9 method used in Raynham was actually being
10 questioned by DOT in terms of, for example,
11 they use the size of the building as opposed to
12 the number of gaming positions.

13 Right now, in the industry, it
14 appears the gaming positions start to become
15 the predominant variable that you base your
16 casino forecast on. You might even be
17 thinking, John, of the Plainville site too that
18 did look at multiple observations.

19 COMMISSIONER ZUNIGA: Thank you.

20 CHAIRMAN CROSBY: Questions?

21 COMMISSIONER CAMERON: Mr. Scully
22 did you have anything further to add to John's
23 analysis of your expert opinion that there
24 would be a significant increase in traffic?

1 What you are really saying is you disagree with
2 the initial report that the applicant had
3 prepared?

4 MR. SCULLY: Yes. In looking at the
5 criteria, the various factors for traffic
6 impact of the project on Bolton, in our opinion
7 they do have the potential to experience an
8 adverse impact. There are issues on that
9 corridor, but that corridor does bring them
10 directly to the casino from 495. And 495 to
11 117 to Route 2 is a very major route that
12 people use as a "shortcut" or ultimate way as
13 opposed to going up to Route 2.

14 COMMISSIONER CAMERON: In your
15 analysis, you're only evaluating the additional
16 traffic. The road is already congested, in
17 other words. So, you are looking at just what
18 the new traffic would be due to this facility?

19 MR. SCULLY: Correct.

20 CHAIRMAN CROSBY: Others?

21 COMMISSIONER MCHUGH: The applicant
22 says that the traffic is going to be
23 countercyclical. I gather that by that it
24 means it is going to be traffic to their

1 facility is going to occur at times when the
2 rush-hour is not in progress. Did you find any
3 basis for that in the papers you reviewed?

4 MR. SCULLY: Yes, they are correct
5 in a large degree. Certainly, the morning peak
6 commuting time, very busy on any of the
7 roadways, including 117. You would expect the
8 casino traffic to be fairly low in the morning
9 peak hour.

10 In the afternoon, the PM peak hour,
11 for an example, what our my research has shown
12 is that on Friday evening, let's say after
13 6:00, between 6:00 and 8:00 becomes a very busy
14 time for casino related traffic generation. In
15 the PM the commuter time, particularly that
16 there is a Friday time period is another very
17 busy time for the casino-related.

18 So, while there may be some
19 different peaks, it's not all post-commuter.
20 Yes, the casino itself peak generation will
21 occur later in the evening on a Friday or on a
22 Saturday, but it still showed fairly busy
23 movement on the PM peak hour and as well as the
24 midday Saturday peak hours.

1 CHAIRMAN CROSBY: Others?

2 COMMISSIONER ZUNIGA: It's
3 especially the off-ramps from 495 to 117, that
4 area that causes the highest level of concern
5 as well as the other intersection -- I'm not
6 going to be able to pronounce it.

7 MR. SCULLY: Wattaquadock Road?

8 COMMISSIONER ZUNIGA: Yes.

9 MR. SCULLY: What you have on 117
10 here is you do have these ramps at I-495.
11 Those are under traffic signal control. Those
12 are controlled by Mass. DOT. There are right
13 now during the peak traffic hours, fairly
14 severe issues at the ramps. And it doesn't go
15 on for three, four or five hours. It tends to
16 be concentrated during the peak commuting
17 times.

18 What you have then is a two-lane
19 road, a very highly traveled road during those
20 peak times. So, Wattaquadock Road is a non-
21 signalized intersection. So, moving out of
22 that will depend on gaps in traffic along 117.
23 Right now, they do have trouble at that
24 intersection.

1 This isn't Lancaster, but Route 70
2 at 117, another unsignalized. If you had that
3 type of an intersection, the people trying to
4 exit onto the main street have to wait for that
5 gap in traffic to safely make their movement.
6 As you begin to experience problems on the main
7 line and you add another 50 or 100 or 150
8 vehicles going past that point, then your
9 number of gaps and your size of gaps continues
10 to decrease.

11 So, I'm not saying they're creating
12 a problem. There is a problem during the peak
13 times at that intersection and those types of
14 intersections. They probably feel the effect a
15 bit more when you add that 50 to 100 more
16 vehicles on 117 than sometimes a signal will
17 to.

18 And away from 495, the last thing
19 I'll just mention is the road does come under
20 local jurisdiction. Even though Mass. Highway,
21 it's a numbered route from the state, Mass.
22 Highway will help them fund projects to fix the
23 road at times. That 117 corridor, it does come
24 under the town of Bolton ownership.

1 CHAIRMAN CROSBY: If I understood,
2 this is not about that intersection. Everybody
3 is taking the position that that intersection
4 is going to be dealt with separately. That's
5 not an issue of whether Bolton is a surrounding
6 community or not.

7 The issue of whether Bolton is a
8 surrounding community or not is from the
9 intersection through Bolton to Lancaster, not
10 about intersection per se. Do I have that
11 right? 117 and 495 that's a state issue, which
12 is going to be dealt with at the state level.

13 MR. SCULLY: The state is looking at
14 that location. I am just reporting the point
15 that it's a location or two locations that do
16 experience problems. And that the applicant's
17 engineers forecasted a fairly measurable amount
18 of casino-related traffic will be added through
19 that point.

20 We just made an assessment that says
21 the amount of traffic coming through that point
22 could be more than what they say, somewhat
23 more. We know we are adding a lot of traffic.
24 It is an existing situation. And the road

1 does connect then directly to the casino. So,
2 that was how those factors were pretty much set
3 up.

4 COMMISSIONER MCHUGH: But we're not
5 excluding consideration of that intersection
6 from our traffic analysis?

7 CHAIRMAN CROSBY: I'm not sure that
8 it really matters. I didn't think that Bolton
9 was making the claim to be a surrounding
10 community because of the impact on the
11 intersection. I thought that everybody agreed
12 that that was an issue but that was going to be
13 dealt with at the state level. It's not that
14 intersection per se which would then cause them
15 to be a surrounding community.

16 What they're concerned about, and I
17 thought this is what was talking about is the
18 local streets is one and 117 and its access
19 roads after cars get off 495 and get onto 117.
20 As I said, I'm not sure this is really
21 relevant, but that was my anticipation. This
22 write-up is not about the intersection per se.
23 It's about the consequences of increases from
24 that intersection across Bolton

1 MR. SCULLY: I agree, Commissioner,
2 with that statement that Bolton is concerned
3 about Route 117, which is why I said that
4 corridor aside from the ramps is owned by the
5 town and maintained by the town. The point of
6 the ramps is that's really the beginning of
7 that casino traffic coming into the town on
8 117.

9 CHAIRMAN CROSBY: I understand that.
10 Others? I thought the applicant's position was
11 not very credible when I very first heard and
12 read about it, read and heard it. From my own
13 personal experience of accessing that area, and
14 by the way, probably the preponderance of the
15 emails that we get, the correspondence that we
16 get, which we get a ton from this area,
17 concerns 117. And when we had public
18 testimony, there was a tremendous amount of
19 public testimony about people who access 117
20 from their homes and have a hard time getting
21 out.

22 So, this report corroborates my own
23 personal sense already. And I didn't find the
24 applicant's claim even with an uninformed

1 assessment didn't make sense to me. So, I find
2 this persuasive.

3 It sounds like the other claims were
4 fairly modest. And I didn't see anything else
5 of a particular note on the other claims.

6 The issue about the trade-offs, and
7 we're going to have to talk about this probably
8 a number of times but trading off positives
9 against the visible negative consequences is a
10 very, very tough proposition. In our research
11 project, which is assessing the economic and
12 social impacts all of them good and bad of
13 expanded gaming on Massachusetts, our
14 researchers say don't try to quantify the
15 social aspects and put a dollar value on it to
16 weigh it off against the hard economic assets.

17 So, will Bolton benefit from people
18 having jobs, I would say probably yes. Will
19 they benefit by having some marginal impact on
20 the property values because more people are
21 going into their unused properties, maybe. I
22 think you have to have a pretty, pretty,
23 pretty, pretty modest negative affect to have
24 it be offset. But we are directed that we may

1 consider that. So, I think we need to at least
2 refer to it.

3 But for my money, so to speak,
4 that's a pretty tough trade-off. If there are
5 measurable adverse consequences, then I think
6 communities have the right to deal with those
7 pretty much on their face independent of the
8 likely positives that will come from this whole
9 thing. That's just sort of in general how I
10 feel about it. And apropos of this particular
11 case, I certainly don't think that whatever
12 these potential benefits are that they offset
13 what to me what is a pretty clear traffic
14 problem.

15 COMMISSIONER MCHUGH: I would agree
16 in this case with that analysis. Although the
17 broader offset issue seems to be is one that we
18 could talk about when the appropriate case
19 arises. I agree that in this case that the
20 positives don't offset the negative traffic
21 impact.

22 CHAIRMAN CROSBY: Okay. Are we done
23 this? Does somebody want to present a motion
24 on whether or not --

1 COMMISSIONER ZUNIGA: The only other
2 -- a factor that you mentioned is the
3 construction traffic, which the report also
4 mentions there are ways to fairly reasonably
5 mitigate that impact with scheduling times,
6 etc.

7 MR. ZIEMBA: Correct.

8 CHAIRMAN CROSBY: And the applicant
9 can even tell them which roads you can use, use
10 such and such roads. That was a general point
11 through all of these that our consultants made.
12 The development, the construction traffic
13 tended to be (A) not that big a deal on its
14 face and be something that could be managed.
15 But (B) would tend to use the bigger road
16 anyway and (C) could be managed by the
17 applicant. I agree with you.

18 COMMISSIONER ZUNIGA: Right.

19 COMMISSIONER MCHUGH: So, I'd move
20 that in light of the traffic impact revealed by
21 the application and confirmed by the
22 Commission's consultants, Bolton be designated
23 as a surrounding community.

24 COMMISSIONER STEBBINS: Second.

1 CHAIRMAN CROSBY: Any further
2 discussion? All in favor of the motion signify
3 by saying aye, aye.

4 COMMISSIONER MCHUGH: Aye.

5 COMMISSIONER STEBBINS: Aye.

6 COMMISSIONER CAMERON: Aye.

7 COMMISSIONER ZUNIGA: Aye.

8 CHAIRMAN CROSBY: All opposed? The
9 motion to make Bolton a surrounding community
10 is carried unanimously.

11 MR. ZIEMBA: Commissioners, if you
12 move to Fitchburg page three of the Fitchburg
13 presentation. Although Fitchburg and
14 Leominster share a border, Fitchburg and the
15 proposed gaming facility are not as proximate.
16 As noted in the Fitchburg petition, the
17 distance to the gaming establishment is less
18 than 10 miles.

19 The proponent notes that the project
20 is located approximately 6.5 miles from the
21 nearest city neighborhood and notes that the
22 driving time to Fitchburg's downtown, 18
23 minutes, is approximately the same time it
24 takes to drive from the location of the project

1 to the city of Worcester, which clearly is not
2 in proximity to the project.

3 I mention the same, I won't go
4 through this each time but I mention the same
5 amendments that were offered by the Legislature
6 as a guide, two, three, five.

7 Infrastructure, page eight of your
8 packets, the city of Fitchburg argues that not
9 an insignificant amount of 7,800 projected
10 vehicle trips per day will travel through the
11 city. It also notes that the primary access
12 route to the slot parlor including residents of
13 New Hampshire are stated to be Route 12, Route
14 2 and Route 12, which transverse the city.

15 The city notes that Route 12 is a
16 heavily congested roadway with approximately
17 22,000 vehicles per day near Leominster
18 approximately 30,000 vehicles per day on Route
19 12 near Route 2. The applicant argues that the
20 market study traffic studies show there will be
21 almost no measurable traffic impacts on the
22 city's primary thoroughfares Route 12 and Route
23 31. The applicant notes that the project will
24 add only two PM peak hour vehicle trips to

1 Route 12 and eight PM peak hour vehicle trips
2 to Route 31.

3 These two PM peak hours and eight PM
4 peak hour projections compared to the
5 theoretical 2800 vehicle per hour capacity of a
6 two-lane, two-way highway. The applicant also
7 states that the project traffic will not result
8 in any change in operation level of service at
9 any intersection in the city.

10 Other analyses on this project
11 impact do not state that Fitchburg traffic
12 infrastructure will be significantly and
13 adversely impacted. For example, according to
14 the minutes of the August 27, 2013 meeting of
15 the Montachusett Regional Planning Council,
16 although significant concerns were raised about
17 traffic on Route 117 in Lancaster and Bolton
18 and the MRPC analysis recommends that the study
19 of those intersections, no intersections in
20 Fitchburg were recommended for study. The MRPC
21 did note the likely increases in traffic from
22 Route 12 to the north to New Hampshire. And
23 noted that impacts on Route 2 within a 45
24 minute drive time should be addressed.

1 The city of Leominster peer-reviewed
2 the proponents traffic plan, indicated no
3 significant impacts on Fitchburg's
4 transportation infrastructure.

5 Green International noted that the
6 Stantec traffic study examined locations only
7 within Leominster. The information provided in
8 the study or other sources within the
9 application does not provide a substantial
10 amount of information relative to the potential
11 traffic impact on Fitchburg.

12 In the comment letter, the Mass. DOT
13 comment letter, the DOT has not mentioned any
14 potential concern relative to the state
15 highways in the city of Fitchburg nor called
16 for the applicant to include any subsequent
17 environmental studies. One possible reason is
18 that Route 12 in Fitchburg is not under Mass.
19 DOT jurisdiction.

20 Route 12 is the primary route
21 through Fitchburg that would be used to access
22 the Leominster site is primarily a two-lane
23 highway. Based on general observations and
24 knowledge of the corridor, it operates with

1 constraints between Route 2 and the downtown
2 area during weekday peak periods as well as
3 during portions of Saturday.

4 The section of the roadway near
5 Route 2 and into Fitchburg has undergone recent
6 improvements by Mass. DOT. However, it remains
7 a two-lane arterial for the most part as right-
8 of-way constraints exist and acquisition by the
9 city was not accomplished.

10 The Route 2/Route 12 interchange
11 remains a concern in the region. Route 12
12 connects with Route 31 in the center of
13 Fitchburg, which Route 31 continues north and
14 provides connections to communities in southern
15 New Hampshire. As a result of remaining a two-
16 lane arterial with a number of access drives
17 and intersecting ways, current congestion just
18 as a rule will remain in the future regardless
19 of the proposed casino.

20 The proposed casino site is situated
21 approximately nine miles to downtown Fitchburg.
22 There is no direct road connection between the
23 city and the casino site however Route 31 to
24 Route 12 runs into Leominster and then connects

1 with Route 117 in downtown Leominster.

2 In any event, while Fitchburg is
3 proximate to Leominster, the city's level of
4 direct connectivity in relation to traffic and
5 access to the casino should be considered low.

6 Under existing conditions, the
7 congestion and motorists' delays are
8 experienced. If one presumes five percent of
9 the casino traffic would be traveling along
10 Route 12, this would amount to approximately 25
11 trips during the PM peak hour and approximately
12 40 vehicle trips during the Friday, Saturday
13 peak hours of the casino. Those locations are
14 currently experiencing long delays and will
15 continue to do so with the project. However,
16 at these levels of added traffic, there will
17 not be a noticeable change in congestion and
18 delays.

19 While we believe there is a
20 reasonable possibility that more casino related
21 traffic would be oriented to the west and north
22 including Fitchburg Route 12 than was predicted
23 by Stantec, the likelihood of a negative change
24 in level of service even if the estimated

1 traffic was doubled would be small.

2 Based on the noted five percent
3 estimate on Route 12, one could assume from the
4 Stantec study it would result in approximately
5 25 vehicle trips during the PM peak hour and
6 approximately 40 during the casino peak periods
7 Friday and Saturday evenings. Compared to the
8 current Route 12 volumes, the increase in
9 traffic on Route 12 is expected to be
10 approximately one to two percent during the PM
11 peak hours. This would typically be considered
12 a small impact.

13 Significant peak vehicle generation
14 on state and federal highways, the two state
15 highways but under city jurisdiction that pass
16 through Fitchburg would be 12 and 31. Based on
17 the applicant's traffic projections as well as
18 the potential higher level of additional
19 traffic volumes discussed above, the proposed
20 casino would not result in a significant peak
21 generation on the state highway located in the
22 city Fitchburg.

23 While there undoubtedly will be some
24 casino related traffic originating from

1 Fitchburg as well as passing through the city,
2 it is not evident based on the combined
3 information that has been presented, reviewed
4 and evaluated that the facility would likely
5 cause a significant and adverse impact on the
6 roadways. The surrounding community
7 determination will need to be based on other
8 factors including geographic proximity to the
9 site and host community and operational
10 concerns other than traffic.

11 Turn to page 37 for development.
12 Fitchburg states potential of increased traffic
13 congestion associated with the two-year
14 construction phase of the project is inevitable
15 and that the applicant has not shared
16 construction mitigation plan with the city.

17 The applicant argues that Fitchburg
18 cannot demonstrate the noise or environmental
19 issues will have a significant adverse impact
20 on the city given the distance between the
21 project and the city. Applicant states that it
22 will direct its construction team to avoid
23 local roads and to utilize the major highways
24 for all construction traffic.

1 The ENF requires the applicant to
2 include a construction discussion in the draft
3 environmental impact in order to minimize
4 impacts.

5 Green International, I'll just
6 paraphrase. Green International said that the
7 applicant has stated that construction related
8 heavy vehicle traffic would be controlled and
9 would remain within the major roadways. And
10 that it believes that the impact on Route 12
11 and 31 would be minimal.

12 Fitchburg operations, this is on
13 page 42, Fitchburg anticipates an increased
14 demand for housing due to the affordable nature
15 of its existing housing stock, and notes that
16 further inspections and timely enforcement of
17 housing units will strain city resources.

18 Fitchburg notes that this expert
19 studies indicate that a greater proportion of
20 problem gamblers come from a lower socio-strata
21 and the incidents of addictive gambling is
22 greater within the 10-mile radius of a gambling
23 facility.

24 As the city is within such 10-mile
radius and has a significant population that is

1 in the lower-end of the socio-economic strata,
2 it states its social services provided by the
3 city will be strained beyond capacity.

4 Fitchburg also notes that it's
5 likely to experience a significant increase in
6 mutual aid requests from Leominster for fire
7 and EMT services.

8 The applicant responds that there
9 are significant vacant housing stock in
10 Leominster and that the city of Leominster's
11 peer-review indicated that the applicant's
12 commitment to local hiring should have no
13 adverse impact on the local housing stock
14 throughout the region.

15 The applicant states that the
16 project will not create any significant need
17 for new housing in the city in response to the
18 concern about additional inspection personnel.
19 Further, Leominster police and fire departments
20 issued letters stating that they do not expect
21 any mutual aid assistance from the city.

22 Further, it notes that Leominster
23 will build a police substation in the facility
24 and the addition of State Police presence and

1 the Gaming Commission presence. Finally, in
2 regard to concerns about problem gamblers, the
3 applicant argue that significant expenditures
4 in excess of \$15 million per year will be
5 utilized to address problem gambling.

6 The MRPG, the Montachusett Regional
7 Planning Commission noted that there's
8 significant distress properties and foreclosed
9 properties in Fitchburg. And that the host
10 community and surrounding communities should
11 use this new job generating facility as an
12 opportunity to connect employees with available
13 homes, reversing disinvestment and stimulating
14 reinvestment in neighborhoods throughout the
15 Montachusett region, thus stabilizing
16 neighborhoods.

17 Mr. Vander Linden commented on the
18 existing research related to connections on
19 problem gambling. He noted that problem
20 gambling rates in proximity to gaming
21 availability. He said that there are many
22 studies have found a relationship between
23 proximity gambling venues and the prevalence of
24 problem gambling. In 1998, an analysis of US

1 gambling impact and behavior study data found
2 that location of a casino within 50 miles was
3 associated with approximately double the rate
4 of pathological gambling.

5 He noted that there is a small body
6 of research that explores whether gambling acts
7 as a form of regressive taxation where poorer
8 people contribute disproportionately more to
9 gambling revenue than people with higher
10 incomes. Although it is clear that lower
11 income people contribute proportionally more of
12 their income to gambling than do middle and
13 high-income groups, it is important to
14 recognize that most of these studies average
15 annual expenditure on gambling still tends to
16 increase as a function of income class.

17 He notes that it seems logical to
18 conclude that the increase in persons with
19 gambling disorders would create a burden on the
20 city's social service agencies, however, as
21 pointed out by Dr. Williams, one of the
22 person's study, the bulk of the impact tend to
23 be social nonmonetary in nature because only a
24 minority of the problem gamblers seek to

1 receive treatment. And only a minority
2 typically have police/child welfare/employment
3 involvement.

4 That being said it is difficult to
5 accurately predict the actual impact because
6 ultimately it will vary between jurisdictions
7 depending on the type gambling introduced and
8 the magnitude of this change. For example, a
9 new casino in a small community with limited
10 prior exposure to gambling has a much larger
11 impact than if a casino that is introduced into
12 a larger city with easy access for a range of
13 gambling operations.

14 In reference in the report by Dr.
15 Robert Williams, I think also referenced in the
16 Fitchburg application, he concluded that
17 overall impact of gambling in a particular
18 jurisdiction in a specific time period ranges
19 from small to large and from strongly positive
20 to strongly negative. That being said, in most
21 jurisdictions in most time periods, the impacts
22 of gambling are mixed with a range of mildly
23 positively economic impacts offset by a range
24 of mild to moderate negative social impacts.

1 The question to what extent will the
2 introduction of a gaming facility create
3 negative impacts in Fitchburg is difficult to
4 answer. However, the Commission is currently
5 working closely with SEIGMA and UMass Amherst
6 to conduct a controlled before and after
7 comparison of changes in rates of problem
8 gambling and related indices coincident with
9 the introduction of gaming facility. The
10 ongoing findings of this study will provide the
11 most accurate determination of what the true
12 social and economic impacts in host and
13 surrounding communities.

14 A more precise understanding of the
15 impacts will inform the best use of the Public
16 Health Trust Fund which was created to assist
17 social service agencies and public health
18 programs to mitigate the potential addictive
19 nature of gambling.

20 We also commissioned a specific
21 study on Fitchburg's housing stock. Nancy can
22 answer any questions, if you have any, from
23 Pinck and Co. Lynn D. Sweet Consulting Group
24 noted that we find that it cannot be determined

1 from the submitted materials and our
2 independent evaluation that the city of
3 Fitchburg will be significantly and adversely
4 affected by the operation of the gaming
5 establishment after its opening due to housing
6 impacts resulting from the facility.

7 In fact, the additional jobs should
8 add to the employment base in Fitchburg. It
9 may also address issues of a declining
10 population and vacancy. Based on the
11 unemployment rates, the housing vacancy rates
12 and the skill level of most jobs that the slots
13 parlor will create, it is safe to conclude that
14 very few of the 500 to 700 new jobs will be
15 filled by personnel moving to the area. In
16 fact, most jobs will be filled by persons who
17 live in the area and therefore who already have
18 housing.

19 Therefore, given the likelihood that
20 the majority of workers will be from the
21 immediate area and the city appears to be
22 keeping up with inspecting general housing
23 stock, we conclude that the city of Fitchburg
24 will not be significantly adversely impacted by

1 the operation of a gaming establishment after
2 the opening due to housing impacts from the
3 facility.

4 If the Commission will turn to page
5 69 under other, there is nothing. Then if the
6 Commission then turns to page 84, we just
7 discuss the positive impacts for the town of
8 Bolton, there are similar positive impacts
9 related to the city of Fitchburg. But I note
10 that earlier in my testimony, the applicant
11 said that there would be positive impacts on
12 housing in the region as a result of their
13 facility and employment.

14 And we're available for any
15 questions.

16 CHAIRMAN CROSBY: Questions?

17 MR. ZIEMBA: A lot of words, I'm
18 sorry.

19 COMMISSIONER MCHUGH: Very helpful,
20 very helpful. You hit the highlights.

21 CHAIRMAN CROSBY: Anybody? I
22 thought in the housing report, Nancy, I don't
23 think that it necessarily changes the bottom
24 line, but the report says the current number of

1 units just completed and in development in the
2 city, it appears that the city inspectional
3 services department does have the capacity to
4 monitor housing conditions in its general
5 housing stock. And it goes on to say the city
6 appears to be keeping up with inspecting the
7 general housing stock.

8 Where did that conclusion come from?

9 MS. STACK: I think it is a general
10 statement and may also have done a little bit
11 of research to compare other municipalities as
12 far as of the inspection staff. But it's not
13 found in a lot of data that's included in the
14 report.

15 CHAIRMAN CROSBY: There's a lot of
16 data about vacant units and so forth. I think
17 the conclusion that this is not likely to have
18 any negative affect at all, if anything, it
19 might have a positive affect probably makes
20 sense, but I don't understand that conclusion.

21 I'd hate to have an assertion that
22 maybe is not very relevant but also maybe is
23 wrong. It doesn't make our report look very
24 good. And I don't know whether they're keeping

1 up with the inspections or not. It's sort of
2 not the point. It's an assertion in here,
3 which maybe we can at least confirm where that
4 comes from. If it's accurate clarify why. If
5 it isn't, take it out, because if it's wrong,
6 I'd hate to have it on the record.

7 MS. PINCK: We can clarify that.

8 CHAIRMAN CROSBY: Great. Others,
9 anybody else?

10 COMMISSIONER ZUNIGA: Are we ready
11 to discuss each of the factors I suppose?

12 CHAIRMAN CROSBY: Yes, that is what
13 we are talking about.

14 COMMISSIONER ZUNIGA: I did just
15 want to mention on the topic of housing, which
16 is just what you were talking about. This is
17 perhaps one of the examples of positive impact.
18 If people were to move to vacant units,
19 foreclosed units and of courses there's work to
20 be done at the local level, those additional
21 tenants really represent a positive impact.
22 Tenants or owners, so there's a case to be made
23 that that is a virtuous circle in theory or one
24 that could stop a vicious circle of foreclosure

1 and vacancies.

2 CHAIRMAN CROSBY: I would say that's
3 precisely one of the consequences that the
4 Legislature was looking for. That's the
5 positive side of economic development. At a
6 certain point, it could be onerous but clearly
7 that at the maximum impact it's very, very
8 slight, but whatever it is, it would have a net
9 positive. I would agree with you.

10 COMMISSIONER ZUNIGA: Not only that,
11 the number of jobs and some of the promises
12 about local hiring may actually have no
13 additional impacts because some of those
14 employees actually are already in theory living
15 in the area. So, I agree with that.

16 CHAIRMAN CROSBY: Mr. Scully, in the
17 your transportation report it says that the
18 applicant's trip projection from west and north
19 may be low. You go onto say even if they are
20 low by a factor of two that they're not enough
21 to have any negative impact. But you also say
22 that whether the trip counts are right or not,
23 trip projections are right or not are to be
24 reviewed in the MEPA process.

1 It's page five of your Fitchburg
2 analysis, the middle of the second bullet
3 point, second paragraph.

4 I just wondered what would be the
5 consequence of that? If MEPA sees that the
6 trip count is low, what is the consequence of
7 that?

8 MR. SCULLY: It likens to my
9 statement that even if traffic was doubled --
10 for example, what we've seen to date is the
11 applicant projecting about 10 percent of the
12 casino related traffic heading sort of to the
13 west along Route 2, to the north beyond the
14 Fitchburg boundary, a total of 10 percent,
15 which looking at all of the information that
16 we've scanned through, and granted we didn't
17 have a lot of the detail that the applicant is
18 basing his analysis on, it just appeared
19 potentially that it could be --

20 CHAIRMAN CROSBY: -- could be low.

21 MR. SCULLY: All I'm saying is that
22 as MEPA is going through their process, and I
23 believe in some of the DOT comments as well as
24 maybe the secretary's direction, to provide

1 more supporting information and detail on the
2 travel forecasting.

3 So, in short, the consequence would
4 be let's say it's not 10 percent, let's say
5 it's 20 percent. You saw the concerns by the
6 MRPC of looking at some of our interchanges
7 along Route 2 east and west within 45 minutes.
8 I think that's some of the points where the
9 applicant as they're going through the MEOA
10 process would be providing more analysis of
11 areas of concern.

12 CHAIRMAN CROSBY: But you said even
13 if they're doubled, even if they're wrong by
14 half, that it wouldn't affect those kinds of
15 interchanges to the extent that it would need
16 remediation?

17 MR. SCULLY: Correct. Like Route 12
18 and Route 2 interchange needs and has been
19 looked at by DOT for several years. With
20 respect to specifically Fitchburg and the Route
21 12 corridor, even if the traffic was double
22 what is currently projected in my opinion, it
23 would still amount to a small impact on Route
24 12.

1 The difference in Fitchburg compared
2 to Bolton is that while Route 12 is a major
3 arterial providing access into Fitchburg, if I
4 was coming down from New Hampshire and using
5 Route 31, I don't have to get on Route 12 if I
6 don't want to. I can use two or three other
7 ways to get to the area where I want to be in
8 terms of the casino.

9 And it was recently improved, Route
10 12 went through a major improvement by DOT.
11 They determined that it wasn't going to be
12 widened even though volumes might suggest it
13 should be widened, but that decision was made
14 because of right-of-way constraints and lack of
15 being able to or want to acquire property.

16 So, there's a lot of different
17 factors. In our opinion, even if the numbers
18 were double on that Route 12 that the relative
19 increase is going to be smaller, the relative
20 changes in operating conditions small.

21 COMMISSIONER MCHUGH: If review
22 under the MEPA process leads to a conclusion
23 that some of these numbers are off, it is
24 conceivable that the permit granting

1 authorities could impose conditions, mediation
2 conditions for granting a permit, right?

3 MR. SCULLLY: Correct. And I'll add
4 to that in that Route 12 and locations in
5 Fitchburg have not been asked to be studied in
6 the MEPA process either by DOT or the MRPC.
7 MRPC, very general but those comments never got
8 to MEPA. And the city of Fitchburg, I did not
9 find any reference that they had communicated
10 their concerns to MEPA.

11 So, yes as part of MEPA, if a
12 problem occurred and they did look at the Route
13 12/Route 2 interchange, and it needed some
14 things and they could do it, Mass. DOT may
15 require them to do something.

16 CHAIRMAN CROSBY: Yes. Thank you,
17 Commissioner. That's why I wanted to focus on
18 this because Mayor Wong of Fitchburg has
19 written us an impassioned rational letter
20 saying that she really be concerned about the
21 issues. I think your analysis is persuasive.
22 I think the point that in your judgment is even
23 if it is doubled it is still negligible in
24 terms of its adverse impact but it's also

1 important that there is another bite at the
2 apple should the city choose to pursue it
3 appropriately, which it should have done a
4 while back.

5 COMMISSIONER MCHUGH: Again, if
6 experience proves that there are unanticipated
7 consequences, access to the community
8 mitigation fund is available.

9 CHAIRMAN CROSBY: Correct, good
10 point, thank you. There's a third bite at the
11 Apple.

12 COMMISSIONER ZUNIGA: Could I
13 mention something about the problem giving
14 topic? I think it's maybe obvious to a couple
15 of us, but I think it's important for the
16 record to underscore what you mentioned.

17 We're spending quite a bit of money
18 on a baseline study as we speak to try to
19 determine what is the level of impact currently
20 on the state and the region, the environments.
21 Our Public Health Trust Fund is projected to be
22 perhaps close to 30 percent of what is spent
23 nationally in the United States currently for
24 addressing problem gambling. So, I think it is

1 very important to remember that we are covering
2 this.

3 The Legislature gave us the tools,
4 very important and powerful tools to study it
5 first and then address it. Even though
6 proximity may be a factor, I think it's
7 important to look at it where we're looking at
8 it from which is at the state level and with
9 the appropriate prior research rather than
10 assigning it to our surrounding community
11 discussion.

12 CHAIRMAN CROSBY: That's a really
13 important point. Thank you. And also, not
14 only are we doing the statewide study, be we
15 will also have a sample of the immediate
16 region, the most heavily impacted region.

17 So, if, for example, if Leominster
18 were selected to be the licensee, we'll have a
19 sample of the immediate impact, the primary
20 area. We're going to know more about what is
21 happening than any community can possibly find
22 out on their own (A). And (B) we are going to
23 have more resources to deal with it than any
24 community could possibly have.

1 So, it's a very important point that
2 this is one that the Legislature got right and
3 we will address.

4 Do we have a motion?

5 COMMISSIONER STEBBINS: I was just
6 going to say in reviewing the information we've
7 gotten from the city of Fitchburg, it just
8 raised kind of the ironic question of
9 designating a community as a surrounding
10 community based on what I see as one of the
11 positives. You have a community with high
12 unemployment rate, looking for jobs. It's nice
13 to have a mix of jobs in the region be they
14 full-time or part-time.

15 The question of a strain on
16 inspectional services, most of the inspectional
17 services revenues are all driven by and based
18 on inspections. It's not driven by general
19 appropriation by a community. I'm not sure if
20 that's how Fitchburg operates. I only saw the
21 positives even though it seems that those
22 things seem to be a negative that would warrant
23 the surrounding community designation.

24 Hopefully, it will stress that our

1 applicant and the city could work something out
2 that would focus on any type of agreement would
3 have a positive impact and being strategic
4 about that.

5 CHAIRMAN CROSBY: Anybody else?

6 COMMISSIONER CAMERON: I am
7 persuaded that between the RPAs and the experts
8 that we have hired that we've looked at all of
9 the potential impacts in the petition. And
10 they do not rise to the level of designating as
11 a surrounding community.

12 CHAIRMAN CROSBY: So moved.

13 COMMISSIONER CAMERON: I move that
14 we do not designate Fitchburg as a surrounding
15 community.

16 CHAIRMAN CROSBY: Second?

17 COMMISSIONER MCHUGH: Second.

18 CHAIRMAN CROSBY: Any further
19 discussion? All in favor of denying the
20 application for surrounding community status by
21 community of Fitchburg signify by saying aye,
22 aye.

23 COMMISSIONER MCHUGH: Aye.

24 COMMISSIONER CAMERON: Aye.

1 COMMISSIONER ZUNIGA: Aye.

2 COMMISSIONER STEBBINS: Aye.

3 CHAIRMAN CROSBY: All opposed? The
4 ayes have it unanimously.

5 MR. ZIEMBA: One thing I wanted to
6 mention Commissioners is at the last meeting,
7 the applicant did note that they had an
8 agreement that they had offered to nearby
9 communities and that they would keep that
10 agreement on the table. I'm not saying that
11 that's connected to your analysis that you just
12 completed, but I will note that for the record
13 in addition to potential for community
14 mitigation fund.

15 CHAIRMAN CROSBY: That was gracious
16 of them. And I appreciate you reminding us.

17 MR. ZIEMBA: And I think since they
18 included that assertion that would likely be
19 part of our application process by which
20 they're held.

21 CHAIRMAN CROSBY: Right.

22 MR. ZIEMBA: Let's move onto
23 Sterling. If you look at page three of the
24 packet, Sterling and Leominster share a border.

1 Both the applicant and the community agreed
2 that the proposed facility is within one-
3 quarter of a mile of the Sterling border.

4 The applicant argues that Sterling
5 is not in proximity to the project, because
6 Jungle Road the site of the project is on a
7 dead-end road that does not extend into
8 Sterling. That the center of Sterling is
9 approximately 5.5 miles from the project. And
10 that the likely driving route between the
11 project and the town would be Jungle Road to I-
12 190.

13 The applicant and Sterling disagree
14 about the likelihood of future extensions of
15 Jungle Road to other Sterling Roads. Sterling
16 notes that there are a number of full-service
17 restaurants located within one mile from the
18 slot parlor site. We reference that two,
19 three, five issue previously. One-quarter of a
20 mile would be well within such standard offered
21 by the Legislature's amendments.

22 Infrastructure, page nine, the town
23 of Sterling argues that town roadways directly
24 servicing or impacted by the proposed slots

1 parlor include Route 12, Route 62, Chocksett
2 Road and Pratt's Junction Road. And that I-190
3 runs through Sterling for approximately six
4 miles. And it is one of the major feeder roads
5 to the slots parlor.

6 The town argues that PPE's own data
7 from its travel consultants Stantec
8 acknowledges that there will be increased
9 traffic on I-190, Route 12 and Route 62 as a
10 direct result of vehicles going and coming from
11 the slots parlor. There are already several
12 areas of special traffic concern. The on and
13 off ramps at Route 12 and the I-190
14 interchange, the intersection of Route 12 and
15 Chocksett Road, the intersection of Chocksett
16 Road and Pratt's Junction Road and Route 62
17 from the Clinton town line to Route 12 in
18 Sterling which will be a major route from
19 Clinton to the site. These concerns will be
20 heightened as a result of traffic flowing to
21 and from the slots parlor.

22 It is reasonable and logical to
23 conclude and commonsense dictates that an
24 increase in traffic will lead to an increase in

1 traffic accidents and motor vehicle law
2 violations. One may also reasonably assume
3 that the slots parlor will generate more day
4 tour bus traffic to and from the slots parlor
5 which would heighten the likelihood of
6 significant motor vehicle accident involving
7 multiple casualties.

8 The applicant notes the project will
9 add only two PM peak hour vehicle trips to
10 Route 62 and one PM peak hour vehicle trip to
11 Route 12. These two peak hour and one peak
12 hour vehicle trip projections compare to the
13 theoretical 2800 vehicle per hour capacity of a
14 two-lane two-way highway. Similarly, the
15 applicant also states that the projected
16 traffic will not result in any change in
17 operational level service at any intersection.

18 Similar to what was reported in the
19 past, the August 27, 2013 meeting the MRPC
20 according to its minutes, concerns were raised
21 regarding Route 117 in Lancaster and Bolton.
22 Both the MRPC analysis recommends the study of
23 those intersections, no intersections in
24 Sterling were recommended to study.

1 The city of Leominster's peer-review
2 of the applicant's traffic plan indicated no
3 significant impact on Sterling's transportation
4 infrastructure. No Sterling intersections were
5 included in the ENF certificate on the list to
6 be studied by the applicant.

7 Green International noted that the
8 proposed casino is located on Jungle Road that
9 its close proximity to Route 117 and I-190 all
10 in Leominster. While there was no direct
11 connection between the proposed casino location
12 and the town of Sterling, traffic from Sterling
13 could access the proposed casino via Route 12,
14 Willard Street and Route 117. Traveling along
15 this route, the project site is approximately
16 2.4 miles from the Leominster/Sterling, and
17 approximately 5.5 miles from the center of
18 Sterling.

19 Vehicles could also use the
20 residential roadway of Old Mill Road to travel
21 between Willard Street and Jungle Road access
22 the site. However, it's more likely that any
23 traffic originating from Sterling would to
24 access the casino site using I-190 either from

1 Route 12 or Route 490 (SIC) interchange rather
2 than continuing on local roads from Sterling
3 and into Leominster.

4 While the Stantec report did not
5 specifically address traffic originating from
6 and traveling through Sterling, it assumed that
7 one percent of the site traffic would travel
8 along the Old Mill Road but noted that this was
9 a conservatively high estimate.

10 The proposed casino site is situated
11 approximately 5.5 miles from Sterling. There
12 is no direct route from Sterling to the
13 proposed casino site, not including I-190 that
14 is a major regional highway passing through the
15 town.

16 There are no analysis for Route 12
17 in Sterling by the applicant. Based on the
18 trip distribution presented by the applicant,
19 approximately five vehicle trips during the PM
20 peak hour and eight during the Saturday peak
21 hour of the casino would use local roads within
22 the town of Sterling.

23 This level of additional vehicle
24 trips is not expected to result in any

1 noticeable change in traffic operations.

2 I'll skip ahead to significant peak
3 vehicle generation on state and federal
4 highways, based on the applicant's market
5 analysis and traffic study, 20 to 22 percent --
6 22.5 percent of all traffic is expected to use
7 I-190 to and from south of the project site as
8 a result would travel through the town of
9 Sterling and I-190. While this amount could be
10 considered significant, I-190 is a major
11 regional highway. The vast majority of this
12 traffic would stay on I-190 and pass through
13 the town.

14 Green also reviewed the historical
15 crash data on I-190 in the town of Sterling.
16 The data reviewed were the three latest years
17 contained in the Mass. DOT records.

18 Based on the current crash rate in
19 this segment of I-190, the additional traffic
20 could be expected to result in an additional
21 .79 crashes per year, i.e. less than one
22 additional crash per year. While we are
23 sensitive to the fact that all crashes are
24 important, if one additional crash per year

1 occurs in this section due to the proposed
2 casino, it would not significantly change the
3 overall crash data and the average crash rate
4 would remain low, below the statewide average
5 for this type of highway.

6 If you turn to page 37, development,
7 Sterling has not indicated that the
8 construction as a concern in its petition. The
9 applicant argues that Sterling cannot
10 demonstrate noise or environmental issues will
11 have a significant or adverse impact.

12 Green International found that the
13 applicant stated that construction related
14 heavy traffic would be controlled and remain on
15 the area's major roadways. I-190 would provide
16 the major route of access for transporting
17 materials to the site. These vehicle trips are
18 not expected to use Route 12 along the southern
19 end of Leominster through Sterling. However,
20 it is fairly early in the process to know
21 definitively regarding the sources of
22 materials.

23 In addition, construction traffic
24 including the facility that materials are

1 procured from would be controlled to a degree
2 by the applicant. Thus the direct impact of
3 construction traffic along routes in Sterling
4 will be minimized.

5 If you move forward to operation
6 page 41, the town of Sterling argues that there
7 are societal and public safety impacts
8 associated with the proposed slot parlor
9 including a potential for increased larcenies
10 and other crimes in Sterling. The slots parlor
11 proposal includes locating a police substation
12 within the facility and surveillance cameras
13 both inside and outside. While this will
14 certainly have a positive impact on reducing
15 crime at the site, it will have the inevitable
16 and foreseeable consequence pushing criminal
17 activity to other locations away from the
18 police presence and cameras, which means into
19 Sterling, less than a quarter-mile away.

20 A potential for increased gambling
21 addiction, which could strain the social
22 service infrastructure of Sterling, if
23 employment opportunities at the Leominster
24 slots parlor leads to more people choosing to

1 reside in the neighboring town of Sterling,
2 there will be an increased number of students
3 entering the Sterling school system which will
4 lead to further economic pressures on
5 Sterling's budget.

6 Sterling is also concerned for the
7 reduction of property values that will result
8 to homes in the vicinity and the proposed slots
9 parlor, not only out of concern for the owners
10 of those properties but also for the diminution
11 of property taxes that will result.

12 The applicant responded that
13 increased crime and increased gambling
14 addiction appears to be speculation that has no
15 basis in fact. And that the facility will
16 benefit from an onsite police station and State
17 Police presence. And that the average
18 demographic of a casino customer is 55 years of
19 age or older. And that there is no proximate
20 physical connection between the project site
21 and the town.

22 That applicant asserts no causal
23 relationship between the opening of a gaming
24 facility and property values and noted that

1 most of the jobs are to be filled by Leominster
2 and area residents and that there is a
3 significant housing stock in Leominster.

4 Would it be fair to characterize
5 your results, Mr. Vander Linden, for Sterling
6 as similar or very similar to the ones that you
7 raised in Fitchburg?

8 MR. VANDER LINDEN: Yes.

9 CHAIRMAN CROSBY: Is there any
10 significant differences?

11 MR. VANDER LINDEN: Not that I could
12 tell. And as with Fitchburg as with Sterling
13 as with other communities, I think it's
14 important to understand that it's all
15 contextual and that while it might point to a
16 lot of evidence that would lead in one
17 direction or the other that the community
18 itself what is the current availability of
19 gambling and what are the community demographic
20 characteristics are really important to
21 consider. And I think that as you pointed out,
22 Mr. Chairman -- I'm sorry, Commissioner Zuniga
23 that we are spending a lot of money to try to
24 understand this at a very local level and so

1 that we can sort of differentiate and sort out
2 this context to really get a good determination
3 of it.

4 CHAIRMAN CROSBY: That's a good
5 point. Because the study is not just on
6 problem gambling. The study is everything, so
7 it's domestic violence, property values, job
8 starts, demand on public services, crime.
9 Again, we'll be doing this at a level of detail
10 that will inform subsequent conversations and
11 can inform the community mitigation fund which
12 is there to deal with unanticipated problems.
13 So, it's a good point. It's more than just
14 problem gambling.

15 MR. ZIEMBA: So, I will not go into
16 the Lynn D. Sweet Consulting Group had similar
17 results to the housing study related to
18 Sterling.

19 Then lastly, Sterling indicated a
20 concern regarding its water supply and
21 increased demand on water/sewer system. We
22 asked for a study by City Point Partners that
23 indicated that both Sterling statements on
24 water use and sewer use are unsupported

1 allegations. Leominster's water supply is
2 adequate capacity to serve future needs and
3 that Leominster's sewer systems have capacity.

4 On number five other, there is
5 nothing to report. Number six positive
6 impacts, these are the similar impacts as the
7 ones that I previously mentioned. We are ready
8 for any questions that you may have.

9 CHAIRMAN CROSBY: Commissioners?

10 COMMISSIONER ZUNIGA: I will only
11 highlight something that the petition here that
12 is also resulting in our ability to address it
13 in the future if it presents itself by virtue
14 of the community mitigation fund. I believe
15 their concern that additional access where
16 currently none exists would be a concern. If
17 that manifests itself clearly, a very important
18 tool would be that community mitigation fund
19 that they could apply to.

20 COMMISSIONER MCHUGH: I just note
21 that the concern about problems arising from
22 the fact that there are 12 restaurants, I think
23 was the number 12 restaurants or the business
24 establishments that might be attended by people

1 who were going to or from a gaming
2 establishment is another example of something
3 the legislation was designed to encourage. So,
4 it's a positive benefit. And one that we
5 strongly encourage as well through the urging
6 that cross-marketing and the like be
7 undertaken. So, that really falls not in the
8 negative category but in the positive.

9 CHAIRMAN CROSBY: Yes, I agree. I
10 think the point about our research project, I
11 hadn't really thought about this before, but
12 our research project will be doing very, very
13 careful analysis of all of the impacts, of all
14 of the things that any community including and
15 hope for surrounding community that we're
16 dealing with now will have real, real data,
17 hard finite data on the impacts. And we will
18 use that.

19 If we were wrong in some of our
20 judgments here and there are impacts, we will
21 use that data that the Legislature is having us
22 collect to inform our use of the community
23 mitigation fund. I think it's worth putting
24 that in our opinions. I think that should be a

1 summary assurance. If we miss one here, we
2 will have really good data to demonstrate that
3 and that will help us to figure out where to
4 spend our community mitigation money.

5 This is just for the record, Mr.
6 Scully, but in your concluding opinion on
7 Sterling as I think in others you say that it
8 is not evident based on the information that
9 has been reviewed and evaluated that the
10 facility would cause a significant adverse
11 effect. I assume that you have had enough
12 information to evaluate and review to feel
13 confident in your judgments.

14 MR. SCULLY: Yes.

15 CHAIRMAN CROSBY: Do I have a motion
16 on the issue on surrounding community status
17 for Sterling?

18 COMMISSIONER MCHUGH: I'd move that
19 the petition of Sterling to be designated as
20 surrounding community be denied.

21 CHAIRMAN CROSBY: Second?

22 COMMISSIONER STEBBINS: Second.

23 CHAIRMAN CROSBY: Any further
24 discussion? All in favor of the motion to deny

1 the petition for surrounding community status
2 for Sterling signify by saying aye, aye.

3 COMMISSIONER MCHUGH: Aye.

4 COMMISSIONER STEBBINS: Aye.

5 COMMISSIONER ZUNIGA: Aye.

6 COMMISSIONER CAMERON: Aye.

7 CHAIRMAN CROSBY: Any opposed? The
8 ayes have it unanimously.

9 MR. ZIEMBA: Mr. Chairman, we could
10 go to Dighton first and then take Bridgewater
11 to finish. Dighton, if you look at page three
12 of the Dighton proposal, no information
13 regarding Dighton's proximity to the Raynham
14 facility into Raynham was provided by Dighton
15 or the applicant. According to Google maps
16 this is between the Raynham facility and
17 Dighton there is 12.7 miles with a commuting
18 time of 27 minutes traveling along Route 138 or
19 16.9 miles and 25 minutes traveling on Route
20 24. This compares to the two, three, five that
21 I mentioned earlier.

22 If you go to page seven, traffic
23 infrastructure, Dighton's petition did not
24 mention traffic as a concern. The town of

1 Dighton's petition to be designated as a
2 surrounding community stated that the town
3 requests that its possible designation in
4 relation to the Raynham slots parlor remain
5 undecided until the parlor's actual impact on
6 this town can be accurately assayed when the
7 slot parlor actually commences operations.

8 The accompanying letter from the
9 chief for the town of Dighton fire department
10 stated that I see no impact on the town of
11 Dighton with any of these establishments other
12 than a possible call for mutual aid to a
13 surrounding town.

14 The applicant opposes the petition
15 because the community is not likely to
16 experience impacts from the development or
17 operation of the Raynham Park Gaming
18 establishment. The applicant's nearby impact
19 report compiled by Nitsch Engineering, which
20 concluded that a number of geographically
21 closer communities were not significantly and
22 adversely impacted, did not study Dighton's
23 impacts.

24 The Commission contracted with

1 Southeast Regional Economic Development
2 District, SRPEDD and the Old Colony Planning
3 Council to study potential impacts of a
4 facility on nearby communities. SRPEDD
5 concluded that SRPEDD's analysis was not
6 detailed enough to find a measurable
7 deterioration of a level of service at
8 locations in other communities in the SRPEDD
9 region including Dighton attributable to the
10 Raynham facility.

11 Dighton was not addressed in the
12 project's ENF certificate. In some analysis by
13 Green, increased traffic volumes on local
14 streets as noted above, the casino related
15 traffic in Dighton is 60 vehicle trips per day
16 based on the SRPEDD travel model. If all were
17 to be on Route 44, this would result in an
18 increase of approximately .5 percent. That
19 would be considered minimal.

20 While there is limited potential for
21 casino related traffic to travel through the
22 local roadways in the town of Dighton, it is
23 not evident based on the information that has
24 been reviewed and evaluated that the facility

1 would likely cause a significant and adverse
2 traffic impact on the subject roadways. The
3 surrounding community determination will need
4 to be based on other facts including geographic
5 proximity to the site and host community and
6 operational concerns.

7 If you move to the operational on
8 page 33, Dighton did not reference specific
9 operational concerns other than the potential
10 that any facilities might have mutual aid
11 requests. I note the previous analyses that I
12 just mentioned. Also included in your
13 responses in an analysis that was conducted
14 regarding the Raynham related housing
15 facilities. In the Raynham related housing
16 facilities analysis concluded a very similar
17 result to the result that was included in the
18 Fitchburg, Sterling and Bolton materials in
19 relation to the availability of housing in
20 Raynham and the likelihood that this would have
21 no significant impact upon the housing stock.

22 In the other, there is no other.
23 Then regarding the positive impacts, the
24 applicant's application includes a description

1 of many positive impacts of the proposed
2 facility including approximately an annual tax
3 revenue of \$137,800,000 for the state. The
4 economic impact of the facility statewide will
5 be the creation of nearly 1800 total job
6 opportunities providing nearly \$73 million in
7 annual employee earnings and approximately 800
8 persons employed from the area at the facility.

9 Further, it projects \$38 million
10 annually in regional goods and services. In
11 addition, regional businesses will realize
12 between \$150 to \$190 million per year in
13 revenues. I welcome any questions.

14 COMMISSIONER MCHUGH: This is really
15 just a placeholder application, right, in the
16 last analysis, isn't it? They are requesting
17 that we wait. And that's really what the
18 community mitigation fund is all about.

19 CHAIRMAN CROSBY: Exactly. Most of
20 the petitioner's claim includes this quote:
21 "its possible designation in relation to a
22 Raynham slot parlor remain undecided until the
23 parlor's actual impact on the town campaign
24 accurately assayed." And that's what it says

1 in each case, and I appreciate the point. But
2 Commissioner McHugh I agree said it exactly
3 right. That is exactly what the community
4 mitigation fund is for.

5 Anything else, comments?

6 COMMISSIONER MCHUGH: I would move
7 that the petition of Dighton to be designated
8 as a surrounding community be denied.

9 COMMISSIONER CAMERON: Second.

10 CHAIRMAN CROSBY: All in favor of
11 the motion to deny the petition of Dighton to
12 be a surrounding community, signify by saying
13 aye, aye.

14 COMMISSIONER MCHUGH: Aye.

15 COMMISSIONER STEBBINS: Aye.

16 COMMISSIONER ZUNIGA: Aye.

17 COMMISSIONER CAMERON: Aye.

18 CHAIRMAN CROSBY: Opposed? The ayes
19 have it unanimously. I am going to suggest a
20 quick break and we'll come back to Bridgewater.

21

22 (A recess was taken)

23

24 CHAIRMAN CROSBY: We're ready to

1 reconvene for our fifth surrounding community.
2 We are reconvening at 11:00. Mr. Ziemba, are
3 you ready to pick up?

4 MR. ZIEMBA: Great. Counsel Blue
5 and I were just discussing potentially before
6 we get to the last one maybe it might make
7 sense to deal with the Fitchburg involuntary
8 disbursements petition, which accompanied the
9 Fitchburg surrounding community petition.

10 One of the standards in our
11 regulations for an involuntary disbursement is
12 that the community will likely be designated as
13 a surrounding community. Now that we have the
14 status and we know the status that they have
15 not been designated as a surrounding community
16 that impacts the involuntary disbursements
17 standard.

18 COMMISSIONER MCHUGH: So, I would
19 move -- although I thought we did this last
20 week, I would not the petition, the Fitchburg
21 petition for involuntary disbursements be
22 denied.

23 COMMISSIONER CAMERON: Second.

24 CHAIRMAN CROSBY: Any other

1 discussion?

2 COMMISSIONER ZUNIGA: No. I think
3 much of the discussion we had on this very
4 topic really transfers to the same petition.

5 CHAIRMAN CROSBY: Including a point
6 about the research that'll be done and the
7 community mitigation fund. All in favor of the
8 motion signify by saying aye, aye.

9 COMMISSIONER STEBBINS: Aye.

10 COMMISSIONER ZUNIGA: Aye.

11 COMMISSIONER MCHGUH: Aye.

12 COMMISSIONER CAMERON: Aye.

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

15 MR. ZIEMBA: Then Counsel Blue has
16 something to report regarding impacted live
17 entertainment venues.

18 MS. BLUE: In your Commission
19 package under section 5c we had a petition from
20 South Shore Music Circus to be designated as a
21 impacted live entertainment venue. We received
22 word late last night that the applicant,
23 Raynham, has agreed to designate them as an
24 impacted live entertainment venue. We believe

1 they will assent and that they will work
2 together to create an appropriate agreement.
3 So, the Commission need not take action on that
4 today as they have designated them.

5 CHAIRMAN CROSBY: Great. Do you
6 have any more like that?

7 MR. ZIEMBA: Now onto Bridgewater,
8 go over to page three in your Bridgewater
9 packet. In regard to proximity, Bridgewater
10 states that other than the city of Taunton,
11 Bridgewater and Raynham share a border far
12 greater than any other town. The applicant's
13 nearby community's impact reports states the
14 proposed facility is approximately one mile
15 from Bridgewater's town line, two miles by road
16 and approximately 4.2 miles to the municipal
17 center. Google maps provides an estimated
18 commuting distance of 7.9 miles and 17 minutes
19 between the site of the proposed facility and
20 Bridgewater town hall using Routes 138, 106 and
21 28.

22 If you look at infrastructure, page
23 seven, the town of Bridgewater claims that the
24 developer's study fails to identify any

1 destination traffic coming from the south or
2 east through Bridgewater. Yet, it is self-
3 evident that the applicant's project will
4 generate at least some traffic from the south
5 coast area.

6 We question the thoroughness of a
7 study that fails to account for any traffic
8 coming from a population of roughly 175,000
9 year-round residents. Of particular concern of
10 Bridgewater is an intersection at Route 104 and
11 Elm Street East.

12 Additionally, the town indicates a
13 concern that Bridgewater will experience
14 greater strain on its first responders to
15 incidents on Routes 24 and 495. Further,
16 Bridgewater notes that 60 percent of its mutual
17 aid calls are generated from Raynham.

18 In Bridgewater's testimony before
19 the Commission, Bridgewater stated an increase
20 in traffic on Routes 24 and 495 as the
21 applicant concedes will generate additional
22 emergency calls from Bridgewater as the first
23 responder.

24 Since 2006, our fire department has

1 responded to almost 500 calls on Route 24 and
2 495. Since 2006, our police department has
3 responded to over 300 calls to the most
4 westerly part of Route 104. Since 2006, our
5 fire department has responded to almost 100
6 calls for mutual aid to Raynham with whom we
7 have a mutual aid agreement. And increase in
8 traffic to and from the applicant's proposed
9 facility will require additional resources from
10 the town of Bridgewater.

11 The applicant states that both its
12 nearby community's impact report and its
13 traffic impact study conclude that Bridgewater
14 is not likely to experience impact from the
15 construction or operation of a Raynham Park
16 gaming establishment. The applicant's nearby
17 community's impact report concludes that use of
18 minor local roadways to access the site is
19 anticipated to be minimal.

20 The Commission contracted with the
21 Old Colony Planning Council to conduct an
22 analysis of impacts likely to be experienced by
23 nearby communities. In its analysis, the OCPC
24 stated that the traffic impact study highlights

1 the fact that the proposed project is
2 sandwiched between I-495 Route 24 and claims
3 that 70 percent of the trips generated by the
4 proposed project will use those limited access
5 highways.

6 Although a large amount of traffic
7 is expected to utilize I-495 and Route 24, the
8 local road network will still be a viable
9 option for patrons and employees, and therefore
10 should be included in the expanded study area.
11 Specifically, the study area should include --
12 should analyze traffic impacts on a number of
13 different routes that the OCPC names including
14 Route 104 in Bridgewater.

15 The OCPC also noted the applicant's
16 nearby community impact report does not take
17 into account potential public safety impacts
18 that may be experienced by surrounding
19 communities as a result of the project. The
20 responsibility to respond to these traffic
21 related issues will be addressed by the
22 community in which the issue occurs.

23 The environmental notification form
24 certificate for the project did not include any

1 recommendation to study intersections in
2 Bridgewater.

3 Green International finds that the
4 Nitsch traffic study examined locations
5 essentially along Route 138 in Raynham north of
6 Route I-495. The information provided in the
7 study or other sources within the application
8 does not provide a substantial amount of
9 information relative to the potential traffic
10 impact on Bridgewater.

11 Mass. DOT comments to date have been
12 in relation to the ENF filed by the applicant.
13 In the comment letter, the DOT comments focused
14 on Route 24 or Route 106 as well as the
15 applicant's forecast methods. The DOT did not
16 mention any potential concern relative to Route
17 104 in the town of Bridgewater nor called for
18 the applicant to provide to include any
19 subsequent environmental studies. One possible
20 reason is that Route 104 west of Bridgewater
21 center is not under Mass. DOT jurisdiction
22 within the exception of the area of the Route
23 24 interchange.

24 In contrast to Mass. DOT, both

1 regional planning agencies, Old Colony Planning
2 Council and Southeastern Regional Planning and
3 Economic Development District, SRPEDD, have
4 commented to MEPA that the applicant study has
5 adequately evaluated a broad enough area
6 including the Route 104 corridor in
7 Bridgewater. Both have called for it to be
8 included in subsequent MEPA analysis.

9 The proposed slots casino in Raynham
10 is to be located off 138 on the site of the
11 former of greyhound racing site. That site is
12 currently active with the simulcast activities
13 and other unrelated activities occurring. 138
14 is a state owned and maintained roadway and is
15 maintained in this area, a two-lane highway.

16 North of the site is Route 106 in
17 Easton. The Route 106 intersection with Route
18 138 is currently signalized and is planned for
19 some improvements by DOT.

20 Approximately 1.5 miles south of the
21 site is Route 138 interchange with I-495. Elm
22 Street intersects with 138 approximately 1.3
23 miles south of the site and the intersection is
24 controlled by traffic signal.

1 The Nitsch study estimates that the
2 proposed casino project will result in a total
3 traffic generation of approximately 7500 over
4 the course of the day with a net new number of
5 trips being approximately 5850. The town of
6 Bridgewater is located to the east of Raynham
7 and is a bordering community.

8 Elm Street that is located south of
9 the project site on Route 138 provides a
10 connection to Route 104 in Bridgewater. Route
11 104 is a state numbered route that passes
12 through Bridgewater and later intersects with
13 Route 106 in East Bridgewater where that route
14 continues to the east providing access to
15 communities such as Halifax, Plympton and
16 Kingston.

17 Within Bridgewater, Route 104
18 connects to the town center where it intersects
19 with Route 18 and 28 to routes that provide
20 connections to Middleboro and Lakeville. Route
21 104 which comes under the jurisdiction west of
22 the town center intersects with Route 24 as
23 well. Based on the data from the OCPC, the Elm
24 Street area east of Route 138 in Raynham

1 carries approximately 4200 vehicles per day
2 while Route 104 just west of Route 24
3 interchange was observed to have a daily volume
4 of approximately 9800 vehicles.

5 One pattern that has been noted is
6 that a relatively large movement of motorists
7 travel between I-495/Route 138 interchange and
8 the Elm Street/104 section avoiding the Route
9 104/Route 24 interchange to I-495 movement.

10 The Nitsch study notwithstanding
11 being limited in study area and questions
12 pertaining to trip forecasting projects
13 approximately five percent of the casino
14 traffic to use Elm Street to and from the east.
15 Our review of the analysis and information
16 provided by the applicant as well as the
17 information from the regional planning agencies
18 would suggest that this movement may be between
19 five and eight percent.

20 Based on these percentage and
21 presume that the Nitsch forecasts are
22 reasonably correct in terms of total site
23 traffic results in daily and weekend PM peak
24 hour estimates of added traffic on Elm Street

1 and Route 104 in Bridgewater of approximately
2 375 to 600 over the day and 55 to 90 during the
3 PM peak hour. Again, the applicant did not
4 provide analyses of peak Saturday conditions,
5 but based on our assessment, the Saturday peak
6 hour added volumes to Elm Street due to the
7 casino could exceed 100 vehicles.

8 The relative traffic increases in
9 Elm Street east of Route 138 and Route 104
10 between Elm Street and Route 24 interchange
11 were calculated based on a potential and the
12 trips to the streets. This results in an
13 estimated daily increase of between eight and
14 14 percent on the Elm Street section and four
15 to six increase on the Route 104 section. The
16 weekday peak hour increases would be between 10
17 and 17 percent on Elm Street and 6 to 10
18 percent on the subject Route 104 section. At
19 these levels, the increases could be noticeable
20 and may result in changes in operating
21 conditions at key locations particularly
22 unsignalized intersections.

23 There is no analysis for this
24 corridor by the applicant. So, the current

1 operating levels are not fully known. However,
2 analysis provided by OCPC shows that the Route
3 104 intersection with Elm Street is currently
4 operating poorly at a level of F while the
5 signals at the Route 24 interchange ramps are
6 operating at level service D or better.

7 An increase of 90 vehicle trips
8 could potentially alter the levels of service,
9 although the Route 24 ramp intersection will
10 continue operating at acceptable levels, but
11 the motorist delays at the unsignalized
12 intersection of Route 104 with Elm Street could
13 be significantly increased. Again, there's no
14 peak Saturday analysis completed by the
15 applicant.

16 Based on the above it is estimated
17 that the PM peak hours increases at Elm Street
18 range from 10 to 17 percent during the weekday
19 peak hour. And while Route 104 increases could
20 range from six to 10 percent, daily traffic
21 increases would be generally similar. The
22 levels of service would likely be noticeable
23 and would be considered moderately high.

24 Significant peak vehicle trend on

1 highways on state and federal highways, the
2 state highway that passes through Bridgewater
3 would be a potential concern is 104. The trip
4 generation related to the casino trips would be
5 between 50 to 90 vehicle trips. While Saturday
6 peak analysis is not completed, we would
7 estimate site trips potentially added to Route
8 104 during this time would be greater than 100
9 vehicle trips. The level of added trips to the
10 two-lane Route 104 highway would likely be
11 noticeable and could be considered significant.

12 As a result of the level of casino
13 related traffic estimated to pass through the
14 town of Bridgewater while traveling to the
15 casino based on the information that has been
16 reviewed and evaluated, based on the above
17 factors considered in the surrounding community
18 evaluation, it is our opinion that there would
19 be a significant and adverse traffic impact.

20 If the Commission would go to page
21 25 development -- excuse me, page 29 on
22 operations, if you could summarize your
23 development recommendation.

24 MR. SCULLY: On which subject, John?

1 MR. ZIEMBA: On Bridgewater.

2 MR. SCULLY: You just gave the
3 concluding opinion.

4 MR. ZIEMBA: Construction.

5 MR. SCULLY: Oh, construction, I'm
6 sorry. Again, it's very early in the process
7 to know exactly where construction materials
8 and construction vehicles will be routed.
9 However, you have 138 within one and a half
10 miles of the 495 interchange. So, we would
11 expect most of the construction heavy vehicle
12 trips to be on the main routes and to use the
13 regional highway system.

14 Again, similar to the others, once
15 you get into the construction management phase,
16 it is something that is controllable so that
17 you can work with your contractors scheduling
18 as well as routes. There should be again on
19 long haul trips, nonlocal generated
20 construction vehicles, no reason to be
21 traveling along Route 104 with construction
22 type traffic.

23 MR. ZIEMBA: Thank you, Bill.

24 Operations, page 35, Bridgewater's critical

1 concern and one not contemplated by the
2 Expanded Gaming Act in its regulations was the
3 potential impact on Bridgewater's shared
4 regional school district.

5 Bridgewater expressed concern that
6 Raynham with additional contributions from the
7 applicant could dissolve the regional school
8 district. Further, higher contributions from
9 Raynham could negatively impact educational
10 opportunities in Bridgewater. Bridgewater also
11 expressed concern that its lower housing costs
12 could lead to greater school enrollment.

13 The applicant provided no response
14 to the concern about regional school budgets,
15 however, its nearby community's impact report
16 states that based on the history of the site,
17 the size of the project and the site's
18 proximity to residential neighborhoods in
19 nearby communities there will be minimal
20 impacts to the housing market in nearby
21 communities.

22 The OCPC states that it seems
23 unlikely that there would be a major housing
24 impact associated with the slot parlor and the

1 surrounding communities under the maximum job
2 scenario of 600 new jobs. Almost all of the
3 positions consisting both mostly of unskilled
4 and semi-skilled jobs would be able to be
5 filled by applicants within a 30-minute commute
6 of the site without requiring the construction
7 of new housing and new families into the
8 surrounding communities but that this result
9 cannot be guaranteed.

10 Neither of the Commission's internal
11 staff nor outside consultants have determined
12 the method to verify whether Bridgewater's
13 concerns about regional school budgets and
14 participation by Raynham are likely. There is
15 no reference to contributions to school budgets
16 in Raynham's host community agreement.

17 The Lynn Sweet Consulting Group
18 noted that we find it cannot be determined from
19 the submitted materials and our independent
20 evaluation that the communities surrounding
21 Raynham will be significantly and adversely
22 affected by the operation of the gaming
23 establishment after its opening due to the
24 housing impacts resulting from this facility.

1 They also noted Old Colony Planning
2 Council document examined vacant units in a 20-
3 mile radius around the site and concluded that
4 it seems unlikely that there would be a major
5 housing impact associated with the slots parlor
6 on the surrounding communities.

7 On page 66 Bridgewater other, there
8 is nothing although perhaps the reference to
9 regional school district perhaps would be an
10 other rather than operational concern. It
11 could fit under either.

12 And then positive impacts, I've read
13 a statement earlier regarding the job
14 opportunities that will result from the Raynham
15 facility. We are available for any questions.

16 CHAIRMAN CROSBY: Questions?

17 COMMISSIONER ZUNIGA: I did want to
18 talk about regional school district because I
19 do have some background on this myself. And
20 the background goes back to my days at the
21 School Building Authority where we saw a lot of
22 regional schools dynamics.

23 Maybe a little historical
24 perspective might help the discussion. During

1 the 80s the Department of Education
2 incentivized a lot of these regional schools to
3 form for many good reasons. They were given
4 strong incentives with the likes of additional
5 transportation money. When budget constraints
6 at the state level caused some of those
7 incentives to go away, they were later
8 reinstated in other forms, almost every
9 regional school district started to rethink
10 their region and wanted to split up back to
11 where they were.

12 So, the tensions that exist with the
13 regional schools is nothing new. Bridgewater's
14 claim here, it occurs to me, is like a spouse
15 that says I don't want my spouse to make more
16 money because that is going to cause us to
17 divorce. Moreover, Bridgewater has the
18 majority of school committee seats because they
19 are the majority -- they are the larger school
20 district in this case.

21 So, I understand the dynamics that
22 go at the local level, but I don't think that
23 this even fits in the other category that the
24 Gaming Act contemplated in terms of potential

1 impacts.

2 CHAIRMAN CROSBY: So, you don't see
3 it as --

4 COMMISSIONER ZUNIGA: I don't see
5 this as an impact. It is clearly a positive
6 impact for Raynham. They have a larger
7 commercial base where Bridgewater does not.
8 That has been a source of conflict in this
9 particular region.

10 CHAIRMAN CROSBY: Because of their
11 ability to contribute tax revenue.

12 COMMISSIONER ZUNIGA: Because they
13 can contribute tax revenue. This will further
14 be helping Raynham arguably -- not arguably, it
15 would be helping Raynham. But that in my view
16 does not make Bridgewater a surrounding
17 community that needs to be compensated for that
18 imbalance.

19 By the way, something else, if the
20 license were to go to Raynham essentially, the
21 contribution that they get will eventually be
22 factored into the Chapter 70 formula where the
23 state provides help for education.

24 CHAIRMAN CROSBY: Maybe while you're

1 here, you'd like to explain the Chapter 70
2 formula?

3 COMMISSIONER ZUNIGA: I think
4 there's about three people --

5 CHAIRMAN CROSBY: You would lose
6 everybody in the room.

7 COMMISSIONER ZUNIGA: One of the
8 factors is the relative wealth of the
9 community. And that factors into regional
10 school districts. And that often has tensions
11 in terms of the dynamics that happen locally.
12 But there will be a smoothing factor
13 eventually, I don't know how soon, that will
14 take these additional contributions to Raynham
15 eventually.

16 CHAIRMAN CROSBY: I would defer to
17 Commissioner Zuniga on that item. Others?
18 Comments?

19 COMMISSIONER MCHUGH: No. It does
20 seem to me that the traffic impact on Route 104
21 and the Elm Street piece at the bottom is
22 significant. And it is logical when one looks
23 at the map, 104 is a logical drain from the
24 center of Bridgewater over to the facility.

1 It's a small road. It's already got
2 a substantial amount of traffic. It's also a
3 logical place for people to get off of Route 24
4 and go across Elm Street to Route 138 and up.
5 So, I think that the thoughtful and careful
6 analysis by our independent experts from Green
7 supports the proposition that there will be at
8 least there is the potential for a significant
9 impact on traffic in that southwest corner of
10 Bridgewater as a result of this facility,
11 period.

12 CHAIRMAN CROSBY: What about the
13 other issues, did you see anything substantive
14 about the construction and operations?

15 COMMISSIONER ZUNIGA: Well, I think
16 the construction applies to just about
17 everybody just like Mr. Scully was outlining.
18 There are many ways to mitigate construction
19 vehicle traffic in terms of delivery times.
20 That could be stipulated to all of the vendors
21 when construction happens. The concerns that a
22 couple of these towns raise I think apply --
23 can be mitigated, in other words, very
24 thoughtfully.

1 COMMISSIONER CAMERON: There's no
2 evidence from our consultant's evaluation that
3 the other factors raised as possible
4 significant impacts. There is just no evidence
5 to say there is in school and housing in
6 particular.

7 CHAIRMAN CROSBY: Anything else?
8 Commissioner McHugh, do you want to make a
9 motion.

10 COMMISSIONER MCHUGH: Surely. I
11 move that the Commission designate the town of
12 Bridgewater a surrounding community because of
13 the traffic impacts that the facility is likely
14 to produce with respect to Route 104.

15 COMMISSIONER CAMERON: Second.

16 CHAIRMAN CROSBY: Any other
17 discussion? All in favor of the motion to make
18 Bridgewater a surrounding community due to the
19 issue of traffic please signify by saying aye,
20 aye.

21 COMMISSIONER MCHUGH: Aye.

22 COMMISSIONER STEBBINS: Aye.

23 COMMISSIONER ZUNIGA: Aye.

24 COMMISSIONER CAMERON: Aye.

1 CHAIRMAN CROSBY: All opposed? The
2 ayes have it unanimously.

3 MR. ZIEMBA: Thank you,
4 Commissioners and Chairman, I think that's my
5 report.

6 CHAIRMAN CROSBY: You had general
7 update you skipped over. Did we miss anything?

8 MR. ZIEMBA: There's a lot of things
9 happening.

10 COMMISSIONER MCHUGH: That is a good
11 general update.

12 MR. ZIEMBA: There are many in here
13 in a few minutes. So, I hope to further that.

14 CHAIRMAN CROSBY: Thank you.

15 COMMISSIONER MCHUGH: This was
16 really -- the work that you put in and those
17 who helped you over the last week was
18 significant and time-consuming and enormously
19 helpful. I don't see how we could have done it
20 with this.

21 CHAIRMAN CROSBY: Anybody who is
22 looking should notice this huge boulder of
23 stuff, much of which is original research done
24 in the last six and a half days. It was a lot

1 of work. Thank you, John and everybody else.

2 Okay, item number five General
3 Counsel Blue.

4 MS. BLUE: I am going to ask Mr.
5 Grossman to join us. Mr. Chairman, I would
6 also ask, if you want, the timing -- If you
7 want to look at some other sections before we
8 get to items number d on our legal update.

9 CHAIRMAN CROSBY: Other items?

10 MS. BLUE: If you wanted to do
11 numbers six or seven before.

12 CHAIRMAN CROSBY: To save some
13 people some time, yes.

14 MS. BLUE: We're happy to do 5a and
15 5b at the moment and get those taken care of.
16 Then if you want to do six or seven.

17 CHAIRMAN CROSBY: C is out. So,
18 let's do a and b. Then we'll come back. Then
19 the Sterling Suffolk, the Suffolk Downs
20 discussion I think we'll probably end up
21 postponing that until after lunch.

22 COMMISSIONER STEBBSIN: Catherine,
23 do we have a question on another impacted live
24 entertainment venue?

1 MS. BLUE: We addressed that. They
2 were designated. We found out late last night
3 they were designated, if you were asking about
4 the Cape Cod.

5 COMMISSIONER STEBBINS: I'm asking
6 about Hanover.

7 MS. BLUE: Hanover has already been
8 addressed, I believe, and they were designated.

9 So, Mr. Grossman will speak to the
10 small business impact statement and the notice
11 of public hearing for the licensing
12 regulations.

13 MR. GROSSMAN: Good morning, this is
14 5a and 5b in your packet. In order to move
15 forward with the draft regulations pertaining
16 to gaming employees and gaming vendors, etc.,
17 there are a number of filings that have to be
18 made.

19 5a is the notice of the public
20 hearing, which is scheduled for December 13.
21 It's a fairly standard notice. This will go
22 both in a number of newspapers across the state
23 and be filed with the Secretary of State's
24 office.

1 And then secondly, and that is 5b is
2 the small business impact statement, which is
3 required under section 2 of Chapter 30A of the
4 General Laws. It requires that five questions
5 essentially be addressed. And they are each
6 addressed in a separate paragraph here. They
7 all pertain to the impact that these
8 regulations will have on small businesses. So,
9 that's the key consideration here is just the
10 impact the regulation will have on small
11 business.

12 And we note by and large that this
13 only pertains to the vendor sections of the
14 regs. not necessarily the employee sections.
15 Then of the vendor regs., it only applies, the
16 analysis that is to those that would affect
17 small businesses.

18 So, the first question -- I don't
19 know if you've had a chance to read it, the
20 first question essentially asks us to estimate
21 the number of small businesses that will
22 impacted, which we've done. It then asks us to
23 address any enhanced record keeping or
24 reporting requirements that will be imposed

1 upon small businesses including any additional
2 financial implications.

3 Then it asks whether essentially
4 prescriptive versus design based measures would
5 be more appropriate. It asked us to consider
6 whether the proposal duplicates or conflicts
7 with any of our existing regulations and then
8 against any regulations from other agencies.
9 And then finally, it asks the Commission to
10 consider whether the proposal will help
11 encourage or discourage the formation of new
12 businesses in the Commonwealth.

13 So, we've taken a shot at answering
14 each of those. I think the intent of this is
15 just to ensure that the Commission keeps these
16 issues in mind as it moves forward with the
17 promulgation of the regulations. For that
18 purpose, it is not intended I don't think to be
19 a full-blown analysis. But we do have to
20 answer the questions fairly, I believe.

21 So, this would get filed along with
22 the notice of public hearing with the Secretary
23 of the Commonwealth's office. It becomes a
24 public document for folks to take a look at.

1 So, with that this is a draft of the
2 document that would have to be filed tomorrow.
3 So, I would welcome any comments or proposed
4 adjustments that anyone may have.

5 COMMISSIONER STEBBINS: Since you
6 looked at me, we've talked about potential
7 reporting requirements of vendors with respect
8 to diversity and everything else, more of an
9 onus on the applicants. Do we need to worry
10 about that potentially in this statement even
11 though it hasn't been succinctly formulated?
12 Should we mention it? Should we allude to it
13 or stay away from it altogether?

14 MR. GROSSMAN: You're meaning
15 potential reporting requirements of vendors?

16 COMMISSIONER STEBBINS: To vendors.

17 MR. GROSSMAN: The present draft
18 doesn't address any of that. It doesn't
19 require vendors to report anything. There is
20 some question as to whether they will be
21 required to report anything.

22 Clearly, the gaming establishments
23 will have to report to us the level of business
24 activity that they have with the individual

1 vendors. Though in my preliminary
2 conversations with others, it didn't seem clear
3 to me that the vendors themselves would have to
4 be reporting directly to us aside from filing
5 the application.

6 So, that's why there's no mention of
7 that type of reporting in this statement.

8 COMMISSIONER MCHUGH: The draft
9 regulations that this is covering, this small
10 business statement is covering don't make any
11 provision for vendors to file reports, right?

12 MR. GROSSMAN: That's right.

13 COMMISSIONER MCHUGH: So, it could
14 have later but there is nothing in these
15 regulations that would have that impact.

16 MR. GROSSMAN: That's right.

17 COMMISSIONER STEBBINS: A couple of
18 other comments. Where did you come up with the
19 500 total, 400 licenses for small businesses?

20 MR. GROSSMAN: That it's an educated
21 guess. It was the best I could describe it. I
22 discussed with other folks in the office. I
23 didn't just come up with it myself necessarily.

24 COMMISSIONER STEBBINS: If you're a

1 small business, you're excited about some of
2 those numbers.

3 MR. GROSSMAN: Yes. I don't know.
4 Your guess as good as mine. You try to figure
5 out what types of businesses would be doing
6 business with each establishment and then
7 consider the fact there will be some overlap.
8 So, it's not like each one would have
9 independent. Then we tried to project what
10 percentage of the overall vendors would be
11 small businesses with 50 or so employees.

12 And with that it also seemed to me
13 it would make sense to try to over project
14 rather under project, whereas we're supposed to
15 take into account what impact these regs. would
16 have on small businesses.

17 So, if you assume that there will be
18 a greater number than you are more sensitive.
19 With all that and based upon I spoke to Mr.
20 Acosta quickly about this and what his
21 experience was in other states and New Jersey
22 specifically, we came up with this number.
23 It's not a scientific number by any stretch.

24 COMMISSIONER STEBBINS: That's all

1 right. At a recent meeting, we obviously
2 adopted a definition of small business. Should
3 we mention that anywhere in this small business
4 impact statement?

5 MR. GROSSMAN: That would make some
6 sense. We can add that in.

7 COMMISSIONER STEBBINS: Then I just
8 in the last paragraph had some recommendations,
9 which I can show you after, just kind of clean
10 up the language a little bit.

11 CHAIRMAN CROSBY: Great, thank you
12 anything else? So, we do need a motion,
13 Commissioner Stebbins.

14 COMMISSIONER STEBBINS: Sure.
15 Motion to approve the small impact statement as
16 presented with potentially the inclusion of a
17 small business definition and some other slight
18 modifications.

19 CHAIRMAN CROSBY: Second?

20 COMMISSIONER CAMERON: Second.

21 CHAIRMAN CROSBY: Any further
22 discussion? All in favor, aye.

23 COMMISSIONER MCHUGH: Aye.

24 COMMISSIONER STEBBINS: Aye.

1 COMMISSIONER ZUNIGA: Aye.

2 COMMISSIONER CAMERON: Aye.

3 CHAIRMAN CROSBY: Opposed? The ayes
4 have it unanimously. Are these both of yours,
5 a and b?

6 MS. BLUE: Yes.

7 CHAIRMAN CROSBY: It's 11:30. And I
8 know a lot of people are here for the Suffolk
9 Downs conversation. But I'm afraid the Suffolk
10 Downs conversation is going to take a while.
11 So, we'd have to break in the middle for lunch.
12 I hate to make people wait particularly people
13 who are here to speak. But I think it would
14 better off to use this next half hour to clear
15 up these other items that are probably short
16 and come back. We'll have as short a lunch
17 break as we can.

18 COMMISSIONER ZUNIGA: As an
19 alternative, we could try to do this and extend
20 our lunch break a little later. We anticipate
21 it's going to take a long time, I guess?

22 CHAIRMAN CROSBY: I think we have
23 don't have any idea. There are at least teams
24 of speakers, and then there's for us to talk

1 about it as long as we feel we want to talk
2 about it. It could be short or it could be
3 long. I'd hate to break it up with lunch. I
4 think it would be better to do it all at one
5 time. Apologies to folks who are waiting.

6 MR. DAY: Chairman Crosby, members
7 of the Commission. What I'll do is I understand
8 that Director Wells may be nearing the
9 establishment here. So, I will do a brief
10 update, administrative update. And if possible
11 we should wait for Derek Lennon our CFAO before
12 we discuss the regulations. It wouldn't be
13 absolutely necessary, but he may be able to
14 provide some insight that the Commissioners
15 might need.

16 Let me do just a sort general
17 update. It's not very long, but I'll give it a
18 try. I wanted to just let the Commission know
19 and I know you probably experienced part of
20 this, but also I think it would be helpful for
21 the public benefit that might visit the
22 Commission. We transferred the Commission
23 reception to a more secure space attached to
24 our Licensing Division on the 10th floor. And

1 we have also been successful in hiring a full-
2 time receptionist for that area. She will
3 begin in December. We will be able to
4 permanently staff the new area.

5 We've also had our new fiscal
6 analyst has reported to work as a member of our
7 fiscal team. And we have received responses to
8 our new space RFP, and are in the process of
9 checking out the new site, potential sites for
10 new office space and reviewing their proposals.

11 We plan to be moved into our new
12 space still by September 2014. In addition,
13 our consultants are in-house, consultants for
14 our new licensing system. They are in the
15 process of helping our licensing team define
16 the business requirements and then subsequently
17 our licensing system.

18 We are also in the process of
19 developing our slot and casino project
20 monitoring approach and the resources
21 necessary, most likely external help to monitor
22 each of those projects as we move forward.
23 With that we plan to post our intention to seek
24 these services publicly. So, folks are aware

1 that we are going to pursue that kind of a
2 service. That is my administrator update.

3 What I could do is I'll just give a
4 brief introduction on our regulation update,
5 our financial regulation update and then we can
6 see where we are and possibly see if Karen is
7 here yet.

8 Let me just refer you to tab 8b. If
9 we're at tab 8b, what is included in here is
10 our CFAO, Derek Lennon has included a
11 memorandum that summarizes the related section
12 of the statute, which is section 56 that's
13 included the existing regulation, which is 205
14 CMR 121.0 which we also briefly discussed at
15 our last Commission meeting, a concept of a
16 draft proposal for assessment process and a
17 summary of the proposal itself.

18 The Commission's existing regulation
19 imposes license fees that recover operating
20 costs not otherwise paid from licensees with
21 the award of the license. The new proposal
22 would add new assessment process which is
23 designed to recover future costs through an
24 assessment of the licensees based on an

1 approved budget before each fiscal year and
2 projections, which would be based on the actual
3 expenses and revenue during a fiscal year.

4 Essentially, each licensee would be
5 responsible for license fees in addition to the
6 statutory fee with the award of a license and
7 assessments once they become a license. We are
8 recommending the foundation of this assessment
9 be included in regulation that we will use
10 internal policy to guide the process to ensure
11 consistency.

12 And in this process, I'd be happy to
13 discuss any of the documents in particular or
14 hold off a little bit and wait a little later.
15 But if the Commissioners had questions, I'd be
16 glad to take a shot at them and then we can ask
17 Derek for any clarification that I might not be
18 able to provide.

19 CHAIRMAN CROSBY: Commissioner
20 Zuniga, any elaboration?

21 COMMISSIONER ZUNIGA: I will just
22 elaborate. I think this approach is a good
23 one. It's balanced. It will allow us to
24 manage our cash flow and that of our applicants

1 a little bit better. We do have and retain the
2 ability of assessing upfront on a yearly basis.
3 But rather than taking that up front, we could
4 assess it quarterly or periodically and I think
5 that's good flexibility.

6 COMMISSIONER MCHUGH: I only had one
7 question. My question doesn't undercut that.
8 This is a good approach. But the statute says
9 that the \$600 fee is to be assessed as of July
10 1, the machines that are authorized as of July
11 1 and then pro rata for any machine authorized
12 thereafter.

13 I gather that the pro rata means per
14 month, but I am not confident of that. Which
15 would mean if that's right, it would mean that
16 it was basically \$50 a month for any machine
17 that was authorized -- \$50 for each month left
18 in the fiscal year as of the time the post-July
19 1 machine was authorized. Is that consistent
20 with the way we're approaching this?

21 MR. DAY: That is consistent with
22 our interpretation as well.

23 COMMISSIONER MCHUGH: If we give a
24 casino license in January of this year, I mean

1 a slots license in January of this year, then
2 basically we get \$300 per machine as the
3 licensing fee.

4 COMMISSIONER ZUNIGA: Yes, that
5 would be six months.

6 MR. DAY: Yes, I agree.

7 COMMISSIONER ZUNIGA: That's an
8 easier read. There's another read to that
9 particular section that would point to our
10 assessment pro rata among all applicants. But
11 because it's per slot machine I think that's
12 redundant to call it pro rata if it's per slot
13 machine. That would effectively be pro rata.

14 COMMISSIONER MCHUGH: It would have
15 to be pro rata as to calendar year or fiscal
16 year.

17 COMMISSIONER ZUNIGA: Yes.

18 CHAIRMAN CROSBY: I just want to
19 clarify. I think we talked about this before,
20 but it's very important that all of the
21 applicants have this right that among other
22 things what is being said here is that we will
23 be assessing our operating costs within a month
24 of the time licenses are awarded.

1 The fact that this fiscal year we're
2 anticipating if everything stays on schedule
3 that there will be something like \$4 million
4 assessed on licensees. The following year our
5 full operating costs will be assessed on
6 licensees, which will be somewhere in the \$15
7 to \$20 million range or maybe possibly more.
8 We're still working on our budgets.

9 But we do know that in some of our
10 applications that element was not included in
11 the cash flows. And we wanted to make
12 absolutely sure that there is no
13 misunderstanding that everybody knows that the
14 operating costs will be assessed on the
15 licensees. That's not unusual. But we want to
16 make absolutely sure that everybody is ready
17 that it starts right after we award the
18 licenses.

19 MR. DAY: Mr. Chairman, that also
20 brings up another point that I meant to
21 emphasize but I neglected. One thing is when
22 we went through this process seems very clear
23 from the statute that the cost of expanded
24 gaming in Massachusetts are to be borne by the

1 applicant licensees. That seems to be very
2 clear. So, that was part of the foundation.

3 I think your emphasis is that's what
4 we're trying to deliver. We have some work
5 here to make sure that any regulation that
6 moves forward is going to be clear and that the
7 two regulations work together. But the idea is
8 that with award of the license, there would be
9 a fee attached that would cover the operation
10 costs for the Commission. And that we were to
11 establish an assessment cost that would be
12 based on an approved budget that would then
13 carry out through the subsequent years, which
14 would be reassessed essentially based on actual
15 costs about January of each year. That may
16 again, result in an additional bill to the
17 licensees at that point.

18 CHAIRMAN CROSBY: Right, exactly.
19 The only thing that people may not have
20 understood was that this will be starting when
21 the licenses are award not when the casino
22 starts to operate. Because our operating
23 expenses have to be up and running, this
24 includes the Public Health Trust Fund too. We

1 have to spend money out of the Public Health
2 Trust Fund in anticipation of beginning of
3 operations. So, this will start with licensing
4 not with operations, which I know you know.

5 MR. DAY: That's correct.

6 CHAIRMAN CROSBY: That was the
7 message we're trying to convey here. Okay.
8 Anything else on this?

9 MR. DAY: Our next task would be to
10 try to put final touches on this and report to
11 the Commission.

12 COMMISSIONER MCHUGH: We'll put this
13 out for public comment?

14 CHAIRMAN CROSBY: I think we
15 anticipated that we would, not that you mention
16 it.

17 MS. BLUE: And if we were to draft
18 this as a regulation, it would go through the
19 normal regulatory process. So, it would public
20 comment in that venue as well.

21 CHAIRMAN CROSBY: But for our
22 applicants, anybody else who's interested, this
23 is on the website probably now or certainly
24 will be. This could be looked at by anybody

1 now, and we're interested in feedback on this
2 as we write it.

3 COMMISSIONER ZUNIGA: I may add that
4 our existing regulation gives us the authority
5 of our attention to assess as soon as a license
6 is awarded. The additional language here
7 allows us to be more flexible relative to the
8 timing of those assessments quarterly, monthly
9 as opposed to annually. I just wanted to
10 dovetail into your previous comment.

11 MR. DAY: Correct, and it
12 establishes a process we can use to go forward.

13 COMMISSIONER ZUNIGA: Establishes a
14 process as well, which is very important.

15 COMMISSIONER MCHUGH: It also
16 establishes, which I don't think our regulation
17 does, a refund mechanism for somebody that
18 overpays in effect as is likely when the slots
19 license is issued and if fewer than three
20 casino licenses are issued. There may be some
21 adjustment down the road that results in a the
22 refund for overpayment; did I read that
23 correctly?

24 COMMISSIONER ZUNIGA: That's

1 correct.

2 MR. DAY: Mr. Lennon has joined me.

3 CHAIRMAN CROSBY: Sorry we swapped
4 around.

5 MR. LENNON: I apologize I'm late.

6 CHAIRMAN CROSBY: I think your
7 compatriot handled the job fine. Any other
8 questions about this? Okay. Everybody said
9 this is great and as exactly where we want to
10 go. We have invited our applicants and anybody
11 else to give us feedback on this if they'd
12 like, but we are going to move forward.

13 MR. DAY: Thank you very much.

14 CHAIRMAN CROSBY: Director Wells.

15 MS. WELLS: Good morning, Mr.
16 Chairman and Commissioners. I believe I am
17 going to be brief this morning. I just wanted
18 to update the members of the Commission where
19 we are in the investigatory process.

20 As I'm sure you are aware, we have
21 two more applicants for casino licenses yet to
22 go through the suitability process. We are
23 completing the MGM report right now. I expect
24 that to be done shortly and get to the

1 Commissioners. We are tentatively scheduling
2 that hearing for December 9. I've been in
3 contact for counsel for MGM. That's agreeable
4 for them. So, that is the expectation going
5 forward. We do the MGM suitability hearing on
6 the ninth. We've set aside the tenth if we
7 need to go into the next day. But I'm hopeful
8 we can complete that on that first day but
9 we'll have the second day if necessary.

10 I have also been in contact with
11 counsel for Wynn. Their application, my
12 expectation is that we will have the hearing
13 for Wynn's suitability on December 16 going
14 into December 17 if necessary. And that's
15 agreeable with them and we are completing the
16 report and finishing that up in due course.

17 So, that's really where we are. I
18 expect everything will be done by the end of
19 the year. With the vote in Milford, the
20 Crossroads application and the second piece
21 that they had submitted to us is now no longer
22 relevant as they lost the vote. So, that is no
23 longer an issue. And I will be in contact with
24 Suffolk regarding their operator and expect to

1 have a conversation with them about that
2 process going forward.

3 CHAIRMAN CROSBY: And they have as
4 yet given us no further direction on this?

5 MS. WELLS: I've been in contact
6 with them, but I have not gotten any
7 confirmation about that yet. Once I do we will
8 proceed and notify the Commission as the
9 status.

10 CHAIRMAN CROSBY: But they are very
11 much aware of the fact that you've got other
12 things on your plate?

13 MS. WELL: Yes. They are aware
14 there is a December 31 deadline. And that the
15 calendar is filling up, and with folks being on
16 vacation through the holidays, they're aware of
17 that. I believe they are acting accordingly.

18 CHAIRMAN CROSBY: Okay, great.

19 MS. WELLS: That's where we are.
20 Any questions?

21 CHAIRMAN CROSBY: Like John, not
22 many people know what a huge task this has
23 been, from an organizational standpoint, from a
24 stakes standpoint, from a pressure standpoint

1 that you and the troopers and our consultants
2 have done an incredible job to get all of this
3 together. It's a very big deal. So, thank
4 you.

5 COMMISSIONER CAMERON: Thank you,
6 Director.

7 COMMISSIONER MCHUGH: Thank you.

8 CHAIRMAN CROSBY: Do we have the UAW
9 here yet and Jill?

10 CHAIRMAN CROSBY: I think we only
11 have one issue left, other than the UAW
12 presentation?

13 MS. BLUE: Yes that is correct.

14 CHAIRMAN CROSBY: And they are not
15 here. Is that going to be Mr. Hock? Let's try
16 very hard to make it a half-hour lunch out of
17 respect for everybody's schedules. We'll try
18 to convene at 12:15 or shortly thereafter. Do
19 the UAW quickly to get that over with and then
20 we'll do the Suffolk Downs conversation. We
21 are temporarily adjourned.

22

23 (A recess was taken)

24

1 CHAIRMAN CROSBY: We do have one
2 other topic, which is the United Autoworkers
3 are in to make a presentation along with our
4 Director of Workforce Supplier and Diversity
5 Development but their speakers are not all here
6 yet. So, we are going to go ahead.

7 Let me just put this in context.
8 These are just my own words. If any
9 Commissioner either disagrees or wants to add
10 your own thoughts to this, please do.. The
11 Commission has always taken a very strong and
12 consistent position that the issues pertaining
13 to the local decision-making, host community
14 agreement, the referendum, etc., are mandated
15 by the Legislature to be handled at the local
16 level.

17 We've always taken the position that
18 it was very important to respect that local
19 control to let the applicants and the local
20 communities manage this process as they
21 pleased.

22 We have however put two caveats on
23 that. One is that the local process not impede
24 our process. And secondly that the local

1 process not reflect badly on the integrity of
2 the overall process. It has happened before
3 that a situation arose, if you remember, when
4 Springfield decided to do their own competitive
5 bidding process, the press, the public, we said
6 can they do that? Nobody really thought about
7 it before.

8 We did have a hearing. We talked
9 about it. We heard their thought process. We
10 talked about it amongst ourselves. And we
11 decided that it did not impede our process nor
12 did it reflect badly on the integrity of our
13 process. So, we let them go forward.

14 I think it's safe to say that nobody
15 quite anticipated what's been happening in East
16 Boston, Revere and with the Suffolk Downs
17 applicant. We are hearing, I hear and
18 everywhere I go again, people saying can they
19 do that? I felt and I think the other
20 Commissioners feel the same way that the
21 uncertainty around that question and the issues
22 being raised about can they do that follow the
23 plan that Suffolk is laying out is causing
24 enough concern and uncertainty that it runs the

1 risk both of impeding our process and
2 reflecting badly on the integrity of the
3 process if it doesn't get addressed.

4 So, it's important for us to ask
5 interested parties to come in and explain what
6 the thought process is, what is happening.

7 We have not decided whether we are
8 going to vote, whether we're going to discuss,
9 whether we're going think about it and come
10 back. This is all happening de novo, but
11 that's the context about why we are
12 colloquially asking the question can they do
13 this.

14 The specific questions that we have
15 asked to elicit that are found on page, which?

16 MS. BLUE: 5d.

17 CHAIRMAN CROSBY: I do want to read
18 them. We have circulated these questions to
19 all of the parties that have been invited to
20 speak. (1) Please indicate the status of the
21 host community agreement with Revere and the
22 applicant's position on how the existing host
23 community agreement can be amended to
24 accommodate the proposed project. Also address

1 the issue of the referendum that was held and
2 how it supports the proposed project and host
3 or surrounding community agreements.

4 (2) Please address the question of
5 what constitutes the "gaming establishment" as
6 defined in Chapter 23K section 2 as applied to
7 the proposed project and the existing
8 racetrack.

9 (3) Please explain how the racetrack
10 or 2014 racing meeting may be affected by the
11 proposed location of the project solely -- if
12 location of the project is solely in Revere.
13 What are the plans for the track after the 2014
14 meet? Please discuss the application of
15 Chapter 23K section 19 to the proposed project.

16 We've asked the applicants to speak.
17 We've asked the mayor of Revere to speak.
18 We've asked representatives from No Eastie
19 Casino to speak. And we have invited a
20 representative or two from proponents in Revere
21 to speak. And we will take them in that order.
22 When you're done, don't go too far away because
23 I am sure we will be talking about this a
24 little bit.

1 So, welcome to representatives of
2 the applicant. Mr. Mayor are you going to go
3 first, please.

4 HON. DANIEL RIZZO: Certainly. Mr.
5 Chairman, members of the Commission, I am happy
6 and appreciate the opportunity to be here to
7 talk to you about the continued enthusiastic
8 support in Revere for a Suffolk Downs resort
9 style casino plan.

10 At our request, the plan now
11 provides for the gaming establishment to be
12 located entirely in Revere. With me is counsel
13 for the city, Brian Falk. I've asked Brian for
14 help with questions that you may have for the
15 city. Also, at the table is Chip Tuttle, COO
16 of Suffolk Downs and their corporate secretary,
17 Charlie Baker. They will answer questions best
18 put to the applicant. What I would like to
19 talk about is the referendum held in Revere and
20 our view of the status of the host community
21 agreement.

22 On November 5, Revere voters
23 overwhelmingly supported a casino on the
24 Suffolk Downs property located off of Winthrop

1 Avenue. More than 60 percent voted in favor.
2 Since then, I have been working to ensure that
3 their vote and support for the project
4 continues to be heard. It is my belief that
5 the residents and voters of Revere have been in
6 support of this project whether the
7 construction is all in Boston, part in Boston
8 and part in Revere or all in Revere.

9 We did not expect East Boston to
10 vote no. We were planning for two yes votes.
11 But our enthusiasm for the project led us to
12 draft the host community agreement, the summary
13 of the agreement and the ballot question in a
14 way that would allow for the possibility of
15 moving forward only in Revere.

16 When East Boston did vote no, it was
17 obvious that the proposal that Suffolk Downs
18 had been promoting could not proceed. But the
19 people of Revere had spoken strongly in favor
20 of a casino, and I asked Suffolk Downs to work
21 with us to see if the project could be moved in
22 its entirety to Revere. I am glad that they
23 are doing so.

24 If you look at the city's election

1 materials, I would like to cite two provisions
2 that are consistent with building the casino
3 solely on Revere property. (1) The ballot
4 question itself stated shall the city of Revere
5 permit the operation of a gaming establishment
6 licensed by the Massachusetts Gaming Commission
7 to be located at the Suffolk Downs property off
8 of Winthrop Avenue.

9 CHAIRMAN CROSBY: Is Winthrop Avenue
10 in Revere?

11 HON. DANIEL RIZZO: In Revere. It
12 does not mention East Boston or tie the Revere
13 vote to a successful vote in East Boston. That
14 was not by accident.

15 (2) The summary of the host
16 community agreement was printed on every
17 ballot. It specifically identified the
18 provisions of the host community agreement that
19 allow for the renegotiation of the agreement,
20 the so-called reopeners. One of those
21 reopeners provides that the agreement can be
22 amended if Suffolk Downs develops a casino on
23 the Revere side of the property.

24 Many have noted that a Revere only

1 casino is not the project that was promoted by
2 Suffolk Downs before the election. I do not
3 dispute that. But it is true that Chip Tuttle
4 did recognize before the election the
5 possibility of proceeding in only one
6 community. Also and more importantly is the
7 fact that we have always wanted a Revere focus
8 to the casino. From the very beginning, we
9 asked Suffolk Downs to build all or at least
10 part of the project in Revere. Frankly, we
11 were disappointed that their initial plan
12 placed this new construction in East Boston.

13 I am convinced that if the plan had
14 been for a Revere only proposal prior to the
15 election, it would have been an even greater
16 landslide than it was.

17 Turning to the host community
18 agreement, the city of Revere unequivocally
19 stands behind the agreement as a valid
20 enforceable contract. In the agreement, the
21 city invites Suffolk Downs to build in Revere.
22 Paragraph 3E says the city wishes to encourage
23 the owner to develop additional phases of the
24 project on the Revere property for the purpose

1 of generating additional tax revenue and
2 creating further jobs and economic development.

3 To allow for that possibility, as I
4 said, the agreement expressly obligates the
5 city and Suffolk Downs to negotiate in good
6 faith an amendment to the agreement to mitigate
7 any negative impacts, if any, upon the city.

8 That is a quote from section 2N of the
9 agreement

10 Mr. Chairman, members of the
11 Commission. I thank you for your time today.
12 The city of Revere looks forward to working
13 with Suffolk Downs between now and the
14 application deadline on December 31.

15 CHAIRMAN CROSBY: Thank you, Mr.
16 Mayor.

17 MR. TUTTLE: Thank you. Chairman
18 Crosby, members of the Commission thank you for
19 the opportunity to come before you today to
20 discuss our plan to move forward in the
21 application process with a proposal to develop
22 a world-class gaming resort on our property in
23 Revere.

24 We are honored to have Mayor Rizzo

1 here with us today. As the Mayor mentioned,
2 our corporate secretary, Charlie Baker, is here
3 with me as well. I'll leave it to Charlie to
4 answer the specific questions posed by
5 Commission Counsel to us earlier. And I just
6 want to go brief overview, if I can.

7 I've said publicly and in the letter
8 that Chairman Bill Melrose sent to all last
9 week, we are encouraged by Revere voters'
10 enthusiastic embrace of gaming development at
11 our property in their city based on the results
12 of that November 5 ballot question.

13 While the lack of similar approval
14 in East Boston presents new challenges for us
15 and excludes gaming development on the Boston
16 portion of our property, we with our team of
17 architects and engineers and environmental
18 consultants have been working diligently with
19 the Mayor and his team since then to meet those
20 challenges with the objective of presenting to
21 you by the end of this year a proposal that
22 locates our gaming establishment entirely in
23 Revere and that meets or exceeds all of the
24 legislative requirements and all of the

1 standards that you have set out for gaming
2 development in the Commonwealth.

3 As always we have and we will
4 continue to seek this Commission's guidance in
5 matters that relate to our application. In
6 that regard, one of the reasons we are happy to
7 be before you today is this opportunity to make
8 as clear as we can our status as an applicant.
9 Suffolk Downs remains an applicant in good
10 standing having been found suitable by this
11 Commission and having met the requirements of a
12 valid host community agreement in Revere and a
13 valid land use referendum in Revere.

14 Revere residents have spoken in
15 favor of good jobs, local business
16 partnerships, local road and infrastructure
17 improvements, investment in their community.
18 Every precinct and every ward in Revere voted
19 in favor of our development.

20 Charlie will address specifically
21 your question about racing but as this body
22 knows it has always been our plan and our
23 intention to preserve and enhance racing at
24 Suffolk Downs if we are successful in earning a

1 gaming license. That commitment remains given
2 our new circumstances.

3 We have no plans to move the
4 racetrack itself and will continue to pursue
5 options that allow us to preserve our 78-year
6 legacy of thoroughbred racing here. Some have
7 suggested that we would have to close the track
8 to accommodate a gaming facility on the Revere
9 portion of our property. That is simply not
10 true. With the new paradigm of having to site
11 the resort entirely on the Revere portion of
12 the property, we are looking at alternative
13 sites for a current barn area.

14 The use of offsite stabling and
15 training centers is fairly common practice at
16 East Coast racing venues. Horses are stabled
17 and train at Palm Beach Downs about an hour
18 north of Gulfstream Park where there is no
19 racing and are vanned every day to Gulfstream
20 Park in Hallandale, Florida. This afternoon,
21 shortly, it may have already started at
22 Aqueduct in Queens, New York as many as half or
23 more of the horses that will start will arrive
24 on vans from Belmont Park, from stabling areas

1 at Belmont Park nearby. This is common
2 practice.

3 As you know, in addition to the
4 direct employment at Suffolk Downs, hundreds of
5 hard-working people make their living in some
6 way taking care of the horses that race at our
7 facility. Owners, breeders, trainers, jockeys,
8 exercise riders, groomers, stable hands,
9 blacksmiths, feed and tack suppliers,
10 veterinarians licensed by this body, these
11 people depend on racing.

12 A report by Christiansen Capital
13 Advisors and Salem State University that we
14 commissioned as part of our application process
15 estimates 1486 jobs supported by the
16 thoroughbred racing industry in the
17 Commonwealth and projects that number could
18 more than double if we are successful in
19 earning a gaming license. That does not
20 include the thousands of good jobs that would
21 be created at the gaming facility itself.

22 Among the applicants for a resort
23 casino license in the Commonwealth, the
24 additional economic benefits -- those

1 additional economic benefits are unique to
2 Suffolk Downs. We look forward to covering
3 this in greater detail with you in the coming
4 weeks and as part of our RFA-2 submission by
5 December 31. Thank you.

6 CHAIRMAN CROSBY: Thank you, Mr.
7 Tuttle.

8 MR. FALK: If I may, Mr. Chairman?

9 CHAIRMAN CROSBY: Sure.

10 MR. FALK: I know the questions were
11 targeted at the applicant, but the city would
12 like to take a first crack at question one,
13 which has to do with the agreement itself and
14 with the ballot question.

15 CHAIRMAN CROSBY: Okay.

16 MR. FALK: As mentioned by Mayor
17 Rizzo, the Revere host community agreement with
18 Suffolk Downs is in full force and effect,
19 legally binding on both Suffolk Downs and the
20 city. No determination provisions were
21 triggered by the election on November 5.

22 To the contrary, the agreement
23 accommodates the exact situation that resulted
24 from the November 5 election. Section 2N of

1 the agreement contains a reopener provision
2 requiring both parties to negotiate an
3 amendment to the agreement if Suffolk Downs
4 intends to develop its casino on the Revere
5 side of its property. This provision was
6 drafted precisely to accommodate the situation
7 that we're in today. We knew that development
8 on the Revere side of the property may present
9 additional impacts for Revere. And we wanted
10 the right to reopen the agreement to mitigate
11 those impacts.

12 Suffolk Downs recently invoked that
13 reopener notifying the city of its plans to
14 build a casino solely in Revere. We have begun
15 negotiations to amend the agreement exactly as
16 spelled out in section 2N. As required by your
17 regulations, specifically 205 CMR 127, the
18 reopener provided in section 2N was described
19 in the clear concise summary of the host
20 community agreement, which was published and
21 which was printed on all ballots used on
22 November 5.

23 Regarding that election, as
24 mentioned by Mayor Rizzo, the ballot question

1 before voters on November 5 made no reference
2 to East Boston. The question simply asked
3 shall the city of Revere permit the operation
4 of a gaming establishment licensed by the Mass.
5 Gaming Commission to be located at the Suffolk
6 Downs property off of Winthrop Avenue.

7 The city solicitor and I spent
8 considerable time drafting this question with
9 two goals in mind. First and foremost, we
10 wanted the question to provide a fair and
11 accurate description of the property, which was
12 the subject of the land-use referendum.

13 Second, we specifically intended
14 that the ballot question would accommodate both
15 developments scenarios for Suffolk Downs,
16 casino on the Boston side of the property or a
17 casino on the Revere side of the property.
18 Although considered a remote possibility at the
19 time, we wanted to ensure that if East Boston
20 voted no, the ballot question in Revere would
21 give us the opportunity to still be a host
22 community for a property located only in
23 Revere.

24 We would have drafted the question

1 exactly the same if Suffolk Downs' original
2 plan only called for a development in Revere
3 because the description of the property would
4 have been exactly the same. As noted earlier,
5 voters in Revere were informed that the host
6 community agreement would be amended if Suffolk
7 Downs developed on the Revere side of its
8 property.

9 The reopener was published in the
10 summary of the host community agreement and
11 printed on all ballots. Voters were therefore
12 made aware as clearly as possible that the
13 agreement, which was a prerequisite to the
14 land-use referendum, would be amended if the
15 casino was developed on the Revere side of the
16 property.

17 The city of Revere's host community
18 agreement and ballot question were both drafted
19 with the specific intent of accommodating the
20 exact situation that we find ourselves in
21 today. We look forward to continuing our
22 negotiations with Suffolk Downs and amending
23 our host community agreement to mitigate the
24 impacts of the project located solely in

1 Revere.

2 I know Mr. Baker intends to address
3 questions two and three, but I'm happy to field
4 questions on this point if the Commission so
5 chooses.

6 CHAIRMAN CROSBY: Commissioners?

7 COMMISSIONER MCHUGH: The summary
8 says insofar as the reopener is concerned, the
9 trigger to which you are referring, I think is
10 this, Suffolk Downs reopening is possible,
11 permissible, and I'm quoting, "if Suffolk Downs
12 expands the casino beyond the Suffolk Downs
13 racetrack property or to the Revere side of the
14 property". That's the one you're referring to?

15 MR. FALK: That's right.

16 COMMISSIONER MCHUGH: The verb
17 expands is different than changes. Do you
18 place any significance on that?

19 COMMISSIONER MCHUGH: Or moves?

20 MR. FALK: Sure. The original plan
21 did call for gaming establishment on the Revere
22 side of the property, the track, the horse
23 barns, parking were all amenities of that
24 original proposal.

1 COMMISSIONER MCHUGH: Right.

2 MR. FALK: Expansion, I'm viewing it
3 as more gaming facility and under this scenario
4 we would have certainly much more gaming
5 facility on the Revere side of the property. We
6 would have the casino. This is one --

7 COMMISSIONER MCHUGH: I'm sorry. Go
8 ahead. I interrupted you.

9 MR. FALK: This scenario is one of
10 the many we had in mind that could be a trigger
11 to this reopener. This was one of them.

12 COMMISSIONER MCHUGH: This trigger
13 provision was drafted with the thought in mind
14 that the gaming facility is the casino and the
15 track?

16 MR. FALK: The definition of gaming
17 establishment, correct.

18 CHAIRMAN CROSBY: Could you read the
19 full section that this reopener refers to? You
20 said it's section 2N or something like that.

21 MR. FALK: Section 2N of the host
22 community agreement?

23 CHAIRMAN CROSBY: Correct.

24 MR. FALK: Sure. Section 2N is

1 titled expansion of the gaming establishment.
2 If the owner -- The owner is defined as
3 Sterling Suffolk Racecourse, LLC in our
4 agreement. If the owner seeks to expand its
5 gaming establishment onto the Revere property
6 or beyond the property onto property located
7 within or outside the city, the owners shall
8 promptly notify the city and the parties shall
9 negotiate in good faith an amendment to this
10 agreement to mitigate any negative impacts, if
11 any, upon the city of such expansion.

12 CHAIRMAN CROSBY: Well, I raise the
13 same question as Commissioner McHugh. If
14 you're taking the position that this was always
15 anticipated and that the section was written
16 with this particular case in point, and this is
17 not an expansion of the facility to the Revere
18 side.

19 This is the elimination of the
20 facility altogether and building a fresh one.
21 So, you didn't write what you are saying you
22 were anticipating. You said expansion of the
23 gaming facility.

24 MR. FALK: Respectfully, I disagree.

1 We were going to have gaming facility on the
2 Revere property otherwise we wouldn't have been
3 a host community in the first place.

4 Under this new proposal, we're going
5 to have much more that is an expansion, as I
6 understand it. This is something that Mr.
7 Baker and I discussed in our negotiations when
8 drafting this agreement. Both parties to the
9 agreement agree with that that's what this
10 provision means.

11 In any other circumstance when Party
12 A and Party B are the only parties to the
13 contract and they agree on what it means that's
14 usually sufficient. We both agree on what that
15 means. That was our understanding going into
16 it. And we have no dispute over what that
17 provision means right now.

18 COMMISSIONER MCHUGH: There's
19 actually a third party to the agreement, isn't
20 there? The public, they voted on something.
21 The precise question they voted on -- And I'm
22 just exploring this because I haven't come to
23 any decisions, but I think it's important to
24 explore this. The precise question they voted

1 on was the location. And that location is off
2 of Winthrop as you described it, off of
3 Winthrop Ave. And it isn't tied to the address
4 of Suffolk Downs.

5 But the Legislature required the
6 summary to be part of the public presentation
7 of what was to happen. So, in addition to the
8 two parties to the agreement, the public had an
9 opportunity and indeed the statute required you
10 to give them the opportunity to consider the
11 agreement and to think about the agreement as
12 they were voting on the acceptability of the
13 location.

14 So, in that regard it's not simply
15 the two parties to the agreement agreeing on
16 the interpretation of the language and that
17 does, is it really? That's a long question, I
18 know.

19 MR. FALK: That's okay. I view the
20 agreement as a prerequisite to the land-use
21 referendum. The referendum did not ask them to
22 approve the agreement. It asked them to
23 approve siting a gaming facility at a certain
24 location.

1 The publication of the summary to
2 give fair notice to the voters is required by
3 the Gaming Act. Inclusion of the summary on
4 the ballot is something that you required as
5 part of your regulations, which we complied
6 with. And also part of your regulations was a
7 requirement that if there is going to be any
8 reopeners, not amendments that one party seeks
9 and the other agrees to, but triggers that
10 would reopen a renegotiation, you required that
11 that be noted in the summary so that voters
12 were aware of that. That's exactly what we
13 did.

14 The voters were well aware if they
15 had chosen to read through the summary that
16 there would be a reopener provision that the
17 parties would meet and sit down and negotiate
18 additional mitigation in the event that the
19 gaming establishment was expanded onto the
20 Revere side of the property. That was on the
21 ballot.

22 COMMISSIONER MCHUGH: No question
23 about that. It really comes down to what is
24 the meaning that the reasonable reader would

1 attach to the word expands. That's my concern.
2 That's the focus of this inquiry. So, I hear
3 you. I understand your answer. Thank you.

4 CHAIRMAN CROSBY: Just a couple of
5 other questions. Has the city council taken
6 any position on this?

7 HON. DANIEL RIZZO: The city council
8 took a vote of confidence. They were not
9 required to, but when we presented the host
10 agreement to the city council, they voted
11 unanimously in support of the host community
12 agreement.

13 CHAIRMAN CROSBY: I meant
14 subsequent, whatever the new plan is going to
15 be.

16 HON. DANIEL RIZZO: I haven't
17 presented any --

18 CHAIRMAN CROSBY: As far as you know
19 they haven't taken a position?

20 HON. DANIEL RIZZO: Up to now other
21 than just conversations amongst myself and
22 various councilors, they haven't taken a formal
23 position yet. But safe to say that I have not
24 spoken to a councilor who does not support our

1 efforts to go forward.

2 CHAIRMAN CROSBY: And what was your
3 reference to Mr. Tuttle speaking, acknowledging
4 this possible eventuality before the
5 referendum.

6 HON. DANIEL RIZZO: Mr. Tuttle, I
7 think, has made it very clear as he has
8 traveled throughout certainly the city of
9 Revere, I can't speak to East Boston but the
10 question would occasionally come up from
11 somebody, what happens if one city votes
12 against it and one city doesn't? And I think
13 he's always been clear that the possibility
14 would exist to relocate to one city or the
15 other.

16 He said there's always the caveat
17 that we have to navigate through the process.
18 So, certainly it was always our expectations
19 that both communities would vote yes. While we
20 hoped for a yes vote, we always wanted to plan
21 that in the event of what actually ended up
22 happening that the city of Revere would be
23 protected. And we felt right along that that
24 has been the case based on our host community

1 agreement.

2 CHAIRMAN CROSBY: Is that formerly
3 -- Is that in writing or tape or somewhere,
4 your saying those words?

5 MR. TUTTLE: Yes, Mr. Chairman. You
6 particularly more than anyone on the Commission
7 might identify with the hazards of speaking
8 publicly.

9 CHAIRMAN CROSBY: What do you mean
10 by that?

11 MR. TUTTLE: But on several
12 instances I was asked about the possibility of
13 whether we could move forward or not in the
14 event of one positive vote and one negative
15 vote. And I tried to be as concise and candid
16 as possible as I always do.

17 On September 9 at a public meeting
18 on our DEIR, I was actually asked that question
19 by a member of the No Eastie Casino group.
20 That response was taped and is on our website.
21 You are welcome to look at it. We are happy to
22 share it with everybody.

23 While encouraging that person to
24 vote yes, I did clearly keep open the

1 possibility that in the event of a yes vote in
2 one community or the other that we could move
3 forward. I do recall saying that it would be
4 really difficult, which I think are the
5 circumstances we are in today.

6 Similarly, in Revere several times I
7 was asked about development on the Revere
8 portion of the property. And the idea that the
9 seasonal home for 800 to 1000 horses was not
10 necessarily the best use of that land. A lot
11 of residents in Revere felt that way and tried
12 to be consistent about the fact that we could
13 develop on the Revere side of the property.

14 CHAIRMAN CROSBY: I would be
15 interested in seeing the actual quote. Okay.

16 MR. BAKER: Thank you, Mr. Chairman.
17 So, you've asked us to address three sets of
18 questions. I think the Mayor's and Brian's
19 comments have gone a long way to addressing the
20 first group questions about the validity the
21 Revere vote and the Revere host community
22 agreement. Let me add that Suffolk agrees that
23 the host community agreement is a valid and
24 binding contract subject to amendment as

1 described in the summary.

2 You've asked us to address further
3 the question of what constitutes the gaming
4 establishment as defined in Chapter 23K section
5 2 as applied to the proposed project we will be
6 presenting to you.

7 To answer, you have to start with
8 the statutory definition of gaming
9 establishment, which is the premises approved
10 under a gaming license which includes a gaming
11 area and any other non-gaming structure related
12 to the gaming area and may include but shall
13 not be limited to hotels, restaurants or other
14 amenities. Three additional statutory
15 definitions are important to applying in the
16 definition of gaming establishment, gaming
17 area, gaming and game.

18 A gaming area is the portion of the
19 premises of a gaming establishment in which or
20 on which gaming is conducted. Gaming is
21 dealing, operating, carrying on, conducting,
22 maintaining or exposing any game for pay. A
23 game is a banking or percentage game played
24 with cards, dice, tiles, dominoes or any

1 electronic, electrical or mechanical device or
2 machine played for money, property, checks,
3 credit or any other representative of value
4 which has been approved by the Commission.

5 Neither the statute nor the
6 Commission's regulations define the other
7 words in the definition of gaming
8 establishment. So, how does all of this apply
9 to our Revere only project?

10 It may sound simplistic, but we've
11 redesigned the property to the gaming
12 establishment to solely be within the confines
13 of the city of Revere. Let me put this in some
14 perspective. We've been guided very much so by
15 the Commission's statutory guidance, the
16 statute, your regulatory guidance and have
17 taken and observed an interest in the
18 discussion you had with the Wynn operator about
19 the location of the gaming establishment in
20 Everett as it related to portions of the
21 property the seller owned in Boston. We took
22 with interest your decision in the Plainridge
23 case and your discussion recently about HCA
24 Realtor. So, all of that is in the context of

1 the way we think about this and how we think we
2 will present this to you in an RFA-2
3 submission.

4 Let me put this also in perspective.
5 Of the two other applicants who have valid
6 land-use vote who are before you for an RFA-1
7 license, both of their sites are smaller than
8 our land in Revere. As we keep the racetrack
9 as a separate project, there remain 42 acres in
10 Revere where we can put a gaming establishment.
11 The Everett parcel is 25 acres. The
12 Springfield parcel is 16. So, the notion that
13 we could not find room to have a first-class
14 destination resort casino on portions bigger
15 than the other two applicants I just don't
16 think has any merit.

17 So, then there's a question is how
18 does this relate to the racetrack. The short
19 answer is under section 19, we have an
20 obligation to maintain the racetrack. And we
21 will maintain the racetrack. We would have
22 that obligation if we filed in Region C and got
23 a license in Region C. That requirement is
24 peculiar to this applicant and to the

1 Plainridge applicant. It has nothing to do
2 with the function of the gaming establishment.

3 Finally, you've asked some questions
4 about --

5 COMMISSIONER MCHUGH: Can I just ask
6 a question there?

7 MR. BAKER: Sure.

8 COMMISSIONER MCHUGH: How did in the
9 original host community vote that actually took
10 place, how did Revere become a host community?

11 MR. BAKER: I always thought Revere
12 was a host community. Look, I think there are
13 four answers to that question. The first is
14 that Suffolk Downs has been a good neighbor.
15 Frankly, we wanted to have Revere to have a
16 host committee agreement because we thought
17 that they would have impacts and they deserve
18 equal treatment. That was number one.

19 Two, we were having portions of the
20 gaming establishment in Revere.

21 COMMISSIONER MCHUGH: What portions?

22 MR. BAKER: Parking and some
23 maintenance facilities. We took a very -- I
24 don't want to talk about other hearings. But

1 we took a very conservative approach to what's
2 in a gaming establishment. And we would argue
3 that necessary parking is part of the gaming
4 establishment. So, we took the position that
5 because we were going to have parking in Revere
6 that Revere is part of the facility.

7 More importantly, we are
8 enthusiastic about the notion of a destination
9 resort casino. As Chip has suggested, we've
10 always had in the back of our head the idea
11 that you could relocate stable and make more
12 use of the land. The Mayor was always
13 encouraging us to expand the use into Revere.
14 So, had the original project been approved, we
15 would have come to you and said designate the
16 entire site as a gaming establishment, because
17 we would like to over time come to you and have
18 other buildings built in the Revere side of the
19 project.

20 Lastly, there was the racetrack.
21 But in my view that was an argument but not the
22 strongest of the arguments as to why Revere was
23 part of the gaming establishment.

24 COMMISSIONER MCHUGH: What do you

1 make of section 24 that requires the applicant
2 if successful to maintain -- and if the
3 applicant's a racing licensee to maintain an
4 existing racing facility on the premises?

5 MR. BAKER: We are going to maintain
6 an existing racing facility on the premises.
7 The premises is not the gaming establishment.
8 The premises is a defined term in 128A. I
9 think that's where the term comes from. It's
10 not a defined term in 23K.

11 CHAIRMAN CROSBY: And what is the
12 definition of premises?

13 MR. BAKER: The definition of
14 premise in 128A, I don't have it before me but
15 it's basically where you have your racetrack.

16 I would note that historically
17 Suffolk didn't originally own all of this
18 property. It originally leased 110 acres from
19 the original owner of the property, and that
20 was the racetrack. So, the shape of the
21 racetrack premises has changed even in my
22 lifetime.

23 CHAIRMAN CROSBY: When you were just
24 talking, didn't you refer to the track as part

1 of the racing establishment? You were talking
2 about it was originally all the racing
3 establishment was in East Boston. You said the
4 casino, the track, you referred to all of it.

5 MR. FALK: It's our position and
6 Suffolk backs us up that gaming establishment
7 was located in Revere under the old plan and it
8 would be under this new plan.

9 CHAIRMAN CROSBY: But you didn't
10 count the track as part of the gaming
11 establishment.

12 MR. FALK: Yes, I did.

13 CHAIRMAN CROSBY: So, it was under
14 the original gaming establishment but it won't
15 be under this gaming establishment?

16 MR. BAKER: So, look, here's the way
17 we think about this. The new gaming building,
18 the casino proposal will be solely in Revere.
19 The hotels will solely be in Revere. The
20 parking facilities will solely be in Revere.

21 If a patron at the casino wants to
22 walk to the racetrack, he is walking a half
23 mile up the street to make a wager at the
24 racetrack. To put that in some perspective,

1 the Four Seasons is within a half mile of the
2 Half Shell and the Boston Public Library. They
3 are also amenities of the Four Seasons, but
4 it's not the amenity described in the statute
5 for a gaming establishment.

6 CHAIRMAN CROSBY: So, the design of
7 the facility, when it was cheek by jowl with
8 the track, the track really was integrated --

9 MR. BAKER: That I guess is the
10 point. And maybe I wasn't as clear as I should
11 be. So, the original proposal these things
12 were intertwined. There was no separation.
13 The gaming establishment was in the racetrack
14 building. They were inseparable. They are now
15 separable. They are now separated. There will
16 be legally distinct parcel solely in the city
17 of Revere that will be the gaming
18 establishment.

19 CHAIRMAN CROSBY: Okay. Go ahead.
20 You're on a roll. You have that other
21 question, right?

22 MR. BAKER: I do have another
23 question. The other question is what about the
24 future of the racetrack in 2014 and thereafter.

1 The short answer is 2014 will be the most
2 challenging. We've said this to you before.

3 If we are granted a racing license
4 -- excuse me, if we're granted a gaming
5 license, we have a racing license, thank you.
6 We got it today. If we are granted a gaming
7 license, depending on when that is granted and
8 when the other permits we need to build the
9 project, the other land-use permits, the
10 building permit, we're going to have issues
11 about construction on the site. WE would have
12 had that in the old project as we discussed
13 with you.

14 So, 2014 will be challenging but
15 Chip is bullish about this because with our
16 ultimate aim of finding a remote training
17 facility, and we don't want to talk about this
18 but Chip is well under way. As I've said,
19 we've had discussions about this for years.
20 So, there are places we've identified where
21 this can happen. This is real.

22 In some ways having the horses
23 remotely makes it easier than trying to deal
24 with the construction on the site. Our

1 commitment going forward, if this project is
2 granted a gaming license, the racetrack will
3 remain open in according to section 19. The
4 \$40 million in racetrack improvements that were
5 promised will be made. And the quality of
6 racing will improve.

7 CHAIRMAN CROSBY: Okay.

8 MR. BAKER: It's hard I think
9 sometimes when you think of this as a project.
10 This is a vast piece of land. Even keeping the
11 racetrack, we have 42 acres in Revere where we
12 can build this. These things are not connected
13 to one another. They will be separate
14 establishments.

15 I also want to make a note that we
16 have every anticipation in the very near future
17 of informing you that we have identified an
18 operator who I believe will meet with your
19 approval. We plan with that operator to file a
20 responsive RFA-2. We will meet the December 31
21 deadline. We will have a completely responsive
22 RFA-2 that meets all of the criteria in the
23 statute and in your regulations.

24 COMMISSIONER STEBBINS: Knowing that

1 there is a separation between the gaming
2 facility and the track where there wasn't in
3 the original proposal, what does that do, maybe
4 Mr. Tuttle you can answer this, what does that
5 do -- Do you see that having any impact to the
6 fortunes of the track going forward now we're
7 knowing they're separated by a distance as
8 opposed to before when they were attached?

9 MR. TUTTLE: Thank you, Commissioner
10 Stebbins. As Charlie mentioned, in the prior
11 proposal, the prior version of our proposal the
12 facilities were integrated. Now they must be
13 separate based on the East Boston vote.

14 It creates additional challenges,
15 but as Charlie mentioned, we are committed to
16 racing over the long term. We are in some
17 ways, and I've had conversation with leadership
18 of the New England HBPA and the Mass. Breeders,
19 in some ways, the thought of a state-of-the-art
20 offsite training facility with brand-new barns
21 and a permanent training track and things like
22 that is very appealing to them and hopefully to
23 other horsemen and outfits that we could try to
24 attract with a higher purse structure and

1 things like that.

2 So, while it presents a new set of
3 challenges, as Charlie said, we are pretty
4 bullish on racing and trying to make the
5 improvements. Our commitment to racing remains
6 the same regardless of this new paradigm.

7 COMMISSIONER CAMERON: I just had a
8 question for Mr. Tuttle. I think what I just
9 heard you say is that the plan would be to
10 permanently relocate barns and training
11 facilities; is that accurate?

12 MR. TUTTLE: Yes. We have to
13 facilitate completely siting the gaming
14 establishment in Revere, we have to relocate
15 that barn area. And if we're going to do that
16 we can do it on a temporary basis, we can do it
17 on a semi-permanent basis or a permanent basis.
18 And as Charlie said, we've had conversations
19 with people that are interested in that. And
20 we're looking at various options.

21 MR. BAKER: Just a couple of things
22 I would like to add and this relates to our
23 RFA-2 filings. We pay great attention to your
24 Everett conversations and so did the city of

1 Boston. We believe that and we've got a zoning
2 hearing in Revere on December 2 in front of the
3 city council and the planning board on December
4 3, where the site will be reviewed and
5 outlined. We believe that any fierce review of
6 the site plan will demonstrate that our
7 facility is completely within the city of
8 Revere.

9 We believe that the city of Boston
10 seeing that will come to the same conclusion
11 that they did after conversations with you as
12 it relates to Everett. So, we have every
13 confidence that that fact will be certain to
14 you.

15 We are just asking that you give us
16 the opportunity to file with you an RFA-2 that
17 demonstrates with certainty as opposed -- I
18 hope you believe us, but we don't believe you
19 should just believe us. We believe you should
20 give us the opportunity to file a fulsome
21 filing that demonstrates completely that this
22 gaming establishment is in Revere that is
23 first-class that it does what it needs to do.
24 That it manages all of its impacts and it does

1 so in a way that you can be proud of. That's
2 what we're asking.

3 COMMISSIONER MCHUGH: I have one
4 more question, and I know what your answer Mr.
5 Baker to this, I think I know what your answer
6 is. But if I let you go without asking it, I
7 will regret it.

8 We so far looked at the language,
9 the literal language in the statute expand, on
10 the premises and the like. What do you say to
11 the question whether the legislative intent so
12 far as it can be de-vined from the language
13 that was used really viewed and designed the
14 requirement for both communities voting with
15 the Suffolk Downs complex in mind?

16 MR. BAKER: I believe that the
17 requirements would vary.

18 CHAIRMAN CROSBY: I'm sorry. What
19 did you say?

20 MR. BAKER: Varied, there is more
21 than one requirement and they each say slightly
22 different things. I believe that the
23 Legislature had a great interest in maintaining
24 live racing in the Commonwealth.

1 As you all know, because in some
2 ways you've spent more time on this in the
3 evidence of other things, there are vast
4 portions of your statute that create funds to
5 support live racing. So, the Commission -- The
6 Legislature was very focused on the
7 preservation of live racing.

8 They, I think, recognize that there
9 are only two racetracks in the Commonwealth who
10 the definition applied to, and applied them to
11 both of them. I think they recognized as we do
12 that -- We tried this. The reason this company
13 is called Sterling Suffolk Racecourse, LLC is
14 we first tried to build a track in Sterling.

15 COMMISSIONER ZUNIGA: The Sterling
16 who we were just talking about?

17 MR. BAKER: Yes. That was 1991. To
18 find a piece of ground with all of the wetlands
19 laws in Massachusetts where you can build a
20 mile oval, I will challenge you to find it.
21 Let me just say that because we looked. I
22 think the Legislature wanted to preserve that
23 function. We are going to preserve that
24 function. But we're going to build the gaming

1 establishment solely in the city of Revere. I
2 believe by doing both of those things we're
3 maintaining the intent and spirit of the
4 statute.

5 COMMISSIONER ZUNIGA: I have a
6 question. Mr. Baker, you mentioned the concept
7 of being a good neighbor. And this is
8 obviously not a legal question but I'll pose it
9 to whomever. How do you see that furthering
10 that goal now with the city of Boston?

11 MR. TUTTLE: Commissioner Zuniga,
12 thank you for that question. We take that very
13 seriously. And as we've said, we're
14 disappointed with the results in East Boston,
15 but I view November 5 as a snapshot in time.
16 And we have a 78-year relationship with that
17 community.

18 So, if we are successful in moving
19 forward with Revere, we plan to treat our
20 neighbors in East Boston and the city of Boston
21 as generously as we can. And in good faith,
22 we'll negotiate a surrounding community
23 agreement with Boston that reflects our long-
24 standing relationship with that neighborhood.

1 So, I think in the immediate results
2 of the ballot question, there is some emotion
3 and some confusion. But we have a long-term
4 commitment to our neighbors in East Boston,
5 many of whom we do not forget that many of whom
6 supported us, continue to support us, support
7 our efforts to maintain and enhance the
8 racetrack and to develop a gaming facility.
9 So, we look forward to that.

10 COMMISSIONER ZUNIGA: Thank you.

11 CHAIRMAN CROSBY: Mr. Baker, Counsel
12 for Everett (SIC) said that you and he
13 negotiated the terms of the HCA and the terms
14 of the summary. And that you specifically
15 anticipated when you were drafting that the
16 possibility that East Boston might lose and it
17 would have to be relocated to Revere. Is that
18 correct?

19 MR. BAKER: That is correct, Sir. I
20 would have thought that there were very long
21 odds on that happening. None of us really
22 anticipated this. But we did know, and the
23 Mayor said this very forcefully and he was
24 right. They continue to urge us to do this

1 project in Revere. They would have loved this
2 to be a Revere only project.

3 So, we wanted to make sure that that
4 ballot question and that host community
5 agreement addressed the very hypothetical but
6 it turns out to be real now potential that that
7 could happen. And in fact, it did happen. it
8 was clearly our intent that this very unlikely
9 scenario is a scenario that we might be --
10 because we are here today.

11 CHAIRMAN CROSBY: Anybody else?

12 Thank you.

13 COMMISSIONER MCHUGH: Thank you very
14 much.

15 COMMISSIONER ZUNIGA: Thank you.

16 MR. BAKER: I would just like to add
17 again, we believe that in our RFA-2 filing with
18 our new qualified operator who we will be
19 presenting to you in the very near future, we
20 will be able to assure you that every part of
21 the statute and the regulations will be met by
22 this proposal.

23 COMMISSIONER CAMERON: Thank you.

24 CHAIRMAN CROSBY: Thank you, Mr.

1 Mayor. Representatives of No Eastie Casino,
2 welcome.

3 MS. MYERS: Good afternoon, Chairman
4 Crosby, Commissioners. Thank you so much for
5 having us. I'm Celeste Myers cochair and
6 founding member of No Eastie Casino. I didn't
7 think we would be here this soon. I thought I
8 had another five and a half months or so. But
9 I wasn't naïve enough to think that we wouldn't
10 be coming back.

11 I think what we are witnessing today
12 is the manifestation of at least one of three
13 scenarios. As the account of the dialogue
14 around the Revere ballot question is true as
15 just recounted here, one scenario may be
16 deliberate premeditated collusion to separate
17 East Boston from the conversation. That's one
18 scenario.

19 Possibly colossal complete
20 mismanagement of the education process on
21 behalf of the city of Boston or more likely the
22 third manifestation is being carried out here
23 and it's a last-ditch desperate effort to save
24 this bid.

1 Clearly, our legislators as
2 described by Senator Petruccelli in a letter
3 recently to you folks and copied to members of
4 No Eastie Casino and I believe to the media
5 described that the spirit of the law is not as
6 it is currently being interpreted by the folks
7 in Suffolk Downs.

8 There is an account in the language
9 of the law that describes that certainly an
10 applicant upon launching a failed bid for
11 approval by a host community can certainly
12 relaunch a bid after six months. That's where
13 I believe this bid at this juncture should lay.
14 I've been reported as saying and it's been
15 distilled to us in many different forums and
16 forms that if an affirmative vote was not
17 gotten in both East Boston and Revere the bid
18 was dead and that they would have the ability
19 to come back in six months.

20 Now barring that interpretation on
21 behalf of us, on behalf the city council and
22 even yourself Chairman Crosby, I hate to be the
23 one to hold you to that, there are several
24 other concerns with the application. At this

1 juncture we are still at a point where there is
2 a 24 percent gap in financing. There is no
3 identified operations partner. And even best
4 case scenario, even interpreting the ballot
5 results in Revere to the best advantage of
6 Suffolk Downs the results are gilded before a
7 plan was even determined. They still have yet
8 to share what the plan is and what the proposal
9 is.

10 So, there's kind of a misconnection,
11 a dislocation of operations here as prescribed
12 in the most remedial interpretation of the
13 bill. So, I'm inclined to believe that this is
14 a last-ditch effort by folks who have spent a
15 lot of money that don't want to have to wait
16 until a potential next bid that don't want to
17 sit on the sidelines while viable applicants
18 are going forward.

19 But unfortunately, it's a reasonable
20 expectation for the folks of East Boston, the
21 folks across the state to interpret the
22 language of the bill as we have, and as we have
23 participated in the education process of the
24 residents of East Boston. One could argue too

1 that if it were clear that it could go either
2 way that an affirmative vote on both sides of
3 the referendum weren't required that we could
4 have spread out and we could have energized
5 some folks in Revere if we knew that that was
6 truly what was required.

7 With that, I'm going to hand it over
8 to Matt Cameron our attorney.

9 CHAIRMAN CROSBY: Let me just ask
10 you, I think you said that there was frequent
11 discussion about the fact that an affirmative
12 vote in both sides was required. What are you
13 referring to? Who is saying this?

14 MS. MYERS: Sure, sure. Pretty much
15 in every forum. At the forefront, Mayor
16 Menino's host community advisory committee that
17 described in many forms. There were other
18 Mayor's office led forums. And it was
19 certainly inferred if not stated outright by
20 members of the Suffolk Downs team.

21 CHAIRMAN CROSBY: If you have it
22 anywhere, the actual words are useful. If you
23 have them anywhere, I would like to see them.

24 COMMISSIONER MCHUGH: What Mr.

1 Tuttle or Mr. Baker both said was let us go
2 forward and submit to you a proposal on
3 December 31 so that you can see concretely what
4 we're talking about. What would be the harm in
5 that?

6 MS. MYERS: The harm is that they
7 got their answer at the ballot box. So, the
8 law as understood by us by over 4000 voters in
9 East Boston would seem to expect and be
10 reasonable to expect that this conversation is
11 over at least for another five and half months.

12 COMMISSIONER MCHUGH: Right. But if
13 we wanted to make no decision at this moment,
14 if the Commission wanted to make no decision
15 and simply wait until it saw the final proposal
16 to make sure that there was nothing that that
17 proposal changed or didn't change, how would
18 the No Eastie Casino folks be hurt by that?

19 MS. MYERS: I guess I'm struggling
20 to find the value in that. If the conversation
21 is over at this juncture because per the
22 language in the law and reasonable
23 interpretation of the law is my estimation and
24 those of the voters of East Boston, I'm not

1 sure what the value is.

2 I think other applicants may be
3 taking even higher exception to it than I would
4 with allowing Suffolk Downs having gone through
5 the process thus far with a lot of exceptions,
6 more lives than most cats have, to be given yet
7 another exception and take another bite at the
8 apple before other applicants have been able to
9 fairly go through the course, other applicants
10 that have had affirmative votes within their
11 host communities.

12 COMMISSIONER MCHUGH: I don't want
13 to press the point unfairly, but I guess I'm
14 thinking about concrete harm to the No Eastie
15 Casino interest. I understand the principle of
16 the thing. I understand the principle of the
17 thing.

18 MS. MYERS: Sure. It's not even
19 principle. And I'm sorry, I didn't mean to cut
20 you off. You're looking at an organization
21 that has followed this process every step of
22 the way and actually have been engaged even
23 before this process was laid out and before
24 many of you were installed.

1 So, we're feeling like we did our
2 part. We did our job. We stopped it at the
3 ballot box. We're still needing to kind of
4 keep of our organization going top financially
5 and personally. And quite frankly, I punch a
6 clock. So, I'm here all day not getting paid.
7 That's kind of a concrete example of harm,
8 quite frankly.

9 COMMISSIONER MCHUGH: I see, you
10 have to stay on guard.

11 MS. MYERS: Right.

12 COMMISSIONER MCHUGH: Okay. I got
13 it. Thanks.

14 MR. CAMERON: Good morning. Just
15 very briefly, I know I filed five single-spaced
16 pages of comments with copious footnotes. I am
17 going to try to keep it brief and stick to the
18 points here, especially with the questions
19 raised, which I think are excellent questions
20 going forward on this.

21 First, I just want to note that the
22 applicant's noted that they are still in good
23 standing. I don't think that's the case. The
24 fact is that the Commission on October 30 give

1 them until November 8, unless this hasn't been
2 made public, I don't believe they have divested
3 their Caesars's shares or presented a plan,
4 unless the Commission knows otherwise.

5 Caesars still owns 4.2 percent, I
6 believe, of this project. And Caesars was
7 found not suitable. And they were given until
8 November 8 to have them out of the project.
9 And they are still to here. So, I'm not really
10 sure how it is that they are in good standing.

11 COMMISSIONER ZUNIGA: Actually, I
12 recall that and the record will show it. That
13 deadline was to divest or to present a plan for
14 divestiture.

15 MR. CAMERON: Exactly. And has
16 there been a plan presented? I guess that's
17 our question at this point.

18 COMMISSIONER ZUNIGA: That's the
19 question. That's not what you said. They have
20 not divested.

21 MR. CAMERON: I also added that they
22 were supposed to have told us what they were
23 doing with their shares and it's been a couple
24 of weeks now. And that deadline is behind us.

1 So, I'm just wondering. That's a question for
2 the applicant. It's not for the Commission.

3 But I just want to note that our
4 position to begin is that that was a condition
5 of suitability. They're not currently suitable
6 if they missed that deadline without telling us
7 what they're doing with those shares.

8 But to move on, the Legislature
9 clearly intended for the people not the
10 governments but the people of host communities
11 to have the final approval or the veto of a
12 casino in their communities.

13 There's a reason they put that
14 referendum in there. And there is a reason
15 that Chapter 23K section 15 paragraph 13 was
16 explicitly designed so that a project such as
17 Suffolk Downs which span two communities would
18 require approval from both communities. You
19 don't have to take my word for it. Senator
20 Petruccelli has put an X on one end of the
21 record. We really appreciate his work on this.
22 He was one of the drafters of the Expanded
23 Gaming Act. And he was before this Commission
24 on this record saying this does not meet the

1 spirit and letter of what he drafted. I think
2 that should be given extreme weight in this
3 case.

4 Along with Senator Petruccelli, I'd
5 also like to thank our City Councilor
6 (INAUDIBLE), Representative Carlo Basile, I
7 believe City Council-elect Michelle Woo was
8 here before, Councilor Bill Linehan and I
9 believe Councilor Michael Freddie (PHONETIC)
10 also support my position. And I think this
11 should all be given appropriate weight.

12 Commissioners, the last time I
13 appeared before you, it was on behalf of No
14 Eastie Casino. I was volunteer counsel. I am
15 still here in that capacity but I now also come
16 before you today on behalf of myself as a
17 resident and homeowner in East Boston in 4280
18 of my neighbors in East Boston all of whom
19 voted against a casino at Suffolk Downs. Not a
20 casino in East Boston. Not a casino in Revere,
21 but a casino at Suffolk Downs, which we were
22 told for several years would span the entire
23 161-acre property.

24 So, there's really only one question

1 before this Commission now. What was in the
2 mind of the reasonable voter at the time that
3 any of us went to the polls? I will concede
4 that I am not a reasonable voter. I am an
5 attorney on a volunteer basis representing No
6 Eastie Casino. So, I want to look at the
7 source material.

8 The ballot was brought up earlier.
9 There was a very pertinent part of the ballot
10 that was not read to this Commission that I
11 think was very important. And I'm just going
12 to read it into the record.

13 It is entitled the project. Suffolk
14 Downs proposes a resort style casino at the
15 Suffolk Downs Racetrack property located
16 partially in the city and partially in East
17 Boston. Suffolk Downs proposes to invest
18 approximately \$1 billion to develop the casino
19 and make improvements to the regional
20 transportation etc., etc. If approved by the
21 voters of Revere and Boston, Suffolk Downs
22 would need to win a casino license from the
23 Massachusetts Gaming Commission. We agree with
24 all of that.

1 That was all on the Revere ballot.
2 That was the first thing essentially that the
3 voters saw immediately after the land-use
4 question on the alleged land-use question.
5 We'd actually argue that that was actually -- I
6 can get into that if we need be. But the
7 project itself is described explicitly for
8 voters right up top as being the entire
9 property -- Anyone who lives in East Boston or
10 Revere would think of Suffolk Downs as the
11 entire property. I don't think that before
12 November 5, November 6 anyone was dividing that
13 in their heads into the Revere side and the
14 East Boston side. Now we are all too aware of
15 where those lines are.

16 I think the host community
17 agreement, and questions were already raised by
18 Commissioner McHugh --

19 CHAIRMAN CROSBY: Are you saying
20 that you think that the East Boston voters had
21 the right to say among other things that Revere
22 could not have the facility?

23 MR. CAMERON: The question that I
24 voted on Commissioner was as to a casino at 525

1 McClellan Highway in East Boston.

2 CHAIRMAN CROSBY: I'm sorry?

3 MR. CAMERON: 525 McClellan Highway
4 in East Boston, which is the legal address of
5 that property. And it's not so much a matter
6 of can or can't. We were told again, and I'm
7 going to get into this in a minute I think, but
8 we were told that this would be both sides.
9 That both sides had to agree. The statute told
10 us that. And we were told every which way at
11 every meeting that I can think of, and I'll get
12 into the one where we weren't in a moment.

13 And it's only logical. We're
14 talking about Suffolk Downs. And the entire
15 campaign put out by the proponents was say yes
16 to Suffolk Downs, not to a casino at Suffolk
17 Downs.

18 I don't think anyone was mentally
19 splitting that up. And it's not so much about
20 the voters of East Boston telling Revere what
21 to do. We respect their right to come back if
22 they want to have a completely new plan which
23 resembles nothing, nothing at all to what we
24 voted on on November 5. They are welcome to

1 come back and do that in a timely way in six
2 months as they are permitted to do by statute.
3 We'll fight it then too. But they don't get to
4 do it this way.

5 I'd just like to very quickly hit
6 the issue as to the host community agreement
7 that was raised before. And I'm just going to
8 read a couple of excerpts which were not read.
9 I would of course note Commissioner McHugh's
10 question as to the expansion question. I think
11 that is extremely pertinent because the
12 understanding of my understanding in English of
13 expansion is taking something that is already
14 in one place and pushing it into another place.

15 So, that's the part I would start
16 with. If the owner seeks to expand its gaming
17 establishment onto the Revere property, subtext
18 being from Boston to Revere. This was in good
19 faith what Revere and Suffolk Downs negotiated.

20 On page 13 of the host community
21 agreement, the owner and the city anticipate
22 that the owner will construct on the Revere
23 property certain improvements to existing
24 racing related structures such as barns,

1 maintenance buildings and service parking
2 improvements, as Mr. Baker said parking.
3 Parking is a far cry from the entire facility.
4 I do not see any read of this language which
5 allows for an expansion to equal the entire
6 facility being built there to start as an
7 installation.

8 Page three, as planned, the project
9 would be constructed within the municipal
10 boundaries of the city of Boston and no new
11 significant construction is currently proposed
12 on the portion of the property located in
13 Revere. That is on page three of the host
14 community agreement. This is what the people
15 were voting on.

16 And I understand there is an open
17 question about whether we're voting on a land-
18 use or whether we're voting on the agreement
19 itself. I would argue that given the way that
20 the statute operates, the timeline that we have
21 here where a vote can't be held until the
22 agreement has been reached, signed off and the
23 election scheduled. That indicates to me that
24 we are voting on the agreement.

1 And I know that's maybe not explicit
2 in the text. But I feel like that really
3 follows from just a direct read of the statute.
4 This is the order of things. If it were
5 another way, I could see how maybe we would
6 vote on the land use first and then sit down
7 and negotiate about how that's going to look
8 and how that's going to happen. But the fact
9 is that the developers made these promises to
10 the city and touted these promises to the
11 voters in support of their vote.

12 I want to just very briefly address
13 the issue of the track, which I'm going to come
14 back -- Actually, I'm sorry. I do want to hit
15 one more thing.

16 Mr. Tuttle's comment in September,
17 and I don't want to belabor this, but I am just
18 going to read it. Because the actual text of
19 what he said was publicized recently. And I am
20 just going to read it as it appears.

21 CHAIRMAN CROSBY: This is the one
22 he's referring to on the website?

23 MR. CAMERON: This is the only
24 opportunity in which anyone is aware that

1 anyone had to discuss the possibility, the
2 outside hypothetical that there might be a
3 split vote. It would be really, really, really
4 hard. If East Boston votes it down, I don't
5 think it gets built in East Boston. But it
6 would be almost impossible for us. But if we
7 have a great deal of support in Revere, I don't
8 think we would rule out any options.

9 And that's in our letter with a
10 citation. I note that everything in our letter
11 is carefully cited.

12 This was not an affirmative
13 confirmation that they had a plan in the works
14 that they had anything that was planned. It
15 was just this would be almost impossible to do.
16 And we agreed. It is. We think it is actually
17 think it is literally impossible, but we'll
18 stick with almost impossible. I think that's a
19 pretty good characterization.

20 CHAIRMAN CROSBY: I think that says
21 exactly what he says it said, which he sure
22 didn't plan on it. Sure wasn't hoping for it.
23 Sure didn't even really like answering the
24 question but did and said that it'd be hard to

1 do, very hard to do but we would keep our
2 options open for Revere only.

3 MR. CAMERON: That is what he's
4 saying, but that's not a plan to build in
5 Revere. That is if we have to we'll look at
6 that possibility. And that's what they've done
7 now. After the referendum, they've come back
8 and they've looked at what they can do in
9 Revere.

10 But I do want to address the issue
11 of the track, because it is really essential.
12 We do disagree with the read of the phrase
13 gaming establishment for a couple of reasons.
14 But I think most important being this is a
15 precondition of a gaming license. And the
16 language that has already been reviewed that's
17 in our letter and that we've already discussed
18 this afternoon. In order to receive a gaming
19 license from this Commission, they have to
20 maintain their racing license. In order to get
21 a racing license, they have to maintain a track
22 on the premises. And I would dispute Mr.
23 Baker's read of that. I think on the premises
24 is on the premises of the gaming establishment.

1 But either way, it doesn't really
2 matter because it is an amenity of the gaming
3 establishment given that this is a
4 precondition. You have to have a track to get
5 a license. That track is in East Boston.

6 We've been making the point for some
7 time since the referendum that they're going to
8 have to move or close the track. Mr. Tuttle
9 actually confirmed that point on November 13 to
10 the Revere Journal. He said there was a very
11 good possibility the track could close or it
12 would operate as a separate entity with no
13 common access points. He even said it could
14 possibly be moved to another location. That's
15 16 in our letter. He said that to the East
16 Boston Times as well.

17 That's a perfectly reasonable
18 position. It can't be in East Boston. Our
19 position at this point, as Mr. Baker said,
20 parking structures are considered amenities. I
21 don't see why the track wouldn't be. Our
22 position at this point is they can't plant a
23 flower bed in East Boston.

24 CHAIRMAN CROSBY: I'm sorry?

1 MR. CAMERON: They can't plant a
2 flower bed in East Boston. They cannot have
3 anything attached to that casino in East Boston
4 after this vote under the plan that they are
5 proposing now. And that certainly would
6 include the track. And the track is an
7 essential part given they cannot get a license
8 without operating a racetrack as they have told
9 us today.

10 So, I'm not sure how you can say
11 that this is sort of a church/state separation
12 issue. These things are absolutely
13 inextricably linked. I don't see how they --
14 Again, I'm not in this business. This is a
15 hobby at this point, but I don't understand how
16 they can divest their racing license, which
17 this Commission just awarded them last week to
18 a different entity before December 31, which is
19 what they've suggested they might be able to
20 do. That seems like a pretty tall order.

21 CHAIRMAN CROSBY: Mr. Baker said,
22 somebody said if we got a gaming license in
23 some other city in Region C that under the
24 statute, we would be required to keep the track

1 going. Are you saying that they couldn't get
2 in Region C? They have to bid nearby to the
3 track? Or if it's in Region C would it be a
4 part of the gaming establishment?

5 MR. CAMERON: I am trying to think
6 through that question. What it says is that if
7 they have a racing license right now, they have
8 to maintain racing on the premises. I would
9 certainly think that there is an argument to be
10 made that wherever they have to put it in
11 Region C, they would have to build a track
12 there.

13 But I think their license right now
14 is tied to Suffolk Downs. Again, this is not
15 my area but I don't think that they necessarily
16 would be able to get to do that.

17 Again, I just want to be clear that
18 our position is fairly absolute on this. That
19 they cannot have any portion of this proposal
20 which they're planning to put in before
21 December 31 in East Boston. And that
22 absolutely includes the track.

23 We are neighbors of Suffolk Downs.
24 And we are concerned about the future of the

1 track as well and the people who work there.
2 We don't want it to close. We understand that
3 what the proponents were selling was sympathy
4 for the track and that is certainly
5 understandable. It's a historic institution.

6 But we have to look at what the law
7 says here. And the law, again, as long as it's
8 in East Boston does not allow for the track to
9 be in East Boston while it is attached to a
10 gaming establishment. We welcome them to
11 maintain the track. We hope that they can
12 preserve it, but it cannot be part of a casino.

13 And actually, I think the Revere
14 Journal put it very well. What the Revere
15 Journal summarized this better than I could
16 after interviewing Mr. Tuttle. At one point,
17 the casino was touted being necessary to save
18 the track. Now it appears the track is going
19 to be separated in some fashion to save the
20 casino.

21 I can't see how any voter in either
22 of those communities could ever possibly
23 foresee that outcome. That is a fairly
24 extreme outcome that we're going to be

1 sacrificing the track to save the casino
2 essentially.

3 Commissioners, political campaigns
4 are often compared to chess matches with all of
5 the players visible at any given time, and the
6 rules clearly stated and enforced. Those of us
7 who are opposed to a casino at Suffolk Downs
8 played with the limited resources we had
9 available.

10 We marshalled our volunteers. We
11 filed our complete campaign finance reports.
12 We thoroughly analyzed the law and policy on
13 our own time to get our arguments out there.
14 And we got out the vote even as our opponents
15 were doing the same on the other side of the
16 board in full view of everyone. There was
17 plenty of transparency on both sides.

18 We made our case to the voters
19 honestly and by the rules. I'm proud to have
20 been a part of that. Yet within hours of the
21 polls closing, the city of Revere has announced
22 that we were no longer playing chess, but that
23 we would all now be playing poker.

24 Under their view of the casino

1 licensing process, it seems that Suffolk Downs
2 now reserves the right to hold all of the cards
3 and let us guess exactly what is in their hand
4 right up until December 31. That is not how
5 democracy works in this country. It certainly
6 cannot be the process the Legislature
7 envisioned when it emphasized in section 1,
8 paragraph 1, the very beginning of the Expanded
9 Gaming Act, the primary objective of this law
10 is to ensure public confidence in the casino
11 licensing process. That confidence is in
12 jeopardy every day that this Commission
13 continues to entertain this applicant's Revere
14 only proposal.

15 Commissioners, there are places
16 around the globe today in which citizens go to
17 the polls and are told the next day that they
18 actually voted for something other than what
19 was on the ballot. I am not a citizen of one
20 of those countries.

21 On behalf of myself, No Eastie
22 Casino and the voters of East Boston, we
23 respectfully request that you grant no further
24 consideration to anything filed by this

1 applicant. Thank you.

2 CHAIRMAN CROSBY: Questions?

3 COMMISSIONER MCHUGH: No.

4 MR. CAMERON: I would just request
5 you take a look at our letter, because I think
6 it says it a lot better than I do.

7 CHAIRMAN CROSBY: If you have a
8 five-page letter we should see that. Is this
9 it?

10 MR. CAMERON: That's it.

11 CHAIRMAN CROSBY: I just want time
12 to think about this. So, on the question of --
13 Your position is that the Revere host community
14 agreement and its summary do not anticipate
15 this eventuality? And whatever East Boston
16 thought that's two different questions here or
17 there can be two different questions.

18 So, you believe that as you read
19 this language this does not anticipate and thus
20 not permit this eventuality?

21 MR. CAMERON: This not what the city
22 of Revere and Suffolk Downs negotiated.

23 CHAIRMAN CROSBY: Is not what?

24 MR. CAMERON: It's not what they

1 negotiated in good faith. And I've read the
2 host community agreement several times. I've
3 read the ballot language. And I just think
4 it's an extreme stretch to say that when you're
5 talking about expanding a gaming facility that
6 what you actually meant was installing it
7 wholesale with nothing in East Boston because
8 everything in this host community agreement is
9 predicated on something that's in East Boston.

10 CHAIRMAN CROSBY: Okay, thank you.
11 I believe there were representatives of people
12 in favor the new proposal in Revere.

13 MR. FERRAGAMO: Good afternoon.

14 CHAIRMAN CROSBY: Good afternoon.

15 MR. FERRAGAMO: My name is Gary
16 Ferragamo. I'm a Revere resident and Revere
17 business owner. I have been supporting the
18 Suffolk Downs development since day one. As
19 I'm sure everybody knows, there's no perfect
20 fit or perfect development for any location
21 ever. There's always people in favor. There's
22 always people not in favor.

23 I think the goal is to try to
24 achieve happiness amongst the masses and go

1 with what the majority of people would like.
2 I'm a little confused. To get off subject for
3 a moment. If East Boston voted no and Revere
4 voted yes and Revere is proposing we can do it
5 on our own, how could that hurt East Boston?
6 It's I'm just funny that way.

7 I believe in my Mayor. I believe in
8 our city councilors. I believe in progress.
9 And I believe in more jobs at this time. I
10 think all of these wonderful things can and
11 will happen with this development. So, as a
12 Revere resident and a business owner, I am all
13 in favor of this project.

14 MR. TEDESCA: Good afternoon, guys.
15 First of all, thank you for hearing us on
16 Suffolk Downs. First of all, thank you guys.
17 I know you guys have a tough job and there are
18 a lot of us that appreciate that.

19 My name is Joe Tedesca. I'm an East
20 Boston resident. I'm born and raised in East
21 Boston. For 40 years I've lived within a mile
22 of the racetrack. On November 5, I was
23 extremely disappointed in the vote. I thought
24 it would have been very beneficial to our

1 community. But I sit here in front of you
2 today because I continue to support Suffolk
3 Downs in the Revere only project, although it
4 may not be as lucrative I still think there are
5 many benefits to our community jobs created,
6 jobs preserved, road improvements and revenues
7 to the city.

8 On a personal note I don't want to
9 see Suffolk Downs gone. It's been a part of my
10 life. Like I said, I've always lived within a
11 mile of the racetrack. My brother owns a
12 business right outside of Suffolk Downs
13 entrance, right next to the train station my
14 father started 60 years ago. Like I said,
15 personally, I would had to see that go. I
16 would hate to see an alternative development
17 there.

18 Like Gary said, if Revere voted yes,
19 I think if you guys approve a gaming license,
20 they should get it. On another quick note, I
21 have been involved with the community in this
22 entire process for over a year and a half.
23 I've been to every East Boston community
24 meeting. And Mr. Tuttle did on numerous

1 occasions say that if one voted yes, one voted
2 no that it would be possible. It would be
3 hard, but would be possible. So, I just want
4 to be a character witness to say that. Thank
5 you.

6 MR. CHAMBELLI: Good afternoon,
7 Steven Chambelli, I voted yes for this. I grew
8 up pretty close to Suffolk Downs in the
9 Beachmont area. I personally turned over the
10 ballot and read it. To me the referendum
11 clearly stated off of Winthrop Ave. So, I just
12 assumed it's a large mass of land that it
13 really could go anywhere.

14 So, I felt like that possibility was
15 there when I voted yes. I think we should feel
16 lucky to get this because of the jobs and the
17 revenue stream that it can bring to the area.
18 I feel personally lucky if we get this. And I
19 want to commend Suffolk Downs for all of the
20 hard work that they put into this. Thank you.

21 CHAIRMAN CROSBY: Thank you.

22 COMMISSIONER STEBBINS: I have a
23 quick question I guess for Gary. I assume
24 Steven you're in Revere. Gary you're in

1 Revere. What was your expectation or
2 understanding the day you went to the polls?

3 MR. FERRAGAMO: There was discussion
4 for the last six months or so on the strength
5 of Revere versus East Boston. I own a
6 restaurant in Revere. So, people come in and
7 talk. A lot of the Revere residents were
8 excited about it. And they kept saying things
9 along the lines of why can't we just do Revere
10 only, which I thought was interesting. I had
11 the same thoughts.

12 Overall, the majority of people that
13 I know and speak with think it's an amazing
14 opportunity for our city right now. It's like
15 a dream. A \$1 billion development done
16 correctly with your guidance, if they meet
17 every criteria of what you want them to meet.
18 I think it's just the greatest thing we can
19 hope for at this time.

20 COMMISSIONER STEBBINS: Okay.

21 MS. BLUE: Mr. Chairman, we have an
22 additional person who would like to speak if
23 you would be willing to recognize them.

24 CHAIRMAN CROSBY: This will have to

1 be the last one. It's getting late here.

2 MS. BERRINGER: Hi, my name is Mary
3 Berringer. I live in East Boston and I'm a
4 homeowner. And I am raising my family there
5 and have lived there this stretch of time for
6 30 years. My husband's family and my family
7 have always lived in East Boston. So, we have
8 quite a vested interest.

9 I support the Revere only casino now
10 although I was a supporter of an East Boston
11 and Revere joint project, if you will. As
12 others have said I think it was a missed
13 opportunity for East Boston but I respect the
14 voters and we must go forward.

15 I just wanted to come and say that
16 Suffolk Downs has been a good neighbor in the
17 community, both communities. They have been
18 huge supporters of the nonprofits in our
19 communities that give an awful lot of services
20 to children, seniors and people who need
21 outreach. And Suffolk Downs has always been
22 there. It has never said no to any request
23 that I have known to be given to them.

24 I view this whole situation as a

1 regional development concern. And I think
2 there are more economic positives for having a
3 license in that region than there are
4 negatives. The close proximity will allow the
5 city's marketing ability to advance their
6 agenda. Mitigation measures for transportation
7 improvements will still benefit the region 1A,
8 Route 1 and 16. With regard to jobs, I have a
9 very hard time embracing anything that will
10 sever jobs for anybody. Those jobs at the
11 racetrack now, the ones that will be added
12 later with regard to the casino will only help
13 many families to buy homes, pay their rents if
14 they're tenants and put food on the table.

15 I know I heard the testimony with
16 the prior group that sat here and said that
17 they didn't want to see jobs lost. And I would
18 take exception to that because on more than one
19 occasion a few of the No Eastie Casino
20 supporters have in a very cavalier manner said
21 that's all right if those jobs are gone because
22 when one door closes, another door opens.

23 Some of those individuals who have
24 jobs right now are in a position that they

1 would not be able to reinvent themselves for
2 employers going forward. They've been at the
3 track for an awful long time. They may find it
4 very difficult to envision themselves having to
5 be retrained, going back to school, all those
6 kinds of things. And that is where they find
7 an employment opportunity to provide for their
8 families. So, I found that was very offensive
9 when that was told to me during the campaign.
10 I just wanted to tell you that.

11 CHAIRMAN CROSBY: We're going to
12 have to stop. I think we've got the drift.
13 Thank you. We appreciate a representation of
14 Revere as well. I had said we could have one
15 or two spokespersons, we had four. I think
16 that's more than enough.

17 I think it's a tough one. This is
18 one of these situations where trying to figure
19 out what is fair is incredibly difficult. I do
20 think that a really seminal question maybe the
21 question and maybe the only question is whether
22 this document, the HCA, the referendum and the
23 summary and the referendum did anticipate this
24 in good faith.

1 I actually find the quote from Mr.
2 Tuttle as indicative that he clearly did have
3 it in the back of his mind and he clearly was
4 keeping his options open. I can imagine that
5 they had no interest in talking about that, but
6 it sounds like if pressed, he did say we are
7 keeping our options open. We have to.

8 I would assume if he had that in the
9 back of his mind that he and his team would be
10 smart enough to make sure the host community
11 agreement would anticipate that and that
12 therefore their explanation mean expand does
13 mean expand. It doesn't mean replace. And I
14 find that troubling. But if it was in his mind
15 as an option, then it's hard not to take the
16 two lawyers at their word, unless they're lying
17 to us boldface that they were trying to draft a
18 document that would accommodate this
19 possibility.

20 COMMISSIONER MCHUGH: I'm not sure,
21 Mr. Chairman, that what one or both of the
22 people who are involved in the contract
23 drafting had in the back of their minds is
24 really dispositive for the reasons that I've

1 discussed with one of the witnesses here and
2 that is that people have to read this thing.
3 And they're supposed to be and they're supposed
4 to factor a reasonable reading of what was in
5 there into their ultimate vote.

6 For me, this is like for all of us
7 really difficult. But it seems to me that the
8 outcome depends on a careful reading of both
9 host community agreements and ballot summaries,
10 number one. Laying that against a careful
11 reading and thought about the statutory
12 requirements. And then seeing just out of an
13 abundance of caution what the proposal actually
14 is in concrete terms.

15 I think, as we all know, this is a
16 critically important question and vote and
17 decision that we're going to have to make. And
18 I think we should have all of those parts in
19 hand before we make any final decision.

20 That means we prolong the period of
21 uncertainty. It means that the good people who
22 we heard testify here about wanting this to be
23 over so they can move over to other things are
24 not going to have it over right now if we're

1 going to do that.

2 But it does mean that the economic
3 benefits, the pros and the cons will get the
4 kind of careful consideration we usually give
5 to matters before we make a final decision.

6 So, I would very much favor that
7 kind of deliberate approach.

8 CHAIRMAN CROSBY: What do we learn
9 from the actual application itself that we
10 don't know now?

11 COMMISSIONER MCHUGH: We learn the
12 configuration. We learn whether there is truly
13 a separation between the track and the gaming
14 facility. We learn and see things that
15 probably they haven't thought about now, and we
16 certainly haven't thought about.

17 And I expressly stated that that's
18 an excess of caution. We may not learn a lot
19 from that, but we at least have before us a
20 graphic depiction of the separation that Mr.
21 Baker told us will clearly occur here that
22 allows them to say that the gaming
23 establishment and the track are not connected.

24 We still have the statutory piece

1 because of on the premises piece. On the
2 premises of what piece is there. So, it may be
3 that we can shortstop that, but it seems to me
4 -- not that we can shortstop but ultimately
5 looking at the diagram may not be dispositive.
6 In fact, it probably won't. But at least we
7 have gone to that last step and taken a look at
8 that before we make our final decision.

9 CHAIRMAN CROSBY: I'm just playing a
10 side. I have no position at this point. That
11 would be saying there is the possibility that
12 they could go forward here. We would be saying
13 that yes it is within the realm of possible
14 that this could be acceptable.

15 COMMISSIONER MCHUGH: I think if we
16 leave this meeting today with a plan to wait,
17 we have not committed ourselves to the fact
18 that it's possible or impossible. We just need
19 to look more closely at the language of the
20 documents and the language of the statute and
21 lay the two together. We haven't said it's
22 possible to go forward or it's impossible to go
23 forward. And that's really what I would like
24 to leave this meeting today with that kind of a

1 non-decision. Typically, this is not what we
2 do.

3 CHAIRMAN CROSBY: Right. You mean
4 not make decisions.

5 COMMISSIONER MCHUGH: Not make
6 decisions and purposely not make decisions and
7 purposely leave things up in the air. That has
8 its own drawbacks and its own restlessness
9 among the voters. It creates its own
10 restlessness among the voters and the watchers
11 and the onlookers on both sides, on all sides.

12 We don't make a decision today. We
13 don't say it's not possible then the Suffolk
14 folks go forward with something that may in
15 fact prove to be possible. Conversely, we keep
16 the people who are on watch on the alert. But
17 I think it's the only way I feel comfortable
18 with ending the day.

19 COMMISSIONER ZUNIGA: I would agree
20 with that. I think there's a number of
21 questions in the legal realm that we really
22 need to think about and analyze and hear from,
23 amenity, gaming establishment, premises and
24 that's just a start. And how all of those

1 intersect with an actual proposal, I think it's
2 worthwhile waiting a little longer. December
3 31 will be here before we know it to see what
4 we get.

5 CHAIRMAN CROSBY: To reinforce the
6 point, Ms. Myers, I think it was said that
7 Senator Petruccelli had said something
8 characterizing what the Legislature meant.

9 I don't remember that but I'd like
10 to find out what she was talking about. There
11 may be some legislative intent issues here too.
12 I'm not sure how that cuts. I would agree.

13 I wasn't sure about waiting until
14 the application is done. I think I do agree
15 with you that this one is such a tough case
16 that to be fair to everybody -- Somebody is
17 going to be very unhappy, clearly. And this is
18 a 51/49 question at best. And we ought to have
19 all of the information we can possibly get. If
20 it was only that, I definitely wouldn't make a
21 decision today. I think we have to do a lot of
22 real hard looking because clearly the law is
23 going to be the threshold here.

24 COMMISSIONER CAMERON: I agree that

1 I would like to hear from our legal staff on
2 some of those key points about the
3 establishment. But I am not sure -- So, we
4 wait for the application to come in and then
5 make a decision at that point that you can
6 either go on and be part of the evaluation
7 process or you can't? I just wasn't sure.

8 COMMISSIONER MCHUGH: That would be
9 my idea.

10 CHAIRMAN CROSBY: So, you would have
11 a threshold issue that no other applicant has
12 and that is will we accept your application?

13 COMMISSIONER MCHUGH: Yes.

14 COMMISSIONER CAMERON: I understand
15 the reasons for that but there is so much that
16 goes into that application, all of the
17 permitting, all of the hoops and I just wonder
18 if we're being fair.

19 CHAIRMAN CROSBY: Actually, they
20 requested that. They said don't make a
21 decision now. I know what you're saying.
22 People have spent tons of money, never mind
23 folks who are volunteering their time. The
24 other side is putting in tons of money and tons

1 of energy, but they asked us to do that. They
2 said wait and let us show you so you can make
3 an informed decision.

4 COMMISSIONER ZUNIGA: Plus all that
5 matters is that the time where the
6 certification of the vote, for example, the
7 deadline for that is the deadline for RFA-2.
8 So, there is a number of requirements of the
9 application that only come until RFA-2. It was
10 only the investigatory piece that we bifurcated
11 into RFA-1. So, in many ways we don't have yet
12 an application and that was by design. There's
13 many concepts that will be presented really at
14 that time.

15 CHAIRMAN CROSBY: I think implicitly
16 they might -- It's not cast in stone, but
17 implicitly the applicant has suggested that
18 they do think we have the authority to stop the
19 process if we wanted to. I'm not holding them
20 to that but they did say we hope you will make
21 the decision to let us go forward.

22 So, I think we could sort of go one
23 step at a time. I think we would like to see
24 as thoughtful research as we can possibly get.

1 I'd like to read all of the five pages of the
2 no Eastie Casino letter. Think about whatever
3 we can learn as far as legislative and see
4 where we are at. And if that tells us
5 something, maybe we decide at that point to
6 make a different decision or maybe we decide to
7 go ahead and wait as Commissioner McHugh is
8 saying.

9 COMMISSIONER STEBBINS: I would keep
10 open the possibility that in this intervening
11 time period between now and December 31 that if
12 Suffolk and the city of Revere feel the need to
13 come back and update us on anything new that
14 develops that we should give them that
15 opportunity as opposed to waiting until the
16 application date.

17 CHAIRMAN CROSBY: If they want to
18 update us on their request that we let the
19 process go forward?

20 COMMISSIONER STEBBINS: Update us on
21 any of their design, any of their proposal. We
22 know at this point they are minus an operator.
23 I think any of those key updates would be
24 helpful potentially in advance of the

1 application date.

2 CHAIRMAN CROSBY: I think we have to
3 be careful not to -- What we're talking about
4 is my original question is can we do this.
5 We're going to say we're not sure yet. But we
6 don't want to give them a chance to lobby the
7 Commission for features of their proposal that
8 the other bidders aren't going to get.

9 So, yes we need to hear who the new
10 operator is. That is a requisite. And Mr.
11 Cameron made the point about that the deadline
12 has already slipped on part of that. If they
13 ask, we can certainly entertain it. But I
14 don't want to give them a chance to come in and
15 give us a sales pitch on their proposal that
16 the other folks don't get.

17 COMMISSIONER MCHUGH: Can we do it?
18 Can they do it question is the predominant
19 question and that is the only one before us.

20 CHAIRMAN CROSBY: That's the way I
21 would characterize it as well. Are we all
22 comfortable with that? What we'll do is do the
23 research we can get our arms around as quickly
24 as we possibly can and consider that carefully.

1 And then see where we are at. I think sort of
2 leaning towards waiting for the full proposal,
3 but not absolutely there yet. I don't think we
4 need to vote.

5 COMMISSIONER MCHUGH: No.

6 CHAIRMAN CROSBY: Okay. That's
7 where we are, wherever that is.

8 COMMISSIONER ZUNIGA: Our employment
9 of lawyers continues.

10 CHAIRMAN CROSBY: Except for the
11 folks who are volunteering. And I am sensitive
12 to the fact. This isn't just this debate.
13 This happens in debate after debate after
14 debate where one side has a lot of money the
15 other side doesn't. And we're not
16 unsympathetic. We're not unaware of that. We
17 are, particularly for people who have to work
18 for a living. And when they put in volunteer
19 time don't get paid for it. That's a very big
20 sacrifice, and we understand that.

21 The whole issue, we won't forget of
22 community and surrounding community and sort of
23 regional support will become an issue as we
24 make our final decisions. We've talked about

1 that all along that community support,
2 community relationships are going to be
3 relevant to us even after we have accepted
4 applications and are making our decisions. I
5 think we have one other item and then we are
6 done.

7 We will have a quick break.

8

9 (A recess was taken)

10

11 CHAIRMAN CROSBY: Before get onto
12 this topic, I am going to make one quick ad lib
13 here. There was a guest who had been here
14 since early this morning who thought she was
15 going to have an opportunity to speak. We
16 thought we had communicated that. It got lost
17 in communication. And because she has been
18 here so long, I do want to ask her to come
19 forward. I don't know your last name, but
20 Angie you are welcome to come speak.

21 MS. PRESTON: Thank you, Mr.
22 Chairman.

23 CHAIRMAN CROSBY: Sorry this took so
24 long.

1 MS. PRESTON: I appreciate you
2 allowing me to provide my comments in the form
3 of a quick letter. Dear Massachusetts Gaming
4 Commission, after reading about Suffolk Downs
5 Sterling Suffolk racetrack official
6 notification to the Commission on the Revere
7 only casino plan, I'm wondering how is it
8 possible that Suffolk Downs or the Commission
9 can even consider this new plan.

10 The host community agreements for
11 East Boston and Revere were based upon the
12 partnership between Suffolk Downs and Caesars
13 Entertainment to build a Caesars brand and
14 styled \$1 billion resort destination casino.
15 Caesars did not pass the background check and
16 the dissolution of that partnership between
17 Suffolk Downs and Caesars should have caused
18 the Commission to deem Suffolk Downs
19 unsuitable, but it didn't.

20 Suffolk Downs barely passed the
21 adjudicatory hearing with the decision of
22 suitability albeit conditional even though the
23 Commissioners and the Investigations and
24 Enforcement Bureau appeared to have grave

1 reservations on the plan that they presented.

2 There was a referendum vote that
3 according to the Expanded Gaming law
4 establishing gaming in the Commonwealth of
5 Massachusetts that is Mass. General Laws
6 Chapter 194 of the Acts of 2011 specifically
7 from page 28 Chapter 23K section 15 clause 13
8 provided in part that if the ballot question is
9 voted in the negative, the applicant shall not
10 submit a new request to the governing body
11 within 180 days of the last election and
12 provided further that the new request shall be
13 accompanied by an agreement between the
14 applicant and host community signed after the
15 previous election. Provided further that if a
16 proposed gaming establishment is situated in
17 two or more cities or towns, the applicant
18 shall execute an agreement with each host
19 community or a joint agreement with both
20 communities and receive a certified and binding
21 vote on the ballot question that an election
22 held in each host community in favor of such a
23 license.

24 The vote happened and the result as

1 you know in East Boston was a negative vote.
2 That means that this plan is no more. There
3 are millions of dollars at stake for the host
4 community. So, it's easy to understand why
5 Revere's Mayor Rizzo is salivating to proceed
6 with the new plan. But he does not and should
7 not speak for the city of Revere's residents.

8 According to the gaming law, the
9 process must begin anew for Suffolk Downs to be
10 reconsidered for a gaming license. And that
11 cannot happen before of December 31, 2013's
12 deadline that was established unless laws are
13 broken and/or rules bent.

14 The East Boston residents, we fought
15 long and hard to win a no casino vote. It is
16 in bad faith that Suffolk Downs is trying to
17 work around the referendum, gaming law and host
18 community agreements in order to have their
19 way.

20 This is not fair and I hope the
21 Commission will see Suffolk Downs' new effort
22 for what it is, sour grapes.

23 Further, I hope the Commission
24 disqualifies Suffolk Downs as an applicant in

1 issuance of this round of gaming licenses.
2 Suffolk Downs should not be allowed to reapply
3 for a gaming license until it has lawfully
4 satisfied the established process. Please
5 follow the law in doing your job. Thank you,
6 unless you have some questions.

7 CHAIRMAN CROSBY: Thank you very
8 much. We are going to do our best.

9 COMMISSIONER MCHUGH: Thank you.

10 CHAIRMAN CROSBY: Thank you for
11 waiting. Director Jill.

12 MS. GRIFFIN: Good afternoon
13 Chairman Crosby, Commissioners. As you know,
14 it's in the best interest of the Commonwealth
15 and the applicant to ensure labor harmony
16 during construction and operation of the
17 casino. At the last Commission meeting Brian
18 Lang of Unite Here local 26 asked the Mass.
19 Gaming Commission for time to give his
20 recommendations for ensuring labor harmony
21 during operations.

22 The Commission indicated that you
23 were interested in hearing other perspectives.
24 And following that meeting, I was contacted by

1 Barry Hock UAW Mass. Gaming Director, a regular
2 at our meetings. And we have Julie Kushner who
3 is a regional director of UAW. We also have
4 some special guests from out of town who have
5 agreed to give you their testimony.

6 They've agreed to be brief. They
7 knew that you had a full day. But I'd like to
8 just briefly introduce them. Ernestine Dawkins
9 is a table games dealer at Tropicana Casino in
10 Atlantic City. She is also president of UAW
11 local 8888. Jim Lawry is a poker dealer at
12 Horseshoe Cleveland, 11 years as a dealer and a
13 member of the bargaining committee. And Denise
14 Gladue is a table games dealer for 17 years at
15 Foxwoods Resort Casino. And she's the
16 financial secretary of UAW local 2121.

17 So, I'm going to turn it over to
18 Julie.

19 MS. KUSHNER: Great. First of all,
20 Chairman Crosby and all of the Commissioners we
21 really appreciate you taking the time to hear
22 from our members. I want to sort of give you a
23 quick overview. I know you heard from Brian
24 Lang. And much of what -- I mean everything he

1 says we agree with in terms of labor harmony
2 agreements, the purpose, the importance of
3 those agreements to the Commonwealth to having
4 good jobs. We believe that good jobs don't
5 just happen that you have to make them good
6 jobs. And that the labor movement and unions
7 have been doing this for decades and decades.

8 In fact, still today, and I started
9 doing this work in 1977, still today the
10 statistics show that union jobs pay higher
11 wages and better compensation than other
12 nonunion similar jobs. In fact, today it is 27
13 percent higher for unionized workers.

14 CHAIRMAN CROSBY: Is that in the
15 gaming industry?

16 MS. KUSHNER: That's nationally.
17 That's not specific to gaming. I don't know if
18 they have a statistic. It's from the Bureau of
19 Labor Statistics. We can certainly find out --
20 they often do go by sector as well. We can
21 look at that.

22 We believe that labor harmony
23 agreements will make it possible for workers to
24 organize. So, today what we did was we brought

1 to you some dealers who have had very different
2 experiences. Ernestine who organized in
3 Atlantic City will describe her experience
4 where there was no labor harmony agreement.

5 Jim will talk about the Ohio
6 organizing where they have labor harmony and
7 how different it was. And then Denise is here
8 from Foxwoods and she'll be able to talk a
9 little bit about the importance of a union
10 contract.

11 My experience within gaming is that I
12 started in 2007 working with the Foxwoods'
13 dealers in their efforts to form a union. The
14 UAW represents nearly 10,000 dealers
15 nationwide. In this region, Connecticut, Rhode
16 Island we have the Newport Grand operation, but
17 also in Atlantic City, Michigan, New Jersey,
18 Indiana, Ohio and now recently the Flamingo
19 dealers in Las Vegas have just organized with
20 the UAW.

21 So, this is an area where we have
22 developed some expertise in representation and
23 are interested in expanding. We'll take
24 questions. I know that maybe it would be help

1 just to go over the components before your hear
2 from Ernestine and Jim. Just to remind you and
3 I know you've heard this from Brian Lang but
4 the first component of a labor harmony
5 agreement, the employer agrees to remain
6 neutral and not to try and influence the vote
7 of any individual employee.

8 They provide access to the union to
9 the workforce so that there is opportunity to
10 explain and answer questions about what
11 unionization means. The union is provided with
12 contact information so that we can also be in a
13 position to talk to folks away from work where
14 they might be more comfortable to spend more
15 extended time asking their questions.

16 Typically, in the labor harmony
17 agreement the employer and the union meet
18 together with the workforce so that the
19 employer in front of everyone can say we are
20 not going to try and influence your vote.
21 Particularly, in today's climate that's really
22 important, because most people are afraid that
23 the employer is really deep down antiunion.
24 And fearful that could impact their future

1 employment if they participate in a union
2 campaign.

3 Then there's a process to recognize
4 the union poncho of majority support. Finally,
5 one of the critical pieces is that if you can't
6 reach an agreement that there is a fair
7 process, an arbitration process to negotiate
8 really the first contract which replaces
9 disruptions and strikes with fair process that
10 both parties agree to abide by in the end with
11 a neutral arbitrator.

12 So, those are the elements of the
13 labor harmony agreement. And we think they are
14 critical. We will provide you with a more
15 detailed analysis of that especially since so
16 many of the degree to which the specifics are
17 important in labor harmony agreements I can't
18 underscore enough. Having a timely process,
19 making sure that it's enforceable in the courts
20 or within the arbitration process. There's
21 lots of elements that make this real that don't
22 just make it just empty words on a piece of
23 paper. But having said enough here, let me
24 introduce Ernestine who will tell you about her

1 experience.

2 MS. DAWKINS: Good afternoon. My
3 name Ernestine Dawkins. I've been a dealer for
4 over 30 years, currently 25 years at Tropicana.
5 I am the president of the local. Excuse me,
6 I'm nervous. Just to say it took a long time
7 just to get a union in Atlantic City. We had
8 three attempts over 20 years.

9 In 2007, we won our election. It
10 took us like half a year to get cards
11 collected. Once we had the cards collected, it
12 took over three years to get a contract. The
13 company would not bargain with us in good
14 faith. They took a lot of things away from us
15 that they had in their handbook which they are
16 still taking things away at the moment.

17 And these issues, tactics, scare
18 tactics, race against race, different
19 nationalities against different nationalities,
20 which we are a family now which they didn't
21 understand. After working 25 years together,
22 no matter what nationality you come from we're
23 a family. And we stuck together and we won
24 like 90 percent of the vote.

1 It's just to show you that if we had
2 something that they're trying to get here, it
3 would have been much easier for us. They're
4 still having their little tactics. We have
5 supervisors talking against the union, which I
6 don't understand. It makes it better for the
7 workers.

8 They promised us good jobs. Once
9 they came and established themselves, it was just
10 taken away. They just keep taking and taking
11 and taking. And we want them to make money
12 just like they want to make money. We just
13 want to be treated fairly. We had negotiations
14 like they're trying to get in Boston, it
15 would've been much easier for us.

16 CHAIRMAN CROSBY: Our statute,
17 somebody remind me, calls for labor harmony
18 agreements not on the application but by the
19 time of operation?

20 COMMISSIONER ZUNIGA: One of the
21 requirements -- one of the prerequisites of the
22 application, so we'll see this in Phase 2 is
23 that they present to us plans for ensuring
24 labor harmony. That's something that's a

1 question in our RFA. That's I believe under
2 the mitigation --

3 COMMISSIONER STEBBINS: It's under
4 the economic development section.

5 COMMISSIONER ZUNIGA: -- economic
6 development section, I'm sorry. We'll get to
7 this because I've been learning a lot about
8 these kinds of things recently. Those plans
9 can vary. An applicant can come in with any
10 number of plans with an executed labor harmony
11 agreement. Even an executed labor harmony
12 agreement may differ from others.

13 And I think that's very important
14 for us to really understand and think about
15 relative to whether they can be enforced and
16 how they get implemented. I think this notion
17 of neutrality, which is a question I had for
18 you Ms. Kushner, is critical, somebody
19 presenting a union may not necessarily be
20 meaning that they are neutral; is that correct?

21 MS. KUSHNER: That's correct. The
22 statement of the employer that they will be
23 neutral and that they will abide by the results
24 of the Democratic choice of the workers is

1 really critical. Because today there has been
2 a history in the United States of employers
3 fighting unions that everyone is aware of,
4 especially today.

5 So, I think that unless there is a
6 positive statement of neutrality I think that
7 you will find that workers in the back of their
8 head are going to be afraid to express their
9 own view.

10 I know where we have experience,
11 which I think you'll hear from Jim, where we've
12 had experience with labor harmony agreements,
13 and people feel comfortable, we've been almost
14 100 percent successful. The workers do choose
15 to unionize under those circumstances. And
16 it's not that hard to imagine that if you have
17 a choice between having your own organization
18 and dealing with an employer or having to be on
19 your own, most workers will pick an
20 organization and see the value in it.

21 It is entirely dependent on feeling
22 that there won't be retaliation if they form a
23 union. That's where the neutrality becomes so
24 important.

1 The other piece of that is making
2 sure that these neutrality labor harmony
3 agreements cover all the nonsupervisory
4 employees. Because there are occasions you
5 might see a neutrality agreement that only
6 covers certain classifications. Historically,
7 dealers were not organized into unions. It's
8 only in the last decade that that started
9 happening.

10 So, some of the major developers are
11 reluctant to include dealers as a
12 classification in neutrality agreements. So,
13 that would be very critical because also the
14 dealers are going to be the major part of the
15 workforce. There are more dealers in casinos
16 than any other single classification.

17 COMMISSIONER MCHUGH: This may not
18 be something on which you can comment, but if
19 you can I would welcome the comment about the
20 SEIU case that was recently argued in the
21 Supreme Court --

22 MS. KUSHNER: The Mohawk case?

23 COMMISSIONER MCHUGH: -- and its
24 impact on labor harmony agreements and the

1 legality.

2 MS. KUSHNER: I'm not a lawyer or
3 expert. However, I follow these things pretty
4 closely. Our UAW has been involved in labor
5 harmony agreement in several different
6 industries in addition to casinos and the
7 gaming industry. Certainly in manufacturing,
8 there's some of the bigger cases that have gone
9 before the Supreme Court in the past have been
10 UAW cases in the supplier industry to the auto
11 industry.

12 Essentially, the Supreme Court will
13 decide, and they heard the case a week ago,
14 whether labor harmony agreements are a thing of
15 value and engage in negotiations with the
16 employer the exchange of something of value is
17 what's being questioned. We don't know how
18 they will fall out. The main issue that's
19 being questioned there is the amount of money
20 that one union spent engaging in a support of a
21 developer. So, it's a question of the amount
22 of money was significant like a half million
23 dollars or more. I don't think we see in
24 Massachusetts any union being in a position

1 where we've engaged in that way.

2 So, I don't think that the Supreme
3 Court decision will impact labor harmony
4 agreements as the facts are going to be so
5 different here in Massachusetts.

6 COMMISSIONER STEBBINS: Quick data
7 point, Ernestine talked about the card
8 collection before having an election. Are the
9 federal rules now changed that it's the
10 collection of the cards and not ultimately an
11 election?

12 MS. KUSHNER: Under federal law,
13 you're allowed to collect cards. And an
14 employer is allowed to agree to majority
15 authorization through the collection of cards,
16 but they're not required to.

17 So, an employer can say instead of
18 checking cards, we want you to go through and
19 NLRB election. So, most of the labor harmony
20 agreements call for card check is what they
21 call it, the majority authorization on cards as
22 opposed to an election. That is legal but not
23 required under federal law.

24 COMMISSIONER ZUNIGA: And it would

1 be a negotiating point of a labor harmony
2 agreement I take it then?

3 MS. KUSHNER: It would be, although
4 I would say that probably 90 percent or more
5 include card check as opposed to an election.

6 COMMISSIONER MCHUGH: Ernestine, you
7 had election in Atlantic City?

8 MS. DAWKINS: Yes.

9 COMMISSIONER MCHUGH: Can you
10 describe that was like?

11 MS. DAWKINS: We had like 90 percent
12 of the vote. We started collecting cards. We
13 had 1000 dealers. As I said, 90 percent of the
14 dealers went union. Currently, we have 505
15 dealers. And the majority I'm saying is almost
16 50-50 part-time and the majority was full-time
17 back in '07 when we voted the union in.

18 MS. KUSHNER: Ernestine, you might
19 want to share -- I know because I was working
20 even though it's a different region, I was
21 working with you all. During that election
22 period that's when it can be extremely intense.
23 The employer tried to --

24 MS. DAWKINS: They had every

1 employee come in two hours early. We had to
2 watch videos, go to classes. They were saying
3 how the union was not good for the workers at
4 the time, which the last 20 years we had tried
5 to attempt to get unions. After 30 years we
6 knew better.

7 We needed somebody, a group to
8 support us to back us to keep the things that
9 we wanted that they promised us when they first
10 came in. And we voted them in in 1978. I was
11 about 17 then. I started dealing at the age of
12 19 and I'm still dealing.

13 COMMISSIONER MCHUGH: What do you
14 deal?

15 MS. DAWKINS: Craps, roulette, black
16 jack.

17 COMMISSIONER MCHUGH: You do all of
18 those?

19 MS. DAWKINS: Yes.

20 COMMISSIONER MCHUGH: How do you
21 follow all that stuff that goes on on the craps
22 table?

23 MS. DAWKINS: It's habit. I show it
24 to the bank and I touch the money and my hands

1 go like this. That's just clearing my hands
2 for the camera. Some things is just automatic.
3 You're just like a robot once you do it for so
4 long, it comes to you.

5 MS. KUSHNER: Don't let her fool
6 you. She's a little bit of a genius too to be
7 able to remember all of that stuff.

8 COMMISSIONER MCHUGH: Of course,
9 that's the most complicated.

10 COMMISSIONER CAMERON: 1978?

11 MS. DAWKINS: Yes.

12 COMMISSIONER CAMERON: You were at
13 the beginning, the very beginning.

14 MS. DAWKINS: Yes.

15 COMMISSIONER CAMERON: Atlantic
16 Community College?

17 MS. DAWKINS: Stockton State for a
18 couple of years and then I trained in
19 Pleasantville.

20 COMMISSIONER CAMERON: Okay.

21 MS. DAWKINS: So, like three months
22 for the course.

23 MS. KUSHNER: Maybe Jim could
24 explain what it's like when --

1 MR. LAWRY: I'm Jim Lawry from
2 Horseshoe Cleveland. I have nine and a half
3 years Las Vegas experience, moved away from
4 Ohio because there was no gaming like here in
5 Massachusetts. But I was interested, enjoyed
6 it.

7 When I found out Ohio got it passed
8 and they were going to open a casino in
9 Cleveland, it allowed me to come home. I'm an
10 only child, be able to come home and be with my
11 parents. And five children and my wife, so
12 it's been a wonderful thing to be able to come
13 back. I am a day-one dealer at Horseshoe.
14 Opened May 16, 2012. My wife also a dealer
15 blackjack and table games. So, it really has a
16 lot to do with my family personally.

17 When I came back I saw things in the
18 casino that just didn't to seem to agree with
19 me and my family and what I was used to. They
20 would schedule us -- we didn't have a set
21 schedule. Like I could be 10:00 AM today, 2:00
22 PM tomorrow noon the next day. I guess you get
23 what I'm saying. And when you have a family
24 and you have a life, you need a quality of

1 life. What time can dinner be with children,
2 soccer games, baseball games, afterschool care
3 and all these things.

4 So, when I started looking into
5 things and because we had a labor agreement, it
6 was so much easier for me because I could get
7 the answers that I needed. They had a table
8 set up in the EDR. There was information. If
9 I needed, I could just have question-and-answer
10 like how could you help me with the scheduling.
11 My pay was very low in that region. I started
12 looking at Google and stuff and I knew what I
13 made in Las Vegas. Just different things like
14 that.

15 We stand for eight hours a day.
16 When we first opened the casino like will
17 happen here in Boston, you're going to work 10,
18 12-, 14-hour days because it's overwhelming,
19 people are so happy. Well, when you're
20 standing on just a concrete floor with
21 carpeting and there are no anti-fatigue mats,
22 believe me, your back, your knees, your legs
23 wasn't like a concern for them when I would
24 bring it up myself especially the scheduling

1 issues.

2 So, when I informed myself and got
3 the information that the union could really
4 help, and believe me, they really have, it was
5 a no-brainer for myself, my family, my
6 coworkers.

7 It only took two months for us to
8 organize. We organized at like 70 percent.
9 Since I was voted in, I'm in the process of
10 negotiating our first contract right now. So,
11 the nonunion dealers at that time were people
12 who were against the union now walk up and down
13 the hallways and thank me and shake my hand.
14 Thank you for the work you're doing. I didn't
15 see it. Keep doing what you're doing. I have
16 about 350 of the 550 dealers that follow me on
17 Facebook on what's going on.

18 The labor harmony agreement,
19 absolutely. I'm here to really help the
20 workers in Massachusetts because it's been
21 overwhelming what I've seen in Cleveland. I
22 was also down in Cincinnati. I was able to
23 help organize.

24 I was actually one of the guys that

1 sat at the table in the EDR. And the dealers
2 just thanked me so much for taking the time to
3 come down because I could speak their language.
4 PTO, working 60/20s or 80/20s, just all of the
5 things that they're going to face on a daily
6 basis. And what I could do in Cleveland and
7 how the union could help them in Cincinnati.

8 So, now only now Cincinnati, Toledo,
9 Columbus have all joined on. All have labor
10 agreement issues. The only thing I made a note
11 for that would be important too would be in
12 Cleveland because this is so new, the HR
13 department put up about a three- or four-page
14 letter that explained what neutrality was and
15 everything like that because truly I can
16 understand what they probably went through in
17 Atlantic City.

18 We have so many cameras in the
19 casino and everything. And even though we
20 understood what neutrality was, people are
21 still afraid to walk up and talk to a union
22 person even down in Cincinnati when they knew
23 we were sisters and I was down there. I was
24 invited by the casino to help and be there.

1 But they were still afraid because the cameras
2 are on them at all time when they would talk to
3 me would there be some kind of retaliation.

4 There are couple of supervisors that
5 spoke out against the union both places,
6 Cleveland and when I was in Cincinnati. We
7 wrote up a report. We were able to take it to
8 HR department. It stopped immediately. It put
9 people very easy. And even with labor harmony
10 agreements, she probably doesn't know I brought
11 this but, there is a mailing that went out to
12 everybody.

13 They give you the paper where
14 everybody's classification, their address and
15 everything like that. So, inside there's a
16 card. It went to their home because people
17 were sometimes afraid to take one. And we had
18 neutrality once again. So, the card was
19 inside. They could just fill it out and mail
20 it directly. That was a big help too. Very
21 important. If you have any questions or
22 anything. Thank you for your time.

23 COMMISSIONER STEBBINS: Ohio is
24 obviously new in the gaming jurisdictions. Was

1 there anything -- They passed casino gaming by
2 referendum. Was there anything in the statute
3 or anything in the regulations that spoke to
4 how the operator needed to kind of respond to
5 organizing?

6 MR. LAWRY: It seemed like they had
7 an agreement prior. Again, I came in April
8 2012. The casino opened in May. I came right
9 before the casino opened. I was hired to move
10 back. And they already had that agreement
11 prior to the casino opening with the union to
12 be there and to be able to the inside. That's
13 why the HR department had the paper up.

14 Down in Cincinnati they've even gone
15 a step further. The GM of the Horseshoe had an
16 hour-long session about six different times in
17 a 24-hour period because of the different start
18 times where he would stand up in a room like
19 this. And I was present.

20 He would go first and he would say
21 I'm Kevin Kline, GM of Horseshoe here. We want
22 our workers to know that you have a right to
23 inform yourself, get the education that you
24 need and see if the union is something you'd be

1 interested in. That's coming for me.

2 He would leave the room and at that
3 time like I was there with some other members.
4 And we could say any questions that we can
5 answer for you. This is what's happening up in
6 Cleveland, and this is why I got involved
7 personally. And that was a big help too that
8 we didn't even have in Cleveland. So, it's
9 even moved forward like that.

10 COMMISSIONER ZUNIGA: Did the labor
11 harmony agreement there in Ohio allowed and
12 they usually allow entrance into the premises
13 by union representatives that are not current
14 employees; is that correct?

15 MS. KUSHNER: That is correct.

16 MR. LAWRY: We wore badges. We had
17 a visitor's badge. We were only allowed in the
18 employee dining room. We have a table set up.
19 And it's pretty much manned around-the-clock
20 because the casino industry is 24/7, 365 days a
21 year. That way any shift can come up and talk
22 and get the information that they need.

23 MS. KUSHNER: My understanding in
24 Ohio was that it was a different process than

1 things going on here in the Commonwealth. The
2 unions, particularly UAW we have a really
3 significant membership in Ohio that live in
4 Ohio. And we do a lot of political action.
5 So, we partnered with the developers and have
6 labor harmony agreements before the referendum
7 took place.

8 I don't believe it is part of the
9 statute per se, but I think it was part of the
10 understanding with the developers. As I said,
11 the agreements were enforceable. They were
12 good strong labor harmony agreements so that we
13 partnered going into it.

14 COMMISSIONER ZUNIGA: Perhaps the
15 Ohio instance might be a good illustration, but
16 I am trying to understand what different job
17 clarifications. You keep mentioning the
18 dealers obviously that's your target, but we
19 heard from Brian Lang about the service
20 workers. I believe they also represent food
21 and beverage for example. How does that
22 process come to fruition different unions at
23 different times?

24 MS. KUSHNER: It's different in

1 different places. In Michigan we partnered
2 with Unite Here. Again, we had a very strong
3 membership base in Michigan. And Unite Here
4 approached us and said why don't we partner to
5 pass the ordinance in Detroit that allowed for
6 the casino gambling.

7 In that instance, there's different
8 partnerships at different unions. But you're
9 correct, the classifications even go as broadly
10 as there's engineering, there's the AC folks
11 that manage the ventilation systems.

12 In Foxwoods, it didn't start out
13 with labor harmony. And it was a more
14 difficult process. But through organizing and
15 Denise will tell you about that and through the
16 process of collective bargaining actually,
17 management began to see the value in having
18 union relationships. So, some of the other two
19 units that followed us like the food and
20 beverage and engineering were actually
21 organized under labor harmony agreements so
22 that they had a much easier time in organizing.

23 So, it's really different at
24 different places. Hopefully, you'd find that

1 there'd be ways in which the unions can work
2 together in coalition to make it an easier
3 process here in Massachusetts.

4 COMMISSIONER ZUNIGA: Is it fair to
5 say that one labor harmony agreement could be
6 struck with partnerships or not? Or does an
7 applicant need multiple labor harmony
8 agreements?

9 MS. KUSHNER: Any labor harmony
10 agreement that is reached with any particular
11 union under the law has to be applied equally
12 to any union. So, even if you haven't signed
13 onto that agreement, they have to offer the
14 same. So, if they give access to one union,
15 they have to give access to every union so
16 there can't be any discrimination in that way.

17 However, clearly I think what works
18 best is when unions get together and figure out
19 how do we do this together. So, in Jim's
20 situation there's a gaming council. And that's
21 true in Michigan as well. The bargaining is
22 done with all of the unions together at the
23 same bargaining table.

24 In Atlantic City, they don't have a

1 council. As I mentioned, the dealer
2 classification is only a recent organizing, so
3 in the last 10 years. So, we were not at the
4 table with the food and beverage and
5 hospitality workers and the other types of
6 workers that have been organized there for
7 decades.

8 I know at Foxwoods we don't have a
9 council, but we really coordinate well with the
10 other unions there. So, that we're on same
11 page about some of the universal conditions
12 like healthcare and 401(k)'s and those kinds of
13 things so that we're not bargaining against
14 each other but supporting each other.

15 Denise can tell you a little bit
16 about that if you'd like to hear from her.

17 MS. GLADUE: Hi, I'm Denise Gladue.
18 I'm a dual rate dealer at Foxwoods. I've been
19 there 19 years, 17 as a dealer. I started in
20 another department. Currently, I'm on leave
21 from my dealing job because I'm the full-time
22 financial secretary for our union. My daughter
23 is also a dealer at Foxwoods.

24 And I was hired there in 1994. In

1 2007 and 2008 we were organizing, voted our
2 union in. And after a long campaign, they
3 decided to recognize our union. Having a
4 collective bargaining rights at Foxwoods has
5 really made a difference for all of us.

6 It didn't just make a difference for
7 our dealers because what they did is the things
8 we won in our contract, they passed onto the
9 other departments that didn't have contract
10 like 401(k) and things like that. So, it made
11 a big difference to everyone not just us.

12 With the collective bargaining
13 agreement and rights, we were able to pick
14 bargaining members to bargain, like elect our
15 own bargaining committee. Sorry, I'm a little
16 nervous. We let management know what our main
17 priorities are, what's important to us. We
18 have binding arbitration for our contract
19 negotiations so that there is an end in sight.
20 We can't bargain forever.

21 We've gotten pay increases every
22 year we've had a contract, which is really good
23 in this economy. The dealers tips along with
24 their base pay average over \$20 an hour so that

1 we make a fair wage.

2 CHAIRMAN CROSBY: Tips plus base pay
3 averages \$20 an hour?

4 MS. GLADUE: Over, yes, over \$20.

5 COMMISSIONER MCHUGH: Are they
6 pooled tips?

7 MS. GLADUE: Yes, they are. Most of
8 our dealers are full-time and have full
9 benefits. Our tips we get to decide how they
10 are pooled not management because they are our
11 money. We also have a joint labor management
12 committee, health and safety committee that we
13 work on ergonomics and on-the-job safety
14 together to improve injuries.

15 With a contract, we want Foxwoods to
16 be successful because the workers and the
17 company make money. That's one of our main
18 priorities.

19 MS. KUSHNER: The tip issue maybe is
20 a good one to expand on a little bit, because
21 Foxwoods they've always had a pool for all of
22 the tips. But at some point that included
23 poker and the table games. However, poker
24 nationally typically they keep their own tips.

1 The poker dealers wanted to keep
2 their own tips. Previous to the union, there
3 was never any ability for them to make that
4 change. So, under the union contracts we
5 negotiated that there would be a vote by the
6 table game dealers and the poker dealers to
7 decide whether or not to separate the tips.

8 We did, because we had a union
9 contract we were able to get information about
10 what would the impact of that be. So, we did a
11 study so people knew in advance what that vote
12 would mean. And it was a much more informed
13 decision that way. And in the end, they did
14 vote to separate. The poker dealers are quite
15 happy of that two years later with that
16 separation. And the table games dealers were
17 not hurt by it. But everybody knew that
18 because of the studies we did.

19 Recently in the last negotiations,
20 the employer wanted to change the pooling to a
21 daily tip pool as opposed to a weekly. And
22 there was tremendous debate and bargaining
23 about it. But ultimately we agreed we would
24 have a vote on that by the dealers.

1 So, it's been our position that it
2 really should be up to the dealers because
3 they're the ones who earn the tips. The vote
4 happened a couple of weeks ago and they voted
5 to keep the pooling on a weekly basis.

6 The main argument for that is that
7 tips go up on the weekends. So, if you're a
8 senior dealer, you would be inclined to want to
9 work the weekends and get the higher tips but
10 it really affects the quality of life. Because
11 people under our contract earn weekend days off
12 to be with their family based on seniority.
13 So, you feel like you are working towards
14 something. And to have that ability to go to
15 the soccer games and be with the family.

16 So, it really was interesting to see
17 that people chose, senior dealers chose the
18 quality-of-life issue and said, no, we want to
19 keep our weekend days so that we can be with
20 our families. And it was interesting because
21 they are far outnumbered by dealers who are
22 less senior. But those less senior dealers saw
23 the future that they could get there too. I
24 think I talked to the employer there recently

1 and they had wanted another outcome. But it
2 was really interesting because he was very
3 gracious and said look, the workers got to
4 decide what was best for them.

5 So, I think it was a really great
6 example where without collective bargaining we
7 know from other places that decision would have
8 been made by the employer exclusively and it
9 would have held up in court as an employer
10 decision.

11 CHAIRMAN CROSBY: I believe, if I'm
12 not mistaken, Barry, that somebody else from
13 UAW came in and talked to us about workforce
14 safety.

15 MR. HOCK: 359 days ago.

16 CHAIRMAN CROSBY: 359 days ago?
17 From Foxwoods and I remember saying at the time
18 and Jill I am going to say it again that as
19 Enrique was saying, we don't really know how to
20 judge these things and what to look for.
21 Whether it's an agreement, a labor harmony
22 agreement or whether it's workforce safety
23 issues. So, we need to make sure that the loop
24 is closed so that we've got some advice on what

1 we're looking for when we are evaluating these
2 proposals. And maybe even what we should
3 clarify in the proposals.

4 MS. KUSHNER: To that point, I think
5 one of the things that I would hope you would
6 look at is what are the developers doing here,
7 the operators to sign labor harmony agreements
8 here. For instance, one of the developers in
9 Ohio might have a very good labor harmony
10 agreement like the one Jim described --

11 CHAIRMAN CROSBY: Who's your
12 operator?

13 MR. LAWRY: Two separate ones. One
14 is Caesars Entertainment. The other one is
15 Penn Gaming.

16 MS. KUSHNER: The same employer in
17 another place might not have a labor harmony
18 agreement and might actually -- I've had
19 experience, I'm not going to say with which one
20 of those, where they actually aggressively
21 opposed the union.

22 So, it really is important to know
23 what they're going to do here and what
24 agreements they've signed here. I think the

1 other piece of it is that they cover all of the
2 classifications as I mentioned so that the
3 dealers don't get left out of the equation.

4 A third case is to look for
5 timeliness because you want the process to move
6 quickly. So that workers don't have to -- If
7 you sign cards and you want to have a union,
8 you want to get in negotiations, if it's a
9 delayed process it's really to their
10 disadvantage to have to wait. Like they've had
11 some of them for years to have a first
12 collective bargaining agreement.

13 And then enforceability so that
14 there's real clear enforcement. If there's a
15 violation that that enforcement has to be very
16 quick. I'm negotiating an agreement with
17 another employer. It's not public yet. It's
18 not in gaming. But it will call for a 48-hour
19 arbitration in the event of a claim of a
20 violation so that it can be remedied very
21 quickly. It can taint the opportunity for a
22 fair process because it's really hard to
23 retract negative statements.

24 COMMISSIONER STEBBINS: Mr. Chairman

1 to your point, all of this is helpful. And
2 Jill is part of the economic development
3 evaluation team that's looking at this. We've
4 even been drafting the questions for the
5 follow-up conversations we have out in the host
6 community to say this is where you were as of
7 the date of your application. Now almost two
8 months later where are you and see if they can
9 provide us an update.

10 MS. KUSHNER: I can tell you, we've
11 offered to meet with all of the developers. We
12 have not signed an agreement yet. We would
13 like to. We would like to work with all of
14 them. We think that that's really critical.
15 So, I think to the extent that the Commission
16 makes that part of the process, it will be
17 impossible for them to say well we'll see you
18 later.

19 I know that in Connecticut when the
20 two Indian casinos came into being, it was done
21 through compacts. And during the process of
22 negotiating the compacts, the state Legislature
23 did not include labor harmony and they decided
24 that could come after the fact. I can assure

1 you that once one of these developers has the
2 license, there is no impetus to reach a labor
3 harmony agreement. So, I really think that you
4 ought to look at the fact that it needs to be
5 done before the licenses are granted.

6 CHAIRMAN CROSBY: What is the status
7 of our three applications that we already have
8 in? Isn't there a question about labor harmony
9 agreements in the evaluation?

10 COMMISSIONER ZUNIGA: Yes, there is
11 a question, but I don't know that there are
12 labor harmony agreements executed with all.

13 COMMISSIONER STEBBINS: Obviously,
14 not a lot of dealers at the slots parlor.

15 CHAIRMAN CROSBY: That's true.

16 COMMISSIONER ZUNIGA: That's a
17 difficulty, or other job classifications as
18 well.

19 MS. KUSHNER: I do want to make sure
20 you remember we represent Newport Grand, which
21 is a slots parlor. So, we are interested. We
22 are just generally interested that even if it's
23 not our union that ends up representing these
24 workers, I will say that there is no question

1 that having a unionized workforce will in the
2 long-term make these better, more secure and
3 better benefited jobs for the long-term. And
4 that's what I think you all want in
5 Massachusetts.

6 COMMISSIONER STEBBINS: It sounds
7 like Jim you had the most ideal situation in
8 Ohio in terms --

9 MR. LAWRY: Yes.

10 CHAIRMAN CROSBY: Anybody else?

11 COMMISSIONER MCHUGH: No, that was
12 very helpful.

13 CHAIRMAN CROSBY: I appreciate your
14 coming so far. I think we are done with our
15 agenda.

16 COMMISSIONER STEBBINS: Mr.
17 Chairman, one quick point that came up. Jill
18 don't walk away. More of an issue to talk
19 about with legal counsel as we're looking at
20 licensing regulations. The point was made to
21 Jill and she passed it along about should we
22 look at licensing requirements for our
23 operators with respect to student interns,
24 people not gainfully employed by an operator?

1 Should we think about having licensing
2 requirements for that category of an
3 individual?

4 One of our applicants is talking
5 about working with a community college with
6 respect to internships. So, I know it's not on
7 our agenda, but I throw it out as something
8 that got brought to our attention. Maybe we
9 ought to invite Counsel to think about it as
10 we're going ahead with the regs. But it was an
11 interesting viewpoint that was shared with Jill
12 and I as something we ought to think about.

13 CHAIRMAN CROSBY: David's feedback
14 would be interesting too, Director Acosta.
15 Anything else anybody? Do I have a motion?

16 COMMISSIONER CAMERON: So moved.

17 CHAIRMAN CROSBY: All in favor, aye.

18 COMMISSIONER MCHUGH: Aye.

19 COMMISSIONER STEBBINS: Aye.

20 COMMISSIONER ZUNIGA: Aye.

21 COMMISSIONER CAMERON: Aye.

22 CHAIRMAN CROSBY: Thank you
23 everybody.

24 (Meeting adjourned at 3:02 p.m.)

1 GUEST SPEAKERS:
2 Green International
3 William Scully, Consultant
4 Pinck and Company
5 Jennifer Pinck, Consultant
6 Nancy Stack, Consultant
7 Suffolk Downs
8 Charlie Baker, III Secretary
9 Chip Tuttle, Chief Operating Officer
10 Brian Falk, Counsel for City of Revere
11 Mayor Dan Rizzo, City of Revere
12 No Eastie Casino
13 Matt Cameron, General Counsel
14 Celeste Ribeiro Myers Co-Chair
15 Residents in Support of Suffolk Downs
16 Mary Berringer - East Boston resident
17 Steven Chambelli - Revere resident
18 Gary Ferragamo - Revere resident
19 Joe Tedesca - East Boston Resident
20 UAW
21 Ernestine Dawkins, President UAW Local 8888
22 Denise Gladue, Financial Secretary UAW Local 2121
23 Julie Kushner, Regional Director UAW Region 9A
24 Jim Lawry, Poker Dealer Horseshoe Cleveland

1 MASSACHUSETTS GAMING COMMISSION STAFF:

2 Catherine Blue, General Counsel

3 Richard Day, Executive Director

4 Jill Griffin, Director Workforce, Supplier and

5 Diversity Development

6 Todd Grossman, Deputy General Counsel

7 Mark Vander Linden, Director Research and

8 Problem Gambling

9 Karen Wells, Director Investigations and

10 Enforcement Bureau

11 John Ziemba, Ombudsman

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C E R T I F I C A T E

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I, Laurie J. Jordan, an Approved Court Reporter, do hereby certify that the foregoing is a true and accurate transcript from the record of the proceedings.

I, Laurie J. Jordan, further certify that the foregoing is in compliance with the Administrative Office of the Trial Court Directive on Transcript Format.

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

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

WITNESS MY HAND this 25th day of November, 2013.

LAURIE J. JORDAN	My Commission expires:
Notary Public	May 11, 2018