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THE COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION
PUBLIC MEETING #88

CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

Gayle Cameron

James F. McHugh

Bruce W. Stebbins

Enrique Zuniga

November 7, 2013, 9:30 a.m.

BOSTON EXHIBITION AND CONVENTION CENTER

Room 254B

415 Summer Street

Boston, Massachusetts

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

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3 CHAIRMAN CROSBY: I will call to
4 order public meeting number 88 of the
5 Massachusetts Gaming Commission. Folks in the
6 back if you could take your seats. We are
7 Thursday, November 7 at the Boston Convention
8 Center yet again. And we will start out with
9 item number two on the agenda, approval of
10 minutes, Commissioner McHugh.

11 COMMISSIONER MCHUGH: Mr. Chairman,
12 there are two sets of minutes in the book. The
13 first for the meeting we held on October 29.
14 That was simply a meeting to hear reports with
15 respect to one issue involving the November 5
16 referendum. So, I'd move first that those
17 minutes be approved in the form they are
18 contained in the meeting packet.

19 CHAIRMAN CROSBY: Second?

20 COMMISSIONER STEBBINS: Second.

21 CHAIRMAN CROSBY: Any discussion
22 about the minutes for October 29? All in favor
23 of adopting please say aye.

24 COMMISSIONER STEBBINS: Aye.

1 COMMISSIONER ZUNIGA: Aye.

2 COMMISSIONER MCHUGH: Aye.

3 COMMISSIONER CAMERON: Aye.

4 CHAIRMAN CROSBY: Opposed? The ayes
5 have it unanimously.

6 COMMISSIONER MCHUGH: The second set
7 of minutes, Mr. Chairman, also in the book is
8 for our regular meeting on October 31 at which
9 we discussed a number of items in the
10 Commission's usual business. I'd move that
11 they too be approved in the form in which they
12 are contained in the book.

13 COMMISSIONER CAMERON: Second.

14 CHAIRMAN CROSBY: Any discussion
15 about those minutes? I am just looking at the
16 Ombudsman report and that looks right. Any
17 discussion? All in favor of adoption, aye.

18 COMMISSIONER STEBBINS: Aye.

19 COMMISSIONER ZUNIGA: Aye.

20 COMMISSIONER MCHUGH: Aye.

21 COMMISSIONER CAMERON: Aye.

22 CHAIRMAN CROSBY: Opposed? The ayes
23 have it unanimously. We then move to item
24 number three, which is a series of matters from

1 the director of our Racing Division, Dr.
2 Durenberger.

3 DR. DURENBERGER: Good morning, Mr.
4 Chair, Commissioners. I'm not used to coming
5 before you first thing on the agenda. I'm not
6 a morning person. So bear with me. We've got
7 a lot of material to cover today.

8 The first issue on the agenda has to
9 do with changes to Massachusetts tax reporting
10 and withholding requirements on winning pari-
11 mutuel wagers. And I just point out for this
12 audience that this affects more than just pari-
13 mutuel wagers. This does have some
14 implications for gaming.

15 To that effect, I had intended just
16 to give you a high-level summary and an update,
17 because we have discussed this at some length
18 in previous meetings. But I think we have a
19 little bit of a different audience here today.
20 So, I am going to take a little more time than
21 I had intended. I am going to walk through the
22 background to state the issue for the folks in
23 the room and I will try and summarize it from
24 there.

1 On the racetrack, racetrack
2 licensees have long been required to comply
3 with federal tax reporting and withholding
4 requirements. The federal reporting threshold
5 is triggered when the amount paid with respect
6 the wager is \$600 or more, if the proceeds are
7 at least 300 times as large as the amount
8 wagered. Withholding gets triggered by
9 proceeds more than \$5000 from a wagering
10 transaction if the amount of such proceeds
11 again is at least 300 times as large as the
12 amount wagered.

13 Until the passage of the Expanded
14 Gaming Act in Massachusetts, pari-mutuel
15 winnings from horse and dog racing were
16 expressly excepted from any point of redemption
17 withholding requirements. That was a provision
18 of Chapter 62B. That was changed by Chapter
19 194 section 28 of the Acts of 2011.

20 Amending this section of the tax
21 chapter, it did two things to the pari-mutuel
22 industry. One, it moved that exception for
23 pari-mutuel winnings. Then in the industry,
24 where we have been accustomed to using that

1 federal reporting threshold since 1976, the
2 section 28 created a new much lower state tax
3 reporting and withholding threshold of \$600
4 regardless of the amount wagered or the payoff
5 odds.

6 The piece that I haven't looked
7 into, of course, has to do with gaming, but the
8 federal code, tax code also contains a
9 withholding exception for bingo, keno and slot
10 machines and limits the withholding
11 requirements for lottery winnings to proceed of
12 greater than \$5000. Both of these expressed
13 exceptions in the federal law had been
14 encompassed in the previous state law in
15 chapter 62B. When the Expanded Gaming Act
16 passed, the exceptions were expressly decoupled
17 from the state withholding requirements.

18 In its current iteration, Chapter
19 62B section 2 applies the state reporting and
20 withholding requirement to all winnings of \$600
21 or greater, regardless of whether they are
22 pari-mutuel proceeds or winnings from lottery,
23 keno, bingo or slot machines. We have talked
24 about this at several meetings over the summer.

1 I'm going to just summarize briefly the effect
2 on the pari-mutuel.

3 We have done some research on how
4 Massachusetts tax treatment appears to be in
5 the minority in the country. We've found 15
6 states that do apply state tax reporting
7 withholding. All but one use the federal
8 guidelines. Iowa withholds proceeds --
9 withholds if the proceeds exceed \$1000. So,
10 only Massachusetts withholds at \$600.

11 Interestingly on the gaming side we
12 found only five states withholding state taxes
13 on slot machine winnings. One of them imposes
14 withholding on non-residents only as part of
15 the compliance mechanism. Of the other four,
16 we have one uses a threshold of \$5000. Three
17 use a threshold of \$1200. So again, only
18 Massachusetts withholds at \$600.

19 We've also noted the inability of
20 the Massachusetts pari-mutuel customer to
21 deduct losses up to winnings for state tax
22 purposes as they can for federal tax purposes
23 unless they meet the gambling as a trade or
24 business criteria. Again, our survey, we

1 revealed that Massachusetts appears to be one
2 of seven states. So, we are clearly in the
3 minority on the tax treatment of pari-mutuel
4 winnings.

5 CHAIRMAN CROSBY: You said that the
6 feds. for anybody can deduct losses against
7 winnings at the federal level; is that what
8 you're saying?

9 DR. DURENBERGER: That's my
10 understanding. We touch briefly on the matter
11 in which proceeds or winnings are calculated.
12 That was not an issue that I had explored in
13 depth previously. At our horseracing forum on
14 October 16, you heard from Mr. Alex Waldrop
15 with the National Thoroughbred Racing
16 Association who made some very cogent arguments
17 on how to help flesh that out.

18 That's basically the next part of
19 this memo, which I probably won't go into in
20 detail. I have included in your packet a
21 couple of letters. They sent -- the National
22 Thoroughbred Association has sent a white paper
23 to the IRS a couple of years ago. There has
24 been introduction at the federal level, Pari-

1 Mutuel Conformity and Equity Act did reach two
2 congresses, two separate congresses. So, that
3 material is included in your package.

4 We've also discussed how racing is
5 already a highly taxed form of gaming. There
6 are pari-mutuel takeouts that apply just to be
7 able to make the wager. In Massachusetts
8 either 19 or 26 percent is withheld right off
9 the top before anything happens, winning or
10 losing. So, we had some discussion there.

11 Of note was the reason I came to you
12 with this issue in the first place, which is
13 that any variable that results in a decrease in
14 pari-mutuel handle has dramatic consequences
15 for our industry. Again, I'm looking at this
16 from the pari-mutuel side not the gaming side.
17 But I would hope that somebody is looking at it
18 on the gaming side as well.

19 In our industry, we have a number of
20 programs that receive funding from these pari-
21 mutuel taxes. They are percentage driven. So,
22 the amount of money that they get is directly
23 tied to the amount of handle.

24 In Massachusetts, this includes

1 daily revenue to the Commonwealth, purse money
2 for horse owners, monies to the various
3 breeders programs, monies to the capital
4 improvement and promotional funds at our
5 licensee facilities, monies to Tufts Veterinary
6 School, and monies to the Racing Stabilization
7 fund.

8 We also have a number of programs
9 that rely on what we call sufficient revenue
10 before we can make payments. Primary among
11 these, a huge part of our budget, a third of
12 our budget goes to local aid payments for
13 racing's host communities. Monies for
14 benevolency programs, monies to the Department
15 of Public Health for using problem gambling
16 programs, and of course our operational budget.

17 So, my point here is that anything
18 no matter the source of the harm that decreases
19 handle, directly decreases funding for all of
20 those programs involved. So, we discussed a
21 lot about the cycle, the pari-mutuel wagering
22 and the cycle that fuels the industry, all of
23 its agribusiness service industry and
24 extensions. If we put that cycle in reverse

1 and we see that lower handle of course
2 negatively affects purse money which has a
3 negative impact on field size which further
4 impacts handle. The goal of this Racing
5 Division is to have the cycle going forward and
6 not backward.

7 The update part that I'm going to
8 give you is what we have been able to
9 demonstrate whether or not there's been an
10 effect -- the effect of the state tax reporting
11 and withholding requirements in the state. In
12 calendar year 2012, three pari-mutuel licensees
13 together issued approximately 6000 individual
14 federal W-2G forms using the federal
15 guidelines. We average that out to be
16 approximately 500 a month.

17 For purposes of reporting
18 withholding, the tracks are treated as
19 employers. So, they use the same forms that
20 they would for wage withholding. We note that
21 for the period June through August of this
22 year, the first three months during which the
23 licensees applied the new thresholds, we
24 averaged 795 reporting and withholding

1 transactions per month, which was an increase
2 of almost 60 percent. And that burden falls
3 squarely on our licensees.

4 These transactions occur at special
5 IRS windows. The mutuel tellers have to be
6 specially trained. The winning wagerer has to
7 produce photo ID, proof of taxpayer
8 identification number or you enter this backup
9 withholding realm, which I'm not going to bore
10 you with today. But we have been able to
11 demonstrate that that number has increased by
12 60 percent.

13 The effect on handle side, I have
14 failed. Average daily simulcasting handle for
15 our licensees has decreased a total of 13
16 percent --

17 CHAIRMAN CROSBY: Decreased?

18 DR. DURENBERGER: -- with a total of
19 June through September as compared to January
20 through May of this year. We expect that
21 simulcast handle should increase. We have more
22 customers coming to the tracks when there's
23 live racing. This is what we have, a couple of
24 notes here.

1 The first half of the year,
2 traditionally does see higher handle. This is
3 thanks to the run up to the Triple Crown races.
4 We always see handle peak in May in large part
5 to the Kentucky Derby. So, we have seen in
6 past years a decline in handle in the second
7 half of the year. We see that when we look
8 through the predecessor agency's records and do
9 see that at the national level.

10 It would be instructive for me to be
11 able to compare this year's average daily
12 simulcast handle to previous years' numbers,
13 but the pari-mutuel accounting system that was
14 previously in use by the predecessor agency
15 calculated only total handle. So, it would
16 seem simple enough to divide the total handle
17 for the month by the number of days in that
18 month, but all is not as it seems.

19 And the example that I put in your
20 packet is that for example, in 2012, total
21 simulcast handle in the Commonwealth for the
22 month of February was \$18 million. This year
23 that figure was \$14 million. When you look at
24 that on its face, you see a negative variance

1 of 22 percent. But our three licensees in 2012
2 were in operation a combined 81 days in
3 February. So, you would get an average daily
4 handle of about \$225,000.

5 Because of snow and infrastructure
6 problems this year, our licensees were opened
7 only a combined 68 days in February. The
8 average daily handle for this year was about
9 \$207,000 which was a negative variance of only
10 seven and a half percent. So, just looking at
11 the one month, we have a difference between 22
12 percent and seven and a half percent.

13 So, this is where we are. In
14 extraordinary times such as when the manner and
15 type of statistics that we keep from one year
16 differs from that to the next, the ability to
17 demonstrate an effect can be exaggerated. It
18 can be swallowed whole.

19 So, we know that 13 percent -- we
20 have seen a 13 percent decrease in handle. How
21 much of that is attributable to the state tax
22 reporting and withholding requirements, I can't
23 tell you. Is some of it attributable, I think
24 all of the things that we discussed in the memo

1 and that we discussed in previous meetings and
2 in all of the materials that have been
3 submitted on behalf of our stakeholders,
4 absolutely some part of it is related. But I
5 just can't get there.

6 CHAIRMAN CROSBY: Can you remember
7 just offhand what the drop in handle was from
8 2011 to 2012?

9 DR. DURENBERGER: Offhand, I cannot.

10 CHAIRMAN CROSBY: It's been going
11 down every year for a while.

12 DR. DURENBERGER: In smaller and
13 smaller increments.

14 CHAIRMAN CROSBY: It wasn't anywhere
15 close to 13 percent.

16 DR. DURENBERGER: Not double digits.
17 So, here is where we are, unless you had
18 questions about my summary. The last time I
19 came to you on this issue, there was some
20 proposed legislation. An act relative to
21 wagering taxation was traveling through Ways
22 and Means.

23 The proposed language in that
24 amendment would have amended the requirements

1 in the tax chapter to mirror those of the
2 federal tax code. This provision didn't make
3 it out of committee, but we would anticipate
4 that this would be in the area of continued
5 legislative activity.

6 So, we can go two ways with this.
7 Our recommendation at this time would be to get
8 a feel from you about whether you would support
9 proposed legislation designed to reduce the
10 negative impact of this tax on the pari-mutuel
11 and gaming industry, because we have this huge
12 gaming piece looming in the background.

13 If you are interested in being
14 proactive, what we can do is continue to
15 monitor this and the second anybody proposes
16 anything, we can come back to you with a
17 proposed statement in support for your
18 approval. And we can jump on it right away.

19 The other option would be to
20 consider whether or not we wanted to take the
21 lead on some proposed language, but again I
22 feel like I failed to make a supportable case.
23 Without having the solid numbers on the effect
24 of handle, I hesitate to make a recommendation

1 to you to take the lead on another agency's
2 statute.

3 If you are interested in doing that,
4 however, I support all efforts to keep my pari-
5 mutuel industry strong. So, I can go either
6 way. But I think the recommendation would be
7 just to stay on top of it and come back to you
8 with any new proposed language.

9 COMMISSIONER ZUNIGA: Director, what
10 do you mean by another agency's statute?

11 DR. DURENBERGER: The language
12 appears in the tax statute, one which this
13 agency is thankfully not charged with
14 supporting, enforcing and commenting on.

15 COMMISSIONER CAMERON: I had a
16 question, Director. I was looking at the
17 letter that the New England Horsemen's --

18 DR. DURENBERGER: HBPA.

19 COMMISSIONER CAMERON: Yes, I'll
20 shorten that. They sent us a letter in June
21 talking about -- explaining the situation as
22 you have. Then they say their understanding is
23 that the Legislature there was a fix under way.
24 Is that what you were referring to when you

1 said that did not make it out of Ways and
2 Means? So, that's the same thing?

3 DR. DURENBERGER: The same language,
4 yes. That had not been appended onto the
5 supplemental budget.

6 COMMISSIONER CAMERON: So, this
7 organization supported the change, brought it
8 before the Legislature and it did not make it
9 out of committee, correct?

10 DR. DURENBERGER: I don't think the
11 origin was with this group, I'm not sure. It
12 was Representative Reinstein that proposed it.
13 I don't know the origin of the language, but
14 yes it is the same issue, the same time, yes.

15 COMMISSIONER CAMERON: Okay.

16 CHAIRMAN CROSBY: There's a question
17 before us among other things, which is what do
18 we want, either we or our Racing Division to do
19 about this. Other comments?

20 COMMISSIONER MCHUGH: It seems to me
21 that there really are embedded in this there
22 are five separate issues. One is the amount of
23 the trigger, \$600. The second is the inability
24 to deduct losses unless you're a professional

1 gambler.

2 The third is there is no good
3 definition of what a winning is, particularly
4 with exotic wagers and a variety of other
5 wagers that are going to include, I think, slot
6 machine wagers that are more than a single line
7 bet. The amount of money bet to produce a
8 given result is not always taken into account
9 in deciding what the winnings are. It seems to
10 me that that is a complicated problem that
11 affects both potentially the racing industry
12 and the gaming industry.

13 There is the administrative cost of
14 enforcement. And there also is the application
15 of this entire scheme to casino gambling.

16 When do you have to collect the
17 amount? Do you have to collect the amount when
18 the winning is awarded or only when you cash
19 out? And that would have a huge impact however
20 we define that on casino operations.

21 So, it seems to me -- And we may be
22 able to solve that by regulation and working
23 with DOR to come up with a mutually agreeable
24 regulation that wouldn't stop things and

1 interrupt things and interrupt the flow. But
2 the basic definitional problems remain and are
3 going to have an impact.

4 I personally think that if there's
5 going to be a tax at some level, a withholding
6 scheme is entirely appropriate for effective
7 tax courts. We see that every place. And
8 obviously, it does have an impact on the amount
9 of money available to bet, but it also has an
10 impact on the amount that people spend on goods
11 and services. The tax-free holidays bring
12 people into the stores at rapid paces. So, the
13 impact is clear. So, the question of what
14 level to set it is a separate question.

15 So, it seems to me that before we --
16 I know we can study everything to death, but
17 before we propose legislation, it seems to me
18 we ought to take a look at some of these other
19 factors and see if we couldn't ultimately
20 propose legislation that deals with each of
21 these problems in some fashion. It may be that
22 the best solution is to mirror the federal
23 system, because that's been in place for a long
24 time. That's the simplest. Everybody

1 understands it. Everybody in the country is
2 bound by it and that may be the simplest
3 solution.

4 But these problems will remain but
5 they've been solved or at least addressed in
6 other places and are being addressed at the
7 federal level. But what's a bet piece is being
8 addressed at the federal level.

9 So overall, I think that a little
10 bit further reflection on this would be useful
11 and see if perhaps recommending mirroring the
12 federal system wouldn't be the most appropriate
13 way to go. That was kind of windy way to get a
14 solution.

15 CHAIRMAN CROSBY: What further
16 reflection would ere on the question of should
17 we try to propose mirroring the feds. level?
18 What else would we want to know?

19 COMMISSIONER MCHUGH: I think a
20 little bit more about where this came from and
21 a little bit more about the impact of this in
22 other states particularly on the casino gaming
23 piece. Because it may be that there are
24 problems in the casino gaming piece that the

1 federal legislation causes that we wouldn't
2 want to replicate necessarily, maybe not. I
3 just don't know enough about that except
4 conceptually to make a judgment.

5 CHAIRMAN CROSBY: Other?

6 COMMISSIONER ZUNIGA: I take a
7 little different viewpoint of this in terms of
8 I see obviously a big goal of the Gaming Act is
9 to attract gamers from out-of-state. And the
10 way the Director lays out here, Director
11 Durenberger, the comparison with other states
12 where we are with this threshold may be one --
13 I would pose that would put us at a
14 disadvantage in terms of trying to fulfill that
15 goal.

16 So, I would be in support of at a
17 minimum informing anybody who would listen in
18 the Legislature about the dynamics of these
19 bets and the issues at hand. Because they are
20 not as easy to understand as one would think
21 right off the bat. And I know there's a lot of
22 people, especially in Ways and Means, looking
23 at what the effect of certain taxes do at
24 different times. But I wouldn't blame them if

1 they didn't know that an exacta and a trifecta
2 and what that does, and the amount of handle
3 that we have compared to other states and the
4 trends that you have already seen.

5 So, at a minimum we should forward
6 these kinds of summaries that you have done for
7 us to people up there, have discussions with
8 them if they would listen. And I know they are
9 willing to listen and have those informational
10 sessions. Maybe their questions would be
11 indicative of what their thought process may or
12 may not be. And we could come back to that.

13 I would even go further, personally.
14 I think we should support the legislation that
15 is sitting there that would get back to the
16 original exemption because that on its face
17 value, as I understand it, would get us closer
18 to accomplishing the goal of attracting people
19 from out-of-state.

20 New York just passed expansion of
21 expanded gaming yesterday. So, there is yet
22 more competition coming. I don't know the
23 thresholds there. It would be a good data
24 point for us. That's also a little bit in the

1 future, but we're going to get to a similar
2 point in the future here as well. So, I think
3 it's a bit of a competitive discussion that we
4 need to have an informed Legislature.

5 CHAIRMAN CROSBY: Any others?

6 COMMISSIONER CAMERON: I think those
7 comments make sense. Maybe it is time to be a
8 little more proactive and have those
9 conversations.

10 COMMISSIONER MCHUGH: To what end?
11 I don't disagree with that. I think we should
12 have the conversation. But wouldn't it be
13 better to have the conversations with a
14 proposed solution? I'm not suggesting we need
15 to take a long time to do that. In fact, the
16 default may be legislation that mirrors the
17 federal legislation as a proposed solution.
18 But simply fixing the racing problem is going
19 to leave the gaming problem behind.

20 CHAIRMAN CROSBY: We don't want to
21 do that.

22 COMMISSIONER ZUNIGA: Right, I
23 wasn't suggesting just fix the racing problem.

24 CHAIRMAN CROSBY: Right. I think we

1 are all pretty much in the same place. I think
2 knowing a little bit more about how the federal
3 standard -- I lean toward what Commissioner
4 McHugh said just going to the federal standard,
5 but understanding how that works relative to
6 gaming is important, but I also think it's
7 time.

8 I feel quite strongly that we want
9 to fix this and we want to fix it soon. To me,
10 for what it's worth, not being able to offset
11 winnings against losses is just absurd. I just
12 don't understand that at all.

13 But I would think it's time for us
14 as we are getting a little more data on where
15 we come down to talk to the Legislature and see
16 what their issues are, see why this got hung
17 up. Maybe there are other issues and that is
18 part of our final data collection. I would
19 like to move aggressively on this, fill out our
20 knowledge a little more and move aggressively
21 on this. I think pretty much everybody agrees
22 with that. Does that give you a sense of
23 direction?

24 DR. DURENBERGER: It gives me a

1 sense of direction, yes, thank you.

2 CHAIRMAN CROSBY: We can talk about
3 who talks to who in the Legislature. There may
4 be people from the industry who have better
5 connections than we do but we can strategize
6 later on about who we talk to and when.

7 DR. DURENBERGER: Mr. Chair, if I
8 may I would hope that someone is looking at
9 this issue more in depth than my cursory review
10 regarding the gaming side. I don't have the
11 resources available to do that.

12 CHAIRMAN CROSBY: We'll do that.
13 That's not your job.

14 DR. DURENBERGER: Thank you.

15 CHAIRMAN CROSBY: Go ahead, next?

16 DR. DURENBERGER: Next on the agenda
17 I believe is the consideration of applications
18 to hold or conduct live racing in the
19 Commonwealth in 2014.

20 In your packet we start out by
21 outlining the statutory requirements of the
22 application process. An application is filed
23 with the Commission on or before October 1 of
24 the year preceding. It is accompanied by a fee

1 and a bond that is conditioned upon the payment
2 of all sums, which may become payable to the
3 Commission under this chapter.

4 There are some statutory
5 housekeeping type items that have to be in the
6 application and answers to such other questions
7 as the Commission may prescribe, and then
8 affirmation of compliance with applicable laws
9 and regulations.

10 The form of the application and the
11 additional questions it contains were approved
12 by this Commission at the 75th public meeting
13 back on August 22, 2013. The statute requires
14 a public hearing on each application and
15 outlines the criteria that the Commission shall
16 take into consideration when considering the
17 application. There are conditions on the
18 issuance of a license. And the statute
19 requires the Commission to grant or dismiss
20 each application no later than November 15.

21 The Commission is in receipt of
22 three such timely filed applications to conduct
23 live horseracing in 2014. We have an
24 application from Sterling Suffolk Racecourse,

1 LLC to conduct 100 days of running horse racing
2 between June 2 and November 29 at an existing
3 facility in Suffolk County known as Suffolk
4 Downs.

5 We have an application from
6 Springfield Gaming and Redevelopment, LLC to
7 conduct 100 days of harness horseracing between
8 April 14 and November 28 at an existing
9 facility in Norfolk County known as Plainridge
10 racecourse if awarded a Category 2 gaming
11 license.

12 And we have the application of
13 Brockton Racing, LLC to conduct 40 days of
14 harness racing at an existing facility in
15 Plymouth County at the Brockton Fairgrounds
16 commencing 30 days after the opening of a
17 Category 2 gaming facility at the Raynham Park
18 location if awarded a Category 2 gaming license
19 and if Plainridge Racecourse ceases its live
20 racing operations.

21 License applications were posted to
22 the MGC website on October 23 of this year.
23 Public comment was invited. Public hearings on
24 each of the applications were conducted in

1 Boston, Plainville and Brockton respectively in
2 accordance with the open public meetings law
3 the week of October 28. Relevant hearing
4 materials are all included at the end of this
5 memorandum for your review. And we also have a
6 summary of each hearing provided in the
7 discussion of the applications.

8 The criteria the Commission is to
9 consider include the financial ability of an
10 applicant to operate a racetrack, maximization
11 of state revenues, suitability of racing
12 facilities, the circumstances that large groups
13 of spectators require safe and convenient
14 facilities, the interest of members of the
15 public in racing competition honestly managed
16 and of good quality, the necessity of having
17 and maintaining proper physical facilities for
18 racing meetings and the necessity of according
19 fair treatment to the economic interest and
20 investments of those who in good-faith have
21 provided and maintain such facilities.

22 The Racing Division notes that all
23 three applicants are applicants for gaming
24 licenses. And each has achieved a positive

1 determination of suitability subject to certain
2 conditions. To the extent that financial
3 suitability was a part that determination, the
4 Racing Division has not conducted any further
5 analysis as to the first criterion.

6 Several of the other criteria take
7 on significance only in the context of
8 competing applications. As a relative measure,
9 there was a time in the Commonwealth where
10 applicants competed fiercely for dates. We are
11 not necessarily in that situation at this time.
12 Maximization of state revenues in the context
13 of competing applications, we would have
14 conducted handle projections and made a
15 determination as to the expected revenue from
16 one applicant versus the other.

17 But here we are essentially left
18 with a yes/no analysis. If racing, yes
19 revenue. If no racing, no revenue. To the
20 extent that any of the criteria take on
21 particular significance, we're going to talk
22 about that in detail with the individual
23 applications. Similarly, the conditions
24 related to the issuance of the license will be

1 taken up as they become important.

2 We are going to turn to the
3 individual applications now. What I'm going to
4 do format wise is I am going to ask the
5 applicants to identify themselves to you, to
6 the Commission. We're going to go through our
7 observations on the application, address new
8 materials that have been received since this
9 memo was completed, because there is a
10 significant amount that has come in. We'll ask
11 the applicants if they have anything to add or
12 contribute to the discussion. Ask you all if
13 you have questions of the applicants or of
14 myself and then I'll make my recommendations.
15 Is that agreeable?

16 CHAIRMAN CROSBY: It is.

17 DR. DURENBERGER: So, we'll begin
18 with the application to conduct running horse
19 racing from Sterling Suffolk Racecourse, LLC.
20 The representatives that are here, if you could
21 identify yourselves to the Commission?

22 MR. BAKER: Mr. Chairman and members
23 of the Commission, I'm Charlie Baker. I'm the
24 corporate secretary at Sterling Suffolk

1 Racecourse, LLC. With me today is Chip Tuttle,
2 the COO.

3 CHAIRMAN CROSBY: Thank you.

4 DR. DURENBERGER: As you all know,
5 Sterling Suffolk Racecourse, LLC is the
6 existing running horse licensee and the sole
7 applicant for running horse dates in 2014. Its
8 application addresses the statutory
9 requirements of Chapter 128A as well as the
10 other questions, which the Commission
11 prescribed.

12 It's request for 100 live racing
13 days the period of June 2 to November 29 do
14 make it eligible to offer simulcast wagering.
15 The application includes a master list of
16 requested imports and exports of its live
17 signal, a request for authorization of three
18 advance deposit wagering account providers
19 pursuant to Chapter 128A 5(c) and a notice of
20 election of a so-called premium free period
21 pursuant to 128C 2(5).

22 This notice of election for the
23 period of March 16 through June 7 was included
24 with the application as a standalone letter.

1 It didn't appear in the electronic version of
2 your application but it is in your packet.
3 Public hearing on this application was held at
4 1000 Washington Street in Boston, Massachusetts
5 on October 30. Approximately two members of
6 the public attended. None requested to speak.

7 CHAIRMAN CROSBY: Approximately?

8 DR. DURENBERGER: Approximately,
9 that's how it was reported to me. And that's
10 how I report it to you. I never paraphrase
11 anything I get from one of our other employees.

12 None requested to speak. No written
13 comments were received in connection with the
14 hearing. To the best my knowledge, no comments
15 have been received in response to the request
16 for public comment on the website. All of the
17 associated materials that we received were
18 included at the end of this memo.

19 Also on October 30 of this year the
20 Commission issued a positive determination of
21 suitability regarding Sterling Suffolk
22 Racecourse, LLC as a gaming applicant, subject
23 to certain conditions that don't touch upon
24 racing operations.

1 Given the depth and complexity of
2 the background check procedures performed, the
3 Racing Division has confidence in the entity,
4 its board of managers and its officers. Prior
5 to the start of the live racing meet, we will
6 be conducting appropriate background checks on
7 individuals recommended by the applicant for
8 employment as racing officials. That is in
9 concurrence with past practice.

10 But we note that there exists a
11 significant gap in the background check
12 procedures involving a third group of
13 individuals that we consider key racing
14 employees much like there are key gaming
15 employees. These individuals do not appear to
16 have been subjected to background checks as
17 part of the predecessor agency's procedures.
18 And they would not have been qualifiers under
19 the gaming background check.

20 So, we're going to work with the
21 Commission's legal department to develop a
22 defined list of who key -- not the individuals
23 but what positions are considered key employee
24 positions. And we'll determine the appropriate

1 tier of background checks to which they should
2 be subjected.

3 As to the application, we note the
4 following: the current executed recognition and
5 purse agreements with the representative
6 horsemen's group are valid through May 1, 2014
7 for the recognition agreement and December 31
8 of this year for the purse agreement.
9 Negotiations are ongoing. And we would expect
10 that any amendments to the existing contracts
11 and amendments or newly executed contracts will
12 be provided to the Racing Division once
13 available. And that's the standard course of
14 practice. I just wanted to make a note there.

15 The next paragraph we can strike.
16 Letters of clarification and amendments to
17 Exhibit 11A and G have been received from the
18 applicant. Two-thirds of those appear in your
19 packet and one was received yesterday. But the
20 Racing Division is satisfied that the
21 information submitted addresses our concerns.
22 I would ask at this time if there's anything
23 that the applicant would like to add or
24 contribute, they're welcome to do so.

1 MR. BAKER: Once again, we'd like to
2 thank the Commission for the consideration of
3 this matter. We believe that the application
4 before you meets the seven statutory criteria.
5 And we welcome your decision to grant us a
6 racing license for 2014.

7 DR. DURENBERGER: Does the
8 Commission have any questions of the applicant?

9 COMMISSIONER MCHUGH: I do. The
10 question centers on what is -- is there an
11 unconditional commitment to exercise the
12 license at this point? Where does that stand,
13 I guess is the broader question?

14 MR. TUTTLE: Commissioner McHugh,
15 thank you. It's our intent to operate the
16 racetrack next year. It's our hope to operate
17 the race track next year. We believe, as
18 Charlie said, that we meet all of the criteria
19 for licensing.

20 There are several variables, some
21 that we know of and some that we perhaps could
22 not anticipate. So, I am here before you today
23 to express absolutely our intent to conduct a
24 racing meeting. I would point out that all of

1 the racing laws sunset July 31 of next year.
2 And we don't know if they will continue, if
3 they will continue in what form, just as one of
4 the potential variables. But we are committed
5 to trying to continue to the racing operation
6 as much as possible.

7 COMMISSIONER MCHUGH: Thank you.

8 CHAIRMAN CROSBY: Clearly, the
9 elephant in the room is the unknown variable
10 about the gaming licenses. We all know that
11 bears on all three of these applications.
12 Everybody in the industry is suffering from
13 that uncertainty.

14 And I think as long as we're within
15 the rules, we want to give as much deference
16 and understanding and flexibility as we can.
17 So, I think it was an appropriate question but
18 we know that this is a complicated difficult
19 period for all three people for this reason.
20 And we will do everything we can to accommodate
21 that. That's my sense.

22 MR. BAKER: We appreciate that.

23 CHAIRMAN CROSBY: Does somebody want
24 to make a motion?

1 COMMISSIONER ZUNIGA: I would just
2 point out that I know you have a good
3 communication on all things racing with
4 Director Durenberger. And I would encourage
5 you to continue that and anything that you see
6 on the horizon relative to racing and this
7 application, you let her know as soon as you
8 do.

9 MR. TUTTLE: Thank you. Yes, we do
10 have a regular and ongoing dialogue. And we
11 will continue to do so. We take very seriously
12 our responsibility to the people who work at
13 the facility, to the family of horsemen and
14 horse women. We will not take any action
15 without seeking the appropriate guidance of
16 this Commission.

17 CHAIRMAN CROSBY: Just one other
18 thing I think is appropriate to point out.
19 Director Durenberger frequently comments to us
20 about how Sterling Suffolk has been a good
21 steward of this industry, an immediate
22 respondent of our initiatives to reform and
23 redress and to address issues of health and
24 safety and standardization and as the Director

1 calls it harmonization of our rules with
2 national rules and so forth. Sterling Suffolk
3 has always distinguished itself as being a part
4 of that and we take note of that.

5 MR. TUTTLE: Thank you.

6 DR. DURENBERGER: You may hear more
7 comments to that effect in my recommendation.

8 CHAIRMAN CROSBY: Any other
9 questions?

10 COMMISSIONER CAMERON: I didn't
11 think you were complete yet. So, it was not
12 quite time for a motion; is that correct?

13 DR. DURENBERGER: That is correct.

14 CHAIRMAN CROSBY: Thank you.

15 DR. DURENBERGER: Do any of the
16 Commissioners have additional questions for me?
17 So, my recommendation then, the Racing Division
18 respectfully recommends that the application of
19 Sterling Suffolk Racecourse, LLC to conduct
20 live running horse racing dates in 2014 be
21 approved subject to conditions outlined below
22 and any other conditions deemed appropriate by
23 this Commission.

24 Particularly, we note as the

1 Chairman said the demonstrated past
2 performances, pun unintended, of Sterling
3 Suffolk Racecourse as a running horse licensee,
4 including its significant contributions to the
5 industry and the Commonwealth as outlined in
6 Exhibits 25 and 26.

7 If I could just take a moment to
8 tell you about something extraordinary that
9 happened this summer. Just to put this in
10 context, the rest of the nation has been at a
11 certain point with its medication levels that
12 Massachusetts was not at previously. And
13 although the science behind it is important, I
14 give you one example. That is the regulation
15 of a drug called phenylbutazone. It's a non-
16 steroidal anti-inflammatory much the same way
17 Tylenol and Aleve is.

18 The rest of the country has been for
19 the past 10 years or so at a level of five.
20 That's how it's regulated. It's permissible.
21 It can be in the system but it has to be below
22 a certain level so that it doesn't affect
23 performance.

24 All of the uniform initiatives that

1 we have talked about have recommended reducing
2 that threshold to two. A number of states are
3 at two. There are a number of states' racing
4 jurisdictions that have struggled mightily to
5 go from five to two and have met with fierce
6 resistance. And the commissions cannot get it
7 done.

8 We came in last October and by April
9 of this year when live racing started we went
10 from permitting that medication to be given on
11 race day, essentially an unregulated
12 administration, to two. We skipped right over
13 five. We never looked at it. We never
14 considered it. We went right back to two.

15 And I have to tell you the amount of
16 overages that our horsemen faced this year are
17 right in line with the rest of the country.
18 There was absolutely no resistance from any of
19 the stakeholders or the operator. And we just
20 received the final word. Our rate of incident
21 at that racetrack, whether it be catastrophic
22 breakdown, whether it be horse's pulling up or
23 other things that stewards and Commission
24 needed to get invited to examine, investigate

1 or even just document, when December 31 comes
2 around, I can tell you that we're going to be
3 in the top three of the country.

4 CHAIRMAN CROSBY: Top three?

5 DR. DURENBERGER: Top three in terms
6 of the low numbers. Let me just make that very
7 clear. It's extraordinary. We have a really
8 good handle. Within the last five years, we've
9 been collecting so much data as part of an
10 industry initiative with the equine injury
11 database. We now have 83 percent of all
12 thoroughbred race starts are encompassed in
13 this national database. So, we have really
14 good numbers.

15 We know where everybody sits. And I
16 have to tell you that this has been an
17 incredible experiment to be a part of, and just
18 extraordinarily successful results. And I
19 thank all of the stakeholders and the operator
20 because this is truly incredible. And it's a
21 testament to everybody in the industry as to
22 what we can get done.

23 CHAIRMAN CROSBY: Great.

24 COMMISSIONER CAMERON: Actually, I'd

1 like to thank you for your leadership because
2 we wouldn't be here without your leadership and
3 what you've brought, how you've educated us,
4 and been able to work with the stakeholders to
5 accomplish this. So, I just want to mention
6 that Director.

7 DR. DURENBERGER: Thank you,
8 Commissioner. We had a very good baseline to
9 work with. That was the impetus for this
10 discussion in that Suffolk was attempting to
11 everything that it could on its own. We came
12 in and helped beef up the regulatory
13 structures. So, if not for the excellent
14 baseline, we may not be where we are.

15 CHAIRMAN CROSBY: It's a love-in.

16 COMMISSIONER MCHUGH: It's really
17 appropriate. This is a track with a strong
18 history. And to see it -- with a great
19 reputation for these kinds of things. And to
20 see it continuing to do these kinds of things
21 for the horses and the horsemen is really
22 rewarding. It's a team effort and it's
23 terrific to see.

24 DR. DURENBERGER: I think you heard

1 Mr. Waldrop say at the horseracing forum that
2 this operation, this partnership between the
3 regulator and the regulated is a benchmark for
4 the industry. He used a different word, a
5 better adjective that's escaping me now, but it
6 was this is what we strive to be.

7 COMMISSIONER CAMERON: A model.

8 DR. DURENBERGER: So on that note, I
9 do just have a couple of suggestions on
10 conditions to licensure and any other
11 conditions that you all would deem to be
12 appropriate. One, that the applicant should
13 work of the Commission to ensure that these key
14 racing employees, once defined, are identified
15 and subjected to appropriate background checks
16 and that any amendments to existing contracts
17 and agreements or newly executed contracts and
18 agreements with representative horsemen's group
19 be provided within five business days of
20 execution.

21 This approval and I understand that
22 you are taking things under advisement today,
23 this approval would authorize simulcast
24 wagering effective January 1 with the brick and

1 mortar and other outlets that are outlined in
2 Exhibits 27, 28A and 28B, the advanced deposit
3 wagering account providers listed in Exhibit 29
4 pending the regulatory and representative
5 horsemen's group approvals required in the
6 Interstate Horseracing Act and our simulcast
7 chapter. And this approval would also
8 authorize the 12-week premium free period
9 elected by the applicant.

10 CHAIRMAN CROSBY: Actually, you said
11 we're taking this under advisement. Are we
12 voting today or we decided to wait until our
13 next meeting?

14 DR. DURENBERGER: My understanding
15 of the format was that we would be taking
16 things under advisement today. And then you
17 would be issuing a decisional type format as
18 opposed to the predecessor agency's practice of
19 voting aye or nay. But certainly that is your
20 call, Mr. Chair.

21 CHAIRMAN CROSBY: But that shouldn't
22 suggest anything other than I think you've got
23 the gist of our thoughts at this point. Let's
24 do this properly. So, we will take each of

1 these under advisement. But you've been given
2 a sense of what we're thinking. Okay. So,
3 there is no need to have a motion at this
4 point.

5 MR. TUTTLE: Thank you very much.

6 DR. DURENBERGER: The next
7 application to be considered is that of
8 Springfield Gaming and Redevelopment, LLC. Let
9 me have the representatives of this group stand
10 up and identify themselves.

11 CHAIRMAN CROSBY: You might as well
12 come forward. Welcome back.

13 MR. WILMOTT: Good morning, Mr.
14 Chairman, Commissioners, and staff. I'm Tim
15 Wilmott, President and Chief Executive Officer
16 of Penn National Gaming. With me today to my
17 right is our Senior Vice President of Public
18 Affairs, Eric Schippers. To Eric's right is
19 our Deputy General Counsel, Carl Sottosanti.
20 And to Carl's right is our Corporate Vice
21 President of All Racing Operations, Chris
22 McErlean.

23 DR. DURENBERGER: Good morning.
24 Springfield Gaming and Redevelopment is a

1 member managed subsidiary of Western Mass.
2 Gaming Ventures, LLC, which traces 100 percent
3 ownership up through Delvest Corp. and
4 ultimately Penn National Gaming, Incorporated.
5 It currently has an application for a Category
6 2 gaming license pending before this
7 Commission.

8 The applicant has entered into an
9 option agreement to acquire the assets of the
10 existing harness horseracing licenses, Ourway
11 Realty, LLC should SGR be awarded a Category 2
12 gaming license.

13 The applicant has also entered into
14 an option agreement whereby if it is awarded a
15 racing license by the Commission it may
16 commence racing operations on January 1, 2014,
17 pending a decision on the award of the Category
18 2 gaming license.

19 Springfield Gaming and Redevelopment
20 is one of two applicants for harness racing
21 dates in 2014. It's application addresses the
22 statutory requirements of 128A section 2 as
23 well as the other questions which the
24 Commission prescribed. And its request for 100

1 live racing days during the period April 14
2 through November 28 make it eligible to offer
3 simulcast wagering.

4 The application includes a master
5 list of requested simulcast imports and exports
6 of its live signal. A request to take over
7 operation of the existing telephone account
8 wagering system known as the WinLine and a
9 notice of election of a so-called premium free
10 period.

11 This notice of election for the
12 period June 22 through September 14 appears at
13 the end of Exhibit 27. We note that Exhibit 27
14 also appears to request the Breeders' Cup races
15 as so-called special events also premium free
16 pursuant to 128C 2(4).

17 A public hearing on this application
18 was held at the Plainville Senior Center in
19 Plainville, Massachusetts on October 29.
20 Approximately, 15 members of the public
21 attended, eight of whom requested to speak.
22 All of the comments were favorable to the
23 application. One written comment in favor of
24 the application and one written comment in

1 opposition of the application were received in
2 connection with that hearing.

3 A written comment in support of the
4 application was received in conjunction with
5 the application and is included as the last
6 page of applicant's Exhibit 17B. To the best
7 my knowledge, no comments have been received in
8 response to the request for public comment on
9 the website. And all associated materials are
10 included at the end of this memo.

11 On October 2, 2013 the Commission
12 issued a positive determination of suitability
13 regarding Springfield Gaming and Redevelopment,
14 LLC as a gaming applicant. Again, given the
15 depth and complexity of the background check
16 procedures performed, the Racing Division has
17 confidence in the entity.

18 Prior to the start of the live
19 racing meet, we will be conducting the
20 appropriate background checks on individuals
21 recommended by the applicant for employment as
22 racing officials. Again, we note the gap
23 between the background check procedures
24 involving that third group of key racing

1 employees. We'll be working again with the
2 legal department to get those defined.

3 The parent company of SGR, Penn
4 National Gaming, Incorporated is a
5 multijurisdictional racing operator. With the
6 help of the Commission's Investigations and
7 Enforcement Bureau, the Racing Division is in
8 the process of conducting due diligence
9 regarding Penn National's racing operations.
10 That review is not completed at this time.

11 We've requested letters of good
12 standing from the following regulatory
13 authorities where Penn National Gaming is a
14 license or permit holder that is Florida,
15 Maine, Maryland, New Mexico, New Jersey, Ohio,
16 Pennsylvania, Texas and West Virginia. We are
17 waiting on a number of those letters to be
18 returned to the Commission.

19 As to the application, the Racing
20 Division notes the following: we'll need to
21 work with them to amend their request for
22 simulcast import and export. Part of that has
23 to do with the stage of where they are in the
24 process as a new entity coming in. And part of

1 it has to do with some confusion perhaps
2 pursuant to the application process. But we
3 are confident that we can work with the
4 applicant and we can correct those exhibits
5 well in advance of the commencement of any
6 simulcasting.

7 We recognize that many of the third-
8 party service provider contracts and insurance
9 policies would not be executed until such time
10 as SGR were to exercise an option agreement.

11 The Racing Division would like to
12 reserve the right to inspect all such
13 agreements as they are finalized. We would
14 bring to the Commission any items that are of
15 concern.

16 We can strike the next paragraph.
17 That had to do with some materials related to
18 the telephone account wagering system. We've
19 received those. We received them yesterday.
20 We have not had the opportunity to review them.
21 But that will not alter the ultimate
22 recommendation that I'm prepared to make to you
23 today.

24 The Racing Division notes that Penn

1 National Gaming has a strong track record, pun
2 intended, of using its private property
3 authority and corporate policy to complement
4 the authority of the governing regulatory body.
5 In the event that SGR becomes a racing operator
6 in the Commonwealth, we look forward to
7 partnering with them, particularly as they
8 develop some of the local sections of their
9 corporate racing guides. Those are referenced
10 in Exhibit 23-B4.

11 Commission, we have an overarching
12 concern of course regarding this application.
13 That as we've been discussing for some number
14 of weeks now is the sequencing issue related to
15 a November award of a racing license and a
16 subsequent award of a Category 2 gaming
17 license, given the express provisional nature
18 of this entity's racing license application.

19 The applicant has signaled its
20 intent to begin simulcasting on January 1,
21 2014, which would make sense to us. But the
22 conditions in the application for a racing
23 license being contingent on the award of the
24 Category 2 gaming license create this complex

1 issue. Maybe it's not complex. But the
2 ability of simulcast in the Commonwealth is of
3 course conditioned upon the live racing
4 licensees actually conducting live racing.

5 So, we're a bit of a tricky
6 situation here in that, and this is true of
7 every year, this is just not true this year.
8 Every year simulcasting begins on January 1 but
9 no one knows whether or not the condition
10 required to be authorized to conduct simulcast
11 wagering occurs until sometime later in the
12 year, perhaps October perhaps November.

13 So, this puts us in a special bind
14 this year. In this instance, the applicant has
15 asked us to authorize simulcasting while
16 indicating that it may not be interested in
17 fulfilling the conditions precedent should it
18 not receive a gaming license.

19 One possible solution to this would
20 be to award a license to conduct live racing
21 and table the applicant's request to offer
22 simulcast wagering beginning January 1 until
23 such time as the Category 2 gaming license
24 decision has been made. The scenario that that

1 would create would be on December 31 Plainridge
2 Racecourse would go dark.

3 The employees that are working there
4 wouldn't know if that would be for a period of
5 two weeks, three weeks, a month, two months or
6 indefinitely. That is a tricky thing to be in.
7 It also has some implications of course for the
8 applicant in terms of negotiating contracts
9 with third-party service providers.

10 We see disruption to the industry.
11 And to the extent that we cannot disrupt the
12 industry any more than this award and the
13 sequencing process has, we think that would be
14 in the industry's best interest. On the other
15 hand, I am not sure given the parameters of the
16 statute whether or not we can do this.

17 So, I put that before you and I
18 think that's something that we're going to be
19 looking at really closely in the next couple of
20 days.

21 Exhibit 14, the option and purchase
22 agreement references this temporary operations
23 agreement to be executed between Ourway Realty
24 and SGR by December 15 of this year should SGR

1 obtain a license to conduct live racing.

2 That temporary operation's agreement
3 is designed primarily, I think, to allow the
4 simulcast operations in that interim period,
5 pending the Commission's award of the Category
6 2 gaming license. We would expect to receive
7 and review a copy of that agreement if and when
8 executed. We're hoping that that is an outside
9 date because there's a lot of time between
10 December 15 and January 1.

11 I have one other issue that I'd like
12 to bring up that's not in the memo, if I could.
13 This is not something that -- I'm trying to
14 think of how to phrase this. It's a concern
15 that we have about the transition and not the
16 applicant. That is that we recognize that the
17 standard and ordinary course of business in the
18 horseracing industry is such that accounts are
19 not necessarily settled on a regular basis.
20 Sometimes it may be that when the out of
21 balance situation is created between two
22 parties reaches a certain level, a threshold
23 level they would settle out.

24 The pari-mutuel industry, as I'm

1 sure you've come to learn in the last year
2 since I've been here has some very interesting
3 and unique business practices. To the extent
4 that the existing racing operator is going to
5 have some debts, and to the extent that I
6 understand the agreement, the going forward
7 agreement that Penn National has agreed to
8 acquire assets of the existing facility. I
9 don't know where that leaves the debts of the
10 existing operator.

11 So, when you are a 128A licensee in
12 the Commonwealth, you owe the Commonwealth
13 money, you owe other racetrack licensees within
14 the Commonwealth money, you owe standardbred
15 breeders, thoroughbred breeders money, you owe
16 the Division of Affairs. There are a number of
17 stakeholders that are owed money pursuant to
18 our statute.

19 Then there are of course the third-
20 party service providers and the simulcast
21 partners. So, there's a lot of trade payables
22 that are out there.

23 And I don't know how we address
24 being an effective regulator being on top of

1 these issues, I am concerned about a situation
2 where on December 31 the debts still exist and
3 they're out there and have not been acquired or
4 contracted for with a new operator.

5 Again, this has nothing to do with
6 the applicant but more the transition plan.
7 So, I just bring that up.

8 COMMISSIONER CAMERON: Maybe we
9 could hear from the applicant, and they may
10 have a way to address this before we ask
11 questions.

12 MR. WILMOTT: Thank you. Again,
13 thank you for considering our racing
14 application. As the Director said, we are
15 working with the current owner to put together
16 a temporary operations agreement. We are
17 close. I think we can certainly beat the
18 December 15 deadline that we've committed to.

19 We are in the process of putting
20 together org. charts also putting together all
21 of our internal controls to run the operation
22 under the Penn National banner.

23 The current owner would have no
24 involvement post December 31 with the running

1 of that operation. I would like to ask Mr.
2 Sottosanti just to cover, because we are
3 talking with the current owner about the debt
4 obligations in the transition, what our
5 thoughts are on that. Mr. Sottosanti?

6 MR. SOTTOSANTI: Thank you, Tim.
7 Commissioners, as Tim mentioned we are in the
8 process of negotiating these temporary service
9 agreements. I think that we are reasonably
10 close. As Ms. Durenberger mentioned the devil
11 is in the details. There a lot of trade
12 payables, vendor issues, constituent issues.

13 I submit to you that over the last
14 10 years Chris McErlean to my right and I have
15 been involved in purchasing probably the better
16 part of a half-dozen tracks across the country.
17 These issues are not sui generis. We have
18 faced them before. And we are comfortable that
19 we're going to be able to address all of the
20 concerns.

21 I can't tell you that they are all
22 buttoned down right now. But I can tell you
23 that we have a very exhaustive to-do list. And
24 we're going to make sure that the commitments

1 that the current owner has will be taken care
2 of.

3 I also note that you're going to
4 condition the license on your review of that
5 transition services and temporary services
6 agreement. So, I have great comfort in telling
7 you that these issues aren't not new to us.
8 They can be a little bit tricky, but they are
9 going to be well addressed. We are very
10 cognizant of all of the constituents.

11 DR. DURENBERGER: Thank you.

12 CHAIRMAN CROSBY: So, it sounds like
13 you consider it in your interest one of your
14 points that you need to accomplish in your
15 negotiations that that set of payables and so
16 forth is taken care of?

17 MR. SOTTOSANTI: I am very
18 comfortable telling you that. And I am very
19 comfortable telling you that the current
20 operator of the track has been extremely
21 cooperative on that front. And has not pushed
22 back on any of the commitments that we may have
23 expressed in that agreement.

24 CHAIRMAN CROSBY: Okay.

1 COMMISSIONER ZUNIGA: Thank you for
2 that, Mr. Sottosanti. It occurs to me that all
3 of those issues can get addressed either on the
4 operations agreement or in the transition -- in
5 the transfer of asset agreement or the option
6 agreement, if you will.

7 MR. SOTTOSANTI: Correct. They are
8 not currently addressed in the option
9 agreement, which is why we are going to do it
10 in the temporary services agreement. That's
11 the vehicle where it fits best right now.

12 COMMISSIONER ZUNIGA: Okay. Thank
13 you.

14 CHAIRMAN CROSBY: Other questions
15 from anybody? Go ahead. Were you about to say
16 something?

17 DR. DURENBERGER: I think I'm going
18 right where you are going, Mr. Chair. So, go
19 ahead.

20 CHAIRMAN CROSBY: On the issue of
21 the sequencing, we would be authorizing
22 simulcasting without knowing whether or not
23 there's going to be live racing, right? We
24 theoretically can't authorize simulcasting

1 without knowing that there's going to be live
2 racing, right?

3 But isn't that an issue that Suffolk
4 has the same issue? They're going to start on
5 January 1. And they intend to have live racing
6 but they cannot make an absolute commitment.
7 As a practical matter, every year this happens,
8 the same thing happens. They start
9 simulcasting and they intend in 2012, 2011,
10 2010, they intend to start live racing, but
11 there's no guarantees. So, it doesn't seem to
12 me or am I right that this is really no
13 different than other applicants (A) and as a
14 practical matter other years?

15 DR. DURENBERGER: So, 90 percent you
16 are correct. The difference, the nuance here,
17 and you're going to have to bear with racing.
18 Racing is full of nuances. The nuance here is,
19 yes, the condition precedent is that we never
20 know that it's fulfilled in any year until such
21 time it has been fulfilled.

22 The nuance here is that there
23 appears in the statute a provision that talks
24 about things that are beyond the applicant's

1 control. Acts of God for example, your work
2 stoppages, but it specifically references
3 things that are beyond the applicant's control
4 or the licensee's control.

5 The difference here is that my read
6 of this application is that it is expressly
7 conditional upon a condition that is within the
8 licensee's control. Not the award of the
9 gaming license, but their determination, their
10 commitment. That is the nuance here.

11 CHAIRMAN CROSBY: That is the same
12 with Sterling Suffolk.

13 DR. DURENBERGER: Their application
14 is to conduct 100 days of live racing, not 100
15 days of live racing if we get a Category 1
16 license. That's the distinction.

17 CHAIRMAN CROSBY: In a sense, Penn
18 National is being more forthcoming. They're
19 saying it straight, whereas Suffolk Downs is
20 saying we really hope so, but if you really
21 want our promise we can't make that promise.
22 It seems to me as a practical matter, it's the
23 same issue other than Penn National is being
24 straight up about it.

1 DR. DURENBERGER: As a practical
2 matter, we may reach the same conclusion. I'm
3 reading the applications on their face.

4 COMMISSIONER MCHUGH: I am not sure
5 it's fair to read into what Sterling Suffolk
6 told us the kind of pejorative twist. We don't
7 know. They may be trying very hard, and take
8 them at their face value, very hard to put on
9 100 days of racing next year regardless.

10 CHAIRMAN CROSBY: Yes, I agree.

11 COMMISSIONER MCHUGH: I take that at
12 face value.

13 CHAIRMAN CROSBY: I agree but it's
14 not a known certainty. We would be
15 authorizing --

16 COMMISSIONER MCHUGH: Right.
17 Nothing is known. And the world is full of
18 nuances. Haven't we frequently gotten into a
19 situation where we would reduce the number of
20 racing days from 100?

21 DR. DURENBERGER: The last three
22 years, correct.

23 COMMISSIONER MCHUGH: So, literally
24 the not less than 100 calendar days actually

1 conducts -- not less than 100 calendar days
2 piece of the statute we've authorized departure
3 from over the last three years.

4 DR. DURENBERGER: Subsequent to the
5 Legislature's, we absolutely have. And that's
6 the next agenda item we're going to spend a
7 little time talking about that issues as well
8 today, yes.

9 COMMISSIONER MCHUGH: But it seems
10 to me that a course of practice over a period
11 of time is an important element of how one
12 construes the statute. And the fact that we
13 face the sequencing issue every year, we've
14 never started a simulcasting season after 100
15 days of live racing has been conducted. So
16 literally, we have never complied with the
17 statute.

18 But the compliance that we've made
19 over the years is a course of practice that it
20 seems to me we could follow here, getting to
21 where the Chairman suggested. That the intent
22 is to do it, and the undertaking is to do it.
23 There are contingencies out there that may
24 prevent it from happening, but that's not

1 different in kind though it's different in
2 detail from what we've done in the past.
3 That's my take.

4 CHAIRMAN CROSBY: I agree with that.
5 Just for the record, I didn't mean to be
6 pejorative about something. I agree with your
7 characterization of it. I think the
8 Commissioner says it right. Any other
9 comments? Thank you for addressing, both of
10 you for addressing the outstanding liability
11 issues. That was an important one. Anything
12 else? Do you want to go ahead?

13 DR. DURENBERGER: Just to circle
14 back and tie that up. Again, I don't act as
15 the Commission's attorney. That is not my
16 function here. I'm the Director of Racing,
17 which is why my conclusion was that unless it's
18 not within the parameters of the statute to do
19 so, and I think you've laid out the arguments,
20 it seems to us the wiser choice to authorize
21 simulcast wagering pending the outcome of the
22 Category 2 gaming license award.

23 Was there anything else that the
24 applicant would like to add or state before the

1 Commission?

2 MR. WILMOTT: Not at this time.

3 CHAIRMAN CROSBY: Let me just ask
4 you, we spoke a lot about the working
5 relationship with Suffolk. This is now an
6 evolving relationship with Penn National. How
7 has it been?

8 DR. DURENBERGER: I think both sides
9 have been very responsive.

10 MR. WILMOTT: Very good, we concur.

11 CHAIRMAN CROSBY: Okay. Good.

12 COMMISSIONER MCHUGH: I have two
13 questions, one about the due diligence piece.
14 Is there anything more than getting letters of
15 good standing that is necessary to finish the
16 due diligence piece of it?

17 DR. DURENBERGER: Unless there is
18 something unanticipated, at this point we are
19 waiting on housekeeping, essentially
20 housekeeping issues.

21 COMMISSIONER MCHUGH: One item of
22 administration, if you will. There is a letter
23 in the record from Marianne Grenier who says in
24 the opening of her letter that the notice of

1 the meetings posted apparently on the day the
2 hearing was held. And it didn't say where the
3 hearing was going to be held. And she couldn't
4 find where the hearing was.

5 I see that in her letter. Then I
6 see the record here that demonstrates that the
7 notice was posted on our website some days
8 before the hearing. And that the statutory
9 requirements were complied with. So, I think
10 it's important because that's in the record
11 just to clear that up. It seems to me from the
12 record and the documents that are in the record
13 that we've complied with the statute and gave
14 greater notice than in fact was necessary.

15 DR. DURENBERGER: Thank you for
16 bringing that up, Commissioner McHugh. We can
17 certainly perhaps introduce into the record our
18 response to that.

19 The meeting was posted on October 22
20 and had been noticed in the newspapers some
21 number of weeks before that. I think we
22 actually gave 21 days' notice which we weren't
23 required to do. I do have all of those dates
24 outlined. We do have the response that General

1 Counsel sent to this Marianne Grenier.

2 The other piece that I was going to
3 say about this is that I think two things we
4 found some issues on the website. And think
5 there was some confusion. There were so many
6 public meetings and public hearings on
7 different applications on that particular week
8 that we think she may have clicked on a
9 different meeting actually. So, at any rate,
10 it has been addressed. It's been responded and
11 we can introduce that into the record. Thank
12 you.

13 COMMISSIONER MCHUGH: There is no
14 doubt that we complied and that the record will
15 show that we complied as necessary.

16 DR. DURENBERGER: Thank you. We
17 will move onto recommendation. The Racing
18 Division respectfully recommends that the
19 application of Springfield Gaming and
20 Redevelopment, LLC for live harness horseracing
21 dates in 2014 be approved subject to a couple
22 of conditions outlined below and other
23 conditions deemed appropriate by this
24 Commission, and pending the absence of any

1 material derogatory information received as we
2 complete the due diligence process.

3 Particularly we note the strong
4 racetrack operations portfolio of SGR's parent
5 company, Penn National Gaming coupled with the
6 benefits to the Commonwealth of conducting
7 harness horseracing at the existing facility as
8 outlined in Exhibit 26.

9 The following conditions to
10 licensure and any other conditions deemed
11 appropriate by this Commission are suggested.
12 One again, the applicant should work with the
13 Commission to ensure that the key racing
14 employees once defined are identified and
15 subjected to an appropriate background check.
16 That the applicant work with the Racing
17 Division to amend its request for simulcast
18 import and export prior to January 1 as that
19 information becomes available.

20 Racing Division must be notified of
21 any amendments to existing contracts and
22 agreements or newly executed contracts and
23 agreements with third-party racing operations
24 related service providers or representative

1 horsemen's groups within five business days of
2 execution. Said documents are subject to
3 review. So, notification, we don't necessarily
4 need copies of all of them, but notification
5 that there has been execution.

6 The next condition I am going to
7 have to amend. We require that the 2002
8 materials regarding the WinLine telephone
9 account wagering system referenced in Exhibit
10 29 be submitted before consideration would be
11 given. We still need to review that. We are
12 in receipt of the materials. We still need to
13 review them.

14 Finally, the applicant must provide
15 a copy of the temporary operations agreement
16 executed between Ourway Realty, LLC and
17 Springfield Gaming and Redevelopment, LLC
18 within five business days of execution.

19 This approval would authorize
20 simulcast wagering effective January 1 pending
21 additional review of the import and export
22 request by Racing Division staff as well as
23 regulatory and representative horsemen's
24 group's approvals required by the Interstate

1 Horseracing Act in our simulcast chapter. Such
2 approval would also authorize the 12-week
3 premium free period elected by the applicant,
4 and up to 15 Breeders' Cup races as premium
5 free special events.

6 Please note that this approval that
7 we recommend at this time does not authorize
8 the use of the WinLine telephone account
9 wagering system until such time as those
10 materials have been reviewed and a further
11 recommendation has been made to the Commission.
12 We should have that for you prior to next week.

13 CHAIRMAN CROSBY: Any other comments
14 or discussion? We will take that under
15 advisement, but again I think you've heard how
16 we are leaning.

17 COMMISSIONER MCHUGH: Thank you,
18 very much.

19 COMMISSIONER CAMERON: Thank you.

20 DR. DURENBERGER: We turn now to our
21 third application. The third application is
22 that of -- I'm sorry representatives of the
23 application please come forward and identify
24 yourselves for the Commission. This is

1 Brockton Racing, LLC.

2 MR. CARNEY: My name is George
3 Carney. I'm from Brockton.

4 MS. LEE: Good morning,
5 Commissioners. Representing Brockton Racing,
6 LLC we have George Carney to my right we have
7 Michael Morizio. He's been counsel on the
8 racing matters in this process. Also, we have
9 Joe Wilson on the end who is the chief
10 operating officer for Greenwood Racing. So,
11 thank you very much for having us.

12 COMMISSIONER MCHUGH: Good morning.

13 DR. DURENBERGER: Brockton Racing,
14 LLC is a new entity formed in September 2013
15 consisting of Raynham Member Incorporated, a
16 wholly-owned subsidiary of Greenwood Racing,
17 Inc., and the Carney Family Group, LLC. Both
18 are affiliated with the Raynham Park, LLC
19 application for a Category 2 gaming license
20 currently pending before this Commission.

21 This application for live racing
22 dates is conditioned upon an award of a
23 Category 2 gaming license to Raynham Park, LLC
24 and the cessation of live harness racing at

1 Plainridge Park.

2 Brockton Racing is one of two
3 applicants for harness horse dates in 2014.
4 It's application does not fully address some of
5 the statutory requirements of the application,
6 namely the days and hours of the day on which
7 it intends hold or conduct the race meeting.
8 And I want you to know that late yesterday we
9 did receive a submission with the days and
10 hours of times requested to hold or conduct the
11 race meeting. It did not make it into your
12 packet because of when we received it, but we
13 are in receipt of that at this time.

14 Its request to conduct 40 days of
15 racing in August through October 2014 does not
16 make the entity eligible to offer simulcast
17 wagering. We're going to discuss that a little
18 bit later as well, some late materials we
19 received.

20 As the greyhound licensee, I'd just
21 like to note in Bristol County Raynham Park
22 remains authorized by section 92 of chapter 194
23 of the Acts of 2011 to continue conducting
24 simulcasting at this time through July 31,

1 2014.

2 A public hearing on the application
3 was held at the Massasoit Community College in
4 Brockton, Massachusetts on October 29.

5 Approximately, 15 members of the public
6 attended, six of whom requested to speak. All
7 of the comments were favorable to the
8 application. Two written comments in
9 opposition to the application were received in
10 connection with the hearing.

11 Since that time, two letters in
12 support have been received. They did make into
13 your packet so they do appear in the memo,
14 although not summarized here. To the best of
15 my knowledge, no comments have been received in
16 response to the request for public comment on
17 the website. And all other associated
18 materials appear at the end of this memo.

19 On August 5, 2013 the Commission
20 issued a positive determination of suitability
21 regarding Raynham Park, LLC as a gaming
22 applicant. As we've noted before, given the
23 depth and complexity of those background check
24 procedures the Racing Division does have

1 confidence in the entity.

2 We will be working to define key
3 racing employees. And once defined, we will be
4 going through the appropriate background check.
5 Greenwood Racing, Incorporated, the parent
6 company for Raynham Member is a
7 multijurisdictional racing operator. With the
8 help of the Commission's Investigations and
9 Enforcement Bureau, the Racing Division is in
10 the process of conducting due diligence as to
11 Greenwood Racing's racing operations.

12 That due diligence review is not
13 complete at this time. We've requested letters
14 of good standing from New Jersey, Oregon and
15 Pennsylvania where Greenwood Racing is a
16 license or permit holder. And we have not
17 received any or that in response as of this
18 date.

19 As to the application, the Racing
20 Division notes the following: again,
21 originally we did not have two of the statutory
22 housekeeping requirements. We do have those
23 now. Let me just read this into the record.
24 Brockton Racing seeks to conduct 40 harness

1 racing meetings at the Brockton Fairgrounds.
2 This would be 10 races each days Friday,
3 Saturday and Sunday starting August 1 and
4 ending October 16 plus Labor Day. We will get
5 that material submitted into the record. I
6 apologize. I had taken some notes last night,
7 and they seem to be out of order.

8 We have not had time to look at
9 whether or not the dates and times submitted,
10 particularly Labor Day, which is a Monday,
11 would make this a competing application.
12 Certain conditions as to the issuance of
13 license attached to a competing application,
14 there are some geographical issues. I believe
15 it's within 75 miles of each other they can't
16 operate at the same time. There is some time
17 and date issues if you are running a matinee or
18 an evening performance. So, given the late
19 submission of this, I've not had the
20 opportunity to review it. So basically, we
21 need to come back to that, but we'll have an
22 answer for you by tomorrow.

23 COMMISSIONER ZUNIGA: Director,
24 which competing operation might you be

1 referring to?

2 DR. DURENBERGER: So, the other
3 applicant for harness racing dates would be
4 operating within that 75-mile radius. So, in
5 terms of awarding two license, if we would have
6 to make a recommendation that perhaps -- I'm
7 just thinking about the Monday. Both tracks
8 could not be in operation at the same time on
9 that Monday.

10 COMMISSIONER ZUNIGA: But isn't the
11 application conditional on the cessation of
12 those operations?

13 DR. DURENBERGER: It is.

14 COMMISSIONER CAMERON: So, it's a
15 moot point.

16 COMMISSIONER ZUNIGA: Wouldn't it be
17 a moot point?

18 DR. DURENBERGER: It's not a moot
19 point if you are the applicant who is wishing
20 to be approved because if we deny one and then
21 the condition subsequent occurs, we've already
22 denied say running on that Monday if you
23 approve.

24 I'm just holding it out there until

1 we've had a chance to review it and look at
2 what the options are. In other words, it would
3 be a condition of licensure that we approve
4 this but we couldn't approve a particular day.
5 To your point, I think it will be a moot issue,
6 I'm not prepared to answer that at this time.

7 Raynham Member, Inc., entity
8 discloses in Exhibit 13C that one of its
9 affiliates was denied a racing license by the
10 Maryland Racing Commission in 2003. We do
11 await some further documentation from the
12 Maryland Racing Commission as to that matter.

13 Our due diligence as to Exhibit 16
14 is not yet complete. That has to do with some
15 of the physical attributes of the existing
16 property. We have no recognition agreement or
17 purse agreement executed with any horsemen
18 group at this type. Under the circumstances,
19 that is totally understandable and a later
20 submission would cure that requirement.

21 As is the case with both of the
22 other applications, there are a number of
23 third-party racing related operations of
24 service provider contracts, insurance policies,

1 etc. that have not yet been contemplated much
2 less executed. And that's again to be expected
3 in the case of a new applicant entity. We
4 would expect that such contracts would be
5 provided to the Racing Division for review once
6 executed.

7 A number of responses regarding the
8 previous racing operations, experience of the
9 Carney Family Group, LLC and the physical
10 attributes of the existing racing facility
11 still remain under review by the members of the
12 application review team.

13 I would ask at this time if there's
14 anything that the applicant -- I think there
15 probably is. Let me just summarize the
16 additional materials that we received. The
17 ones that appear in your packet are the letters
18 of support. Last night we received this first
19 supplement to the September 30 application.

20 What it does is again it outlines a
21 proposed schedule. That this clarifies that it
22 would be matinee racing and not evening racing
23 with a post time of 1:00 PM. Then there is a
24 discussion regarding the ability to simulcast,

1 both the ability of the existing facility to
2 simulcast subsequent to July 31, 2014 as well
3 as an argument as to be ability of Springfield
4 Gaming and Redevelopment to begin simulcasting
5 on January 1.

6 Again, I have not had the
7 opportunity to review this much less summarize
8 it. So, to the extent that the applicant wants
9 to talk about that I'm happy to allow them to
10 do so. Those are issues that need to be
11 considered and reviewed before I can address
12 that.

13 COMMISSIONER MCHUGH: Isn't there an
14 issue from your standpoint as to whether as the
15 greyhound licensee they can continue until July
16 1, 2014 simulcasting?

17 DR. DURENBERGER: No, no issue at
18 all. The new information points us to a
19 provision in the law that I am not sure that
20 this is a correct reading from the applicant.
21 But they believe they're going to be able to
22 simulcast beginning August 1, 2014 under a
23 different provision of the law. And my read of
24 that was different than the applicant's.

1 COMMISSIONER MCHUGH: Okay, got it.

2 CHAIRMAN CROSBY: Did you have
3 something to say about that?

4 MR. CARNEY: Yes, Mr. Chairman. For
5 the record, my name is George Carney. I'm
6 involved with the application here this morning
7 or this afternoon. The reason I just have a
8 couple words to say.

9 The gentleman sitting to my right,
10 he will be running the operation as far as the
11 harness racing operations is concerned, Joe
12 Wilson. I'll be involved more in the public
13 relations part of the thing and sort of
14 promoting it for the reason I know the area
15 pretty well.

16 I've been watching harness racing
17 for the last 25 or 30 years. In my mind, and I
18 feel very strongly about it, if given the
19 opportunity to be granted a license that I will
20 bring harness racing back. It might take me
21 two or three years, because it's been 25 years
22 on the down swing, but as far as everything is
23 concerned my vision of it would be not to be
24 running 150 days a year. To run fewer days but

1 pay better purses, have better racing and build
2 up the fan base once again.

3 Harness racing at one time was very,
4 very strong. I was involved at Rockingham Park
5 when harness racing was run up there, long
6 before the change of the management, it was
7 very successful. I watched Foxboro in the old
8 days when E.M. Lou ran it himself. It was
9 very, very successful. The most days that they
10 ran at that time was 60, sometimes less.

11 Harness racing if handled properly
12 and promoted properly I think can be a winning
13 business not one that you're just running to
14 qualify to get a slot license. I really feel
15 that spending two or three years -- I know the
16 horsemen are kind of concerned a little bit
17 about what might happen. But in my opinion, I
18 think that we can write races through the
19 racing secretary's office that will help the
20 local horsemen, give them chance two or three
21 years to build up some decent stock, buy some
22 decent horses and be able to compete.

23 I've done the same thing with the
24 dog track many, many years ago not to sit here

1 and tell how smart I am, because I'm really
2 not. But I have been lucky in life. Sometimes
3 that's more important. I've never been known
4 for running the best bottom line operation in
5 the world because I sometimes hire more people
6 than I should and keep some of them working
7 longer than I should.

8 But I guarantee you, if we're given
9 the opportunity to do this, you will be very
10 happy and very proud of the fact that you voted
11 that way. And that is all I have to say and
12 thank you for your time.

13 MR. MORIZIO: Mr. Chairman, Michael
14 Morizio. I can perhaps address the simulcast
15 issue very briefly. We would begin operating
16 October 1. The existing racing and simulcast
17 laws all sunset in July 2014.

18 CHAIRMAN CROSBY: When you say begin
19 operating, you're talking about if you win the
20 gaming license.

21 MR. MORIZIO: That's correct. That
22 Brockton Racing would begin its racing meets at
23 the Brockton Fair on October 1 of next year.
24 At that time, the simulcast laws that would be

1 in effect are different than they are today.

2 So, at that time the Commission
3 under the Expanded Gaming Act would have and
4 has the authority to allow that racing licensee
5 to conduct simulcasting if this Commission so
6 chose.

7 So, what we have said in our
8 application which again is not intended to
9 compete with Plainridge Racecourse, but is
10 intended to be there if Plainridge Racecourse
11 should close. If that happens, we would be
12 prepared to conduct a full racing schedule with
13 full simulcasting as we proposed in our
14 application.

15 And we believe the Commission has
16 the legal ability to allow us to do that,
17 especially given the law as it will exist on
18 October 1.

19 COMMISSIONER MCHUGH: That's under
20 the former licensee provision?

21 MR. MORIZIO: Both under the former
22 licensee provisions and under the Expanded
23 Gaming Act.

24 COMMISSIONER MCHUGH: But I mean

1 under the former licensee provision of the
2 Expanded Gaming Act.

3 MR. MORIZIO: That's correct.

4 COMMISSIONER MCHUGH: I hear you.

5 MR. MORIZIO: There's also precedent
6 that we mentioned and this is just
7 bootstrapping ways to give the Commission
8 whatever flexibility it chose to use. Of
9 course, Wonderland has relocated to Suffolk
10 Downs. So, today Wonderland is conducting
11 simulcasting from Suffolk Downs.

12 And if for some reason that was the
13 methodology that the Commission chose or would
14 wish to see, to have simulcasting in Brockton,
15 we of course could do the same thing. One of
16 the existing greyhound licensees could transfer
17 over during the horse meet at Brockton
18 Fairgrounds and simulcast.

19 So, I only bring those out to
20 demonstrate that there are many different ways
21 that the Commission can choose to bring the
22 full racing and simulcast schedule to Brockton.

23 We are prepared to do whatever the
24 Commission wishes, whether it's to award us one

1 day or the 40 days that we put in our
2 application. What is vitally important is that
3 the license be issued to us so that we have a
4 standing place, a place from which to conduct
5 harness racing should Plainridge close.

6 MR. CARNEY: I just want to correct
7 my attorney on one issue. It's not October,
8 it's August 1 that we're going to start. I'd
9 like to just say this, one of the reasons we
10 didn't put in for more dates was that honestly
11 I figured it be sooner or later we'll hear one
12 way or the other. And I didn't want to make a
13 commitment to the horsemen and to the
14 Commission that we would be ready to race in a
15 time before.

16 Because we have to reconstruct the
17 track. We plan to spend between five and six
18 million dollars to do the place over so that it
19 will be something that the Commission will be
20 proud of. And I know in my own mind I couldn't
21 fulfill a commitment to start any earlier than
22 that because you can never can tell about the
23 winter weather and the conditions and putting
24 the new track in and doing what we want to do,

1 and have the place starting of the way it
2 should be and not half finished and half-
3 finished later.

4 So, that's one of the reasons why we
5 limited our application to 40 days that we felt
6 we could really run and fulfill our obligations
7 without misleading anybody. Thank you for your
8 time.

9 MS. LEE: Commissioners, the only
10 thing that I would add is that we have
11 submitted additional information that is not
12 before you. We wanted to thank Director
13 Durenberger because she's been exceedingly
14 accommodating and patient and cordial as we
15 submit things so you all can consider it. So,
16 thank you very much. Thank you, Director.

17 DR. DURENBERGER: We do and some of
18 those materials that in receipt may actually
19 alter our recommendation. What I'd like to do
20 at this point if you had additional questions
21 of the applicant go ahead before I make my
22 recommendations.

23 CHAIRMAN CROSBY: Anybody else?

24 DR. DURENBERGER: So, what I'd like

1 to do is outline a couple of provisions that we
2 found in the statute. This is certainly an
3 unprecedented time in Massachusetts pari-mutuel
4 history. That's reflected in our application
5 process.

6 We've looked through the law and we
7 found a couple of things, a couple options for
8 you. And will summarize them and make a
9 recommendation. I don't feel right at this
10 moment sitting before you that I have
11 sufficient information to provide a
12 recommendation regarding grant or dismissal of
13 the entire application. But that's okay.

14 Some of the information missing
15 could be cured immediately and some of it has.
16 Some of it could be potentially cured as
17 information regarding these contingencies and
18 contractual arrangements become available.
19 Most if not all of the information needed to
20 complete our due diligence review should be
21 received in the near if not immediate future.

22 So, really the question there is are
23 we in an appropriately informed decision to
24 make an absolute recommendation by November 15.

1 I recognize that this Commission
2 takes very seriously its commitment to the
3 integrity of the application review process.
4 I'm not interested in circumventing that for
5 any reason. So, if our due diligence review
6 can't be completed by November 15 then we
7 cannot and will not make a recommendation for
8 approval on the entire application.

9 We are also cognizant of the fact
10 that the harness racing industry and again all
11 of the agribusiness and local economy
12 extensions that we talk about all of the time,
13 because they are very important that's why we
14 talk about them all of the time has a very
15 serious interest in seeing harness racing
16 continue in the Commonwealth.

17 So, I certainly would not want to
18 put us in a position where a November dismissal
19 of an application would preclude the Commission
20 from considering a later request once certain
21 events occurred, once the contingencies are
22 known, if that would mean otherwise the absence
23 of absence of local harness racing. It makes
24 no sense to us.

1 So, we note the following statutory
2 provisions. One appears in Chapter 128A
3 provision 2. I will read it into the record.
4 It says that a supplementary application by a
5 licensee for a subsequent license in the
6 calendar year for which a license had
7 theretofore been issued to such licensee
8 relating to the same premises as was specified
9 in the previously issued license and
10 supplementary applications by a licensee for
11 additional licenses under section 4 may be
12 filed with the Commission at any time prior to
13 the expiration of said calendar year for which
14 license had theretofore been issued to said
15 licensee; and the Commission shall go on to
16 dismiss such applications within 30 days of the
17 date of filing.

18 My read of this provision and again,
19 I don't act as an attorney for the Racing
20 Division, but my read of this provision is that
21 if the Commission were to award a racing
22 license to Brockton Racing, LLC for any number
23 of days that this provision would allow at any
24 time in calendar year 2014 the applicant to

1 come back to us with a supplementary
2 application. And then we would have 30 days at
3 that time to consider it.

4 The second provision we found is in
5 Chapter 128A section 3(i). That one says
6 notwithstanding foregoing provisions, the
7 Racing Commission shall have the right to
8 review and reconsider without further notice or
9 public hearing any application made prior to
10 October 1 for which racing dates have been
11 requested for the following year; provided that
12 the application has had a public hearing prior
13 to November 15; and provided further that any
14 applicant who has been denied racing dates
15 makes a written request for review and
16 reconsideration within 90 days of receiving
17 notice of the denial; and provided further that
18 the Commission shall reconsider and review the
19 request within 180 days of the denial.

20 My read of this provision would be
21 that a timely filed and considered application
22 if denied would allow the applicant to come
23 back within 90 days of receiving notice of that
24 denial for reconsideration. And then the

1 Commission would have 180 days to reconsider
2 and review that request.

3 And then I discuss my feelings on
4 those two provisions next. Under the first, as
5 I mentioned the Commission could potentially
6 award a license say for one day of live racing
7 to Brockton Racing, LLC provided the rest of
8 the due diligence review was satisfactory to
9 the Racing Division and to the Commission.

10 We do still have an issue regarding
11 simulcast wagering at this facility. At this
12 point, the award of one day would not run afoul
13 of our read of the live racing requirements
14 found in Chapter 128C. This award would keep
15 the application alive throughout calendar year
16 2014 which would bring us passed the point
17 where the award of a Category 2 gaming license
18 has been made.

19 So, that would either moot the
20 application altogether because the event on
21 which it was primarily conditioned failed to
22 occur. Or it would provide the applicant with
23 the negotiating powers it needs to enter into
24 the types of contracts and agreements necessary

1 to complete our review and to conduct live
2 racing.

3 We do have an unanswered question
4 here. I don't know what obligations to the
5 Commonwealth get triggered by the application
6 of that one day. So, in other words, if a one-
7 day license is awarded but never fulfilled, I
8 don't know what that means. But we will
9 certainly continue to look at that.

10 The second provision 128A 3(i),
11 under this one the Commission could potentially
12 deny the application. The applicant submits a
13 written request for review and reconsideration
14 within 90 days. That 90 days again puts us out
15 past the anticipated award of the Category 2
16 gaming license thus either mooted or
17 invigorating the application as described
18 above.

19 But I don't like to use the word
20 denial in relation to application. Denial of
21 an application before a racing commission and
22 I'm certain before a gaming commission as well
23 takes on a heightened and potentially extended
24 significance to an applicant and its affiliated

1 entities.

2 As an occupational licensee, if I
3 apply to the racing official in one
4 jurisdiction and I'm denied, for the rest of my
5 life every time I apply for a license I have to
6 mark the denial. And I have to provide
7 documentation as to the reasons for that
8 denial.

9 And to the extent that a denial is
10 related to some material problem or some
11 derogatory information related to the
12 applicant, or not or related to the situation,
13 I think that gets really hard to discern 10 or
14 20 years out from now. So, I'd hate to put the
15 Commission in that position of issuing a
16 denial. I'd hate to put the applicant into
17 that position unnecessarily. If a denial were
18 based on derogatory information that would be
19 one thing. If it was based on situational
20 contingencies that are beyond folks' control
21 that's another situation.

22 So, if our understanding of these
23 provisions is accurate, then the Racing
24 Division would respectfully recommend following

1 the first approach. I would recommend going
2 with the award of a one-day license.

3 We can allow the contingencies and
4 the conditions that the application -- the
5 contingencies that the application had been
6 conditioned upon to occur. The applicant at
7 that point, should they be awarded a Category 2
8 gaming license should Plainridge Racecourse
9 cease live racing operations, they can come
10 back to the Commission at that time for
11 consideration of a supplemental application.

12 There may be some amendments at that
13 point, some adjustments to their business plan,
14 perhaps the schedule based on anticipated
15 opening date of the gaming facility. I think
16 there's a lot of unknowns that will become
17 known later on but would still permit the
18 applicant to come back to us with a plan and be
19 able to conduct live racing in calendar year
20 2014.

21 The solution I think seems to us to
22 best protect the interest of all of the parties
23 and the industry stakeholders under what we see
24 as pretty unique circumstances. Yes, we are

1 always in a situation where we never know
2 what's going to happen. And things do happen
3 and all that. But I think that the
4 circumstances surrounding this year's
5 application process are unlike any that have
6 ever been seen before in the Commonwealth.

7 CHAIRMAN CROSBY: Indeed. Do you
8 see any other better way? Do you have another
9 idea about how --

10 MR. CARNEY: I think it would work
11 fine, Mr. Chairman. I've been involved with
12 the Racing Commission for about 50 years. And
13 I've seen this put into effect before where you
14 grant one day and then I think is the best way
15 and the only way to keep that application
16 alive.

17 CHAIRMAN CROSBY: What is the
18 practical significance giving one rather than
19 40?

20 COMMISSIONER CAMERON: I believe,
21 Director, you explained to us that the due
22 diligence is just not complete because of the
23 timeliness of this and you needed additional
24 time to study these matters and complete the

1 due diligence? Is that why? That appeared to
2 be what I read from that memo.

3 DR. DURENBERGER: Maybe two
4 different questions or maybe I've created
5 confusion. To the Chairman's question, I think
6 it has to do with the obligations that attach
7 to that license. I'm way out on a limb here
8 because I'm not an attorney for the Racing
9 Division, but it would seem to me that to the
10 extent that any obligations to the Commonwealth
11 attach with the award of that license, they
12 would be attached related to the number days.
13 I may be wrong but it would seem to me that
14 awarding one versus awarding 40, I don't know.

15 COMMISSIONER MCHUGH: Under these
16 circumstances, the award of one is simply a
17 placeholder. That's the effect.

18 DR. DURENBERGER: Thanks for the
19 word, yes.

20 COMMISSIONER MCHUGH: You are simply
21 awarding one day and saying let all of these
22 contingencies play out, come on back and give
23 us an application that deals with the facts as
24 they really exist rather than the facts and

1 contingencies as they may exist.

2 So, that would really help us just
3 preserve the right to deal with this concretely
4 when the time comes.

5 DR. DURENBERGER: Thank you,
6 Commissioner for a perfect succinct summary.
7 Then that also addresses Commissioner Cameron's
8 issue, which is yes, there are still some
9 pieces of the due diligence review that before
10 we made the award for the entire application on
11 its face right now with the 40 days, there are
12 still some things. And I may not have those by
13 the end of next week. Again, those are things
14 are not necessarily in applicant's control.

15 CHAIRMAN CROSBY: Okay. So, you
16 made your recommendation on this, right?

17 DR. DURENBERGER: I did.

18 CHAIRMAN CROSBY: We'll take that
19 under advisement.

20 DR. DURENBERGER: Would it be
21 possible to take a 10-minute break before items
22 3c and 3d?

23 CHAIRMAN CROSBY: Yes. We'll take a
24 brief recess and come back in five or 10

1 minutes.

2

3

(A recess was taken)

4

5

CHAIRMAN CROSBY: We're going to reconvene our meeting if people could take their places. We are going to suspend the Racing Division, the last topic in the Racing Division. My apologies to Suffolk Downs. But we have some tight scheduling for the workforce supplier and diversity development report from Director Griffin. Where is Jill?

13

MS. GRIFFIN: Right here.

14

CHAIRMAN CROSBY: I thought you were on this side. We're going to go with Mr. Lang first. Why don't you lead off.

17

MS. GRIFFIN: Good morning Chairman Crosby and Commissioners. As you know, the Commission has talked about the importance of high-quality jobs, jobs that individuals can support a family on. The Legislature also talks about this issue as important. So, we've invited Brian Lang who is president of Unite Here local 26, the hospitality union. And he

24

1 is prepared to offer some suggestions to the
2 Commission

3 MR. LANG: Thank you, Jill.

4 CHAIRMAN CROSBY: Welcome.

5 MR. LANG: Thank you Commissioners.

6 I'm going to limit my remarks to a section of
7 the application that I think is key to the area
8 of economic development keeping in mind that
9 the impetus behind the legislation was exactly
10 that to spur economic development. Within that
11 section, I would like to address job creation,
12 which we believe is one of the two sources that
13 successful gaming operations in Massachusetts
14 will provide economic development.

15 So, looking at section 3-2 which is
16 entitled employees, approximately 70 percent of
17 the jobs will be service-based jobs. When we
18 say service-based jobs, we mean cooking and
19 cleaning and serving essentially, those
20 categories. Unite Here, our union has a lot of
21 experience representing gaming workers and
22 hospitality workers in these jobs, over a
23 quarter of a million workers throughout North
24 America.

1 In the Greater Boston area we
2 represent about 6500 workers who are in the
3 category of service jobs as jobs that are going
4 to be created. I mention this because our
5 experience in the hospitality industry we think
6 can provide a window into what it will take to
7 create good jobs in gaming facilities in
8 Massachusetts.

9 In analyzing the applicants, it's
10 very important, we believe, that the Commission
11 seek extremely detailed and verifiable
12 information about wages and benefits.

13 An applicant can only do that by
14 providing what they currently are paying and
15 what benefits they are offering to employees.
16 The future is unverifiable. So, it's nice to
17 know what an applicant is saying about the
18 future, but it may or may not be true.

19 Therefore, I propose that the
20 Commission ask for the following information
21 for all existing facilities that applicants
22 operate. And it's my understanding that every
23 applicant does operate slot parlors or
24 destination resort casinos in other parts of

1 the country. I think it would really shed
2 light on what to expect in future operations in
3 Massachusetts if we look at what operators are
4 currently providing.

5 This is a level of detail that I
6 would suggest. That operators list for each of
7 their facilities list all of the job
8 categories, job classifications such as not
9 housekeeping department, but room attendant,
10 house person, public areas attendant or if
11 there are other names that those jobs go by to
12 be that specific. And to say how many
13 employees in each of those classifications.

14 Of those employees, how many
15 employees are averaging 30 hours or more a week
16 as opposed to the vague term part-time, full-
17 time. The reason I suggest pegging it at 30
18 hours a week is that starting next year it's
19 going to be a law that it's an employer mandate
20 to provide health benefits at 30 hours. I
21 think that is very relevant when we're thinking
22 about benefits.

23 Also rates of pay for each
24 classification, not an average for the

1 aggregate but for each classification. What
2 health and dental benefits are offered
3 including premium share, deductibles and co-
4 pays.

5 Health benefits can sound really
6 good when they're talked about in the vague
7 terms. But if you've got a \$6000 deductible
8 before your insurance kicks in and you're
9 making under \$40,000 a year that's like having
10 no health insurance.

11 What kind of vacation benefits are
12 offered? Are there holidays offered? Are
13 there sick days offered? Is there a retirement
14 plan? What kind of retirement plan? Is it a
15 defined benefit pension plan? Is it a 401(k)
16 plan?

17 The Commission should not rely on
18 area averages as an expectation for what to
19 expect for wages and benefits in Massachusetts.
20 The reason I say this is the fact is that most
21 service jobs are poverty level jobs. If we
22 look at hotel jobs in Massachusetts, if we look
23 at restaurant jobs in Massachusetts, if we look
24 at cleaning jobs in Massachusetts, most of

1 those jobs are poverty level jobs. So, let's
2 not sugarcoat it. That's the reality of what
3 exist in.

4 So, to say this is an area standard,
5 we want the standard to be above poverty level.

6 CHAIRMAN CROSBY: Are you using
7 poverty level as the literal federal standard?
8 What are you referring to when you say poverty
9 level?

10 MR. LANG: I am using a little
11 artistic license here. But I believe that if
12 there -- And I know there's analysis out there,
13 that a high percentage of those jobs are
14 poverty level. And I'm going to give some
15 examples in the hotel industry here in Boston.

16 CHAIRMAN CROSBY: You're suggesting
17 that we ask the applicants to be specific and
18 not use vague language. And it'd be helpful
19 for us if you did the same thing if we knew
20 what you were really talking about specifically

21 MR. LANG: Good point, good point
22 and I'll get to some of that. One standard
23 that I think the Commission should be looking
24 at as a standard that exists is the standard

1 that is set in the unionized hotels in the
2 Boston area. These are good jobs and service
3 jobs that will be a good standard to use.

4 Let me give you some examples. And
5 I can give you a whole wage chart, but I'm not
6 going to bore you with it right now. A
7 housekeeper in a unionized hotel in Boston
8 makes about \$18 an hour. A tipped worker
9 meaning a bell person or a door person or a
10 waiter makes \$9.00 an hour plus tips. The
11 state minimum is \$2.63.

12 COMMISSIONER MCHUGH: \$2.63 is what?

13 MR. LANG: For a waiter, that's the
14 minimum.

15 COMMISSIONER MCHUGH: For a tipped
16 job.

17 MR. LANG: For a tipped job. In a
18 unionized hotel it's \$9.00. Banquet servers
19 have a guaranteed 15 percent gratuity. Let me
20 just tell you the relevance of that. When you
21 have a banquet function in a facility like this
22 or in a hotel or wherever, you will notice that
23 there is always some kind of fee attached to
24 it. In this state, it has to stay

1 administrative fee if management is going to
2 keep the whole thing. It's usually 20 percent
3 or more.

4 If they call it a service charge
5 because of the way the law is established in
6 this state, it all has to go to the employee.
7 If you've been following the papers over the
8 last handful of years, you may have noticed
9 settlements in the millions of dollars where
10 employers have not followed the law.

11 CHAIRMAN CROSBY: Like my Harvard
12 Club.

13 MR. LANG: Like your Harvard Club,
14 which I am well familiar with and that we
15 represent the workers in the Harvard Club. In
16 a unionized facility, management has to at
17 least have 15 percent that goes to the banquet
18 servers. That allows for some very good jobs.

19 The benefits in a unionized hotel
20 are like this: the weekly premium for all of
21 the benefits that I'm going to list are four
22 dollars a week for single, eight dollars a week
23 for single plus one and \$12 a week for family.
24 That is the premium share.

1 For that the employee gets health
2 insurance with no co-pays and no deductibles.
3 A dental plan that has all of the checkups and
4 fillings and extractions with no co-pay and
5 limited co-pays for things beyond that. Legal
6 services from a downtown law firm free. A
7 housing program that provides a \$10,000 grant
8 for first-time homebuyers at the time of
9 closing, which is just enough to allow folks in
10 our industry to be able to own their own homes.

11 A defined benefit pension plan that
12 provides a pension that lasts as long as you
13 live. A 401(k) plan that people can use to
14 supplement their pension further. Six sick
15 days a year, eight holidays a year, and
16 vacations ranging from one to six weeks a year
17 depending on years of service.

18 In addition to all of that, there's
19 an employer funded education and training
20 program that is free for our members and their
21 families that provides six levels of English,
22 GED preparation, citizenship classes, has a
23 computer lab, has training for professional
24 server training, has a built-out hotel room to

1 train room cleaners or housekeepers.

2 And is a genuine collaboration
3 between the industry and the union because
4 every program that is established there is
5 established through consultation with the
6 employers to make sure that what is being
7 provided is what is needed for the industry and
8 allows the industry to be that much better and
9 provides for an industry in Boston that will be
10 one that makes people want to come back to
11 Boston at the same time allowing people who
12 live in the communities of Boston to progress
13 in their lives, whether it means learning
14 English, going to higher education, becoming
15 computer literate or just staying in the
16 industry and getting a better paying job.

17 On the other hand non-union hotels.
18 I'll give you one stark example for
19 housekeepers. They average between \$12 and \$15
20 an hour with healthcare costs so high that many
21 people are forced onto state-subsidized
22 programs. And I'd like to draw your attention
23 to an article that was in the Boston Globe back
24 in April 2012 that is called all is not fair in

1 Boston hotels.

2 It highlights the lives of two hotel
3 workers who happened to both come from Cape
4 Verde, both live in Dorchester and worked in
5 hotels blocks apart. Geraldina Teixeira
6 cleaned rooms for \$12.64 an hour, was on state-
7 funded health insurance and was living in what
8 I personally would consider poverty.

9 Constantia Cruz started off as a
10 housekeeper as well. Went through the training
11 program became a professional server, is making
12 \$80,000 a year today, owns her own home, has
13 two daughters that she's putting through
14 college. There's a happy ending to this
15 particular story. We've organized Geraldina's
16 hotel and she is now making \$18 an hour and has
17 all of the benefits that I described earlier.

18 But that stark contrast is what we
19 are faced with in a thriving industry. And
20 what I believe we'll be faced with if workers
21 in the gaming facilities cannot choose
22 unionization through a labor harmony agreement,
23 which I will get to later.

24 In sum, for this section I would

1 like to reiterate that I think it is prudent
2 for the Commission to require verifiable data
3 when it comes to wages and benefits, which can
4 only happen if applicants are required to
5 provide data in their existing facilities. And
6 to consider the wage and benefit standards of
7 the unionized hotels in Boston as a strong
8 indicator of what is feasible and what
9 constitutes a good job in this industry in the
10 service sector.

11 I'll pause there, if you have any
12 questions. Otherwise, I'll go on.

13 CHAIRMAN CROSBY: This may fall into
14 your evaluation criteria, right?

15 COMMISSIONER STEBBINS: Yes, it
16 does.

17 CHAIRMAN CROSBY: We have questions
18 I guess we don't specifically elicit that, but
19 we could, right?

20 COMMISSIONER STEBBINS: One of the
21 things that we have done is we have, and I know
22 we're going to talk about this a little bit
23 later, we have gone back with a more detailed
24 spreadsheet and re-issued that to our current

1 slots parlor applicants asking for, more to
2 Brian's point, more detailed breakdown on the
3 salary levels, the positions, the breakdown
4 between full-time, part-time, what their
5 benefits include.

6 This was information that might've
7 been found around parts of the application but
8 it is helpful to have it synthesized in a
9 spreadsheet.

10 CHAIRMAN CROSBY: We can definitely
11 do that now more proactively on the casino
12 applications. Okay, great.

13 MR. LANG: The next section of your
14 application I would like to address is section
15 3-5 experience with hiring unemployed and
16 underemployed. I don't think that this section
17 can adequately be explored without exploring
18 the issues of CORIs.

19 I am actually encouraged by some of
20 the statements that have been made by
21 Commissioners on this subject. I think it's a
22 very important subject. And it should to get
23 the attention that it deserves. And I am
24 actually quite confident that as a Commission

1 that you're going to come up with regulations
2 on this that make sense.

3 My concern really doesn't lie there.
4 Where my concern lies is this. No matter how
5 progressive a set of regulations that the
6 Commission comes up with, they will be
7 meaningless if applicants do not hire people
8 from our communities who have made restitution
9 for their mistakes and are seeking to re-engage
10 in society in a meaningful way.

11 So, I suggest the following and I
12 don't think that there is any way of
13 legislating this, but I think it's worth
14 looking at this. That the Commission asks
15 pointed questions when it comes to CORIs. Like
16 do you hire people with CORIs in your other
17 facilities? What is your company's experience
18 with hiring people who have CORIs? How many of
19 your current employees have CORIs? Please
20 break this out by job classification.

21 It will give us some indication, the
22 company's willingness to work with our
23 communities in Massachusetts on this issue.
24 That's the extent of my recommendation there.

1 But I think it's very, very important.

2 COMMISSIONER MCHUGH: This is a
3 complicated issue. The other one that goes
4 hand-in-hand with it is credit problems. I
5 think that's an easier one to solve.

6 There are CORIs and there are CORIs,
7 first of all. CORI is simply an acronym for
8 criminal offender record information. So, it
9 means that somebody has a record. It doesn't
10 tell us whether it's a record for a criminal
11 traffic violation of which there are some or a
12 felony.

13 Then there is the civil liability
14 stuff that can attach to a mishap when a person
15 either has been hired who has got some offense
16 in his or her background, or the employer
17 failed to check and would have discovered one
18 if they find it. What is your approach,
19 suggested approach for dealing with those kinds
20 of complexities in terms of a regulatory
21 scheme?

22 MR. LANG: You see, I don't have a
23 suggestion there. And I don't pretend to have
24 the knowledge or experience. I think that

1 there are others that do. And I'm actually
2 going to be encouraging them to come forward
3 for recommendations there.

4 Like I said, based on -- I'm really
5 not trying to butter you up here. But based on
6 what I have considered a thoughtful approach on
7 the Commission's part, I'm fairly confident
8 that you're going to come up with reasonable
9 regulations. It's not where my concern is.

10 My concern is much more will the
11 operators be willing to stretch themselves a
12 little bit here and really reach into the
13 communities to provide an opportunity for
14 people who have made restitution and can be
15 very good employees and re-engage in a
16 meaningful way? And I think that if we're
17 talking about genuine economic development, we
18 cannot leave a group who have made mistakes out
19 of the equation.

20 CHAIRMAN CROSBY: As Judge McHugh
21 said, it's a question of how do we do that and
22 where do we draw the line, etc.? Unite Here
23 represents most of the hotels on the strip in
24 Vegas, right?

1 MR. LANG: That's right.

2 CHAIRMAN CROSBY: So, there must be
3 standards in place there that those facilities
4 use.

5 MR. LANG: Yes, there is. And we've
6 been passing some information onto Jill and
7 we're going to continue to do that.

8 CHAIRMAN CROSBY: Because we've made
9 it very clear to Jill that this is an area
10 where need some advice and counsel on
11 intelligent ways to draw these lines as well as
12 intelligent ways to encourage our applicants
13 and our licensees to act accordingly. So, the
14 more particulars you can give us about how to
15 draw these lines, would be helpful.

16 MR. LANG: We've begun to and we're
17 going to continue to. But with regard to the
18 applicants, I do think that it would make a
19 difference to ask them about what they have
20 been willing to do.

21 The next section is 3-8, workforce
22 development. I know that the Commission has
23 put a lot of thought into this with the
24 community colleges, with actually the other

1 organizations including the one that runs our
2 training center and really pleased the focus
3 that is going there.

4 From our experience, workforce
5 development takes a commitment on every level.
6 And that means the workers themselves to step
7 up and engage in training in a meaningful way.
8 We think there's a role for the state. And we
9 think that there is a role for the operators of
10 the casinos.

11 And I think that would it be very
12 informative to gauge what commitment -- gauge
13 the commitment of the applicants based on their
14 experience in providing capital, their capital.
15 for workforce development.

16 To get at this, I propose the
17 following questions: Do you have experience in
18 collaborating in joint labor management
19 training programs or other programs to do more
20 than simply give on-the-job training, where you
21 pay for the majority of the training courses?
22 Underline where you pay for the majority of the
23 training courses.

24 Let's face it, whatever companies

1 get these licenses, they are going to make a
2 lot of money. And that's fine, that's good,
3 but part of workforce development and part of
4 giving back to our community, part of our
5 values and the values that have driven this
6 legislation is to share in the wealth. And
7 part of sharing in the wealth, a very important
8 part is a commitment to putting capital into
9 workforce development.

10 The second question is if so, please
11 describe what you have done including the
12 amount of investment that you have made and
13 what results have come from that investment in
14 your existing facilities. Again, let's not
15 talk pie-in-the-sky, let's talk about what
16 applicants have actually done. That's it on
17 that question.

18 Then this is the final section that
19 I have comments on, sections 3-10, organized
20 labor contracts and section 3-11, labor
21 harmony. I think of these sections working in
22 conjunction with the first section, which is
23 employees and jobs that are being created. And
24 that if weighted and implemented correctly, the

1 review of applicant's answers to those three
2 sections are the key to providing uninterrupted
3 economic development for Massachusetts, which
4 is the key rationale behind the legislation.

5 To begin with, I want to talk about
6 labor contracts. There's really two categories
7 here. One is for the building, the
8 construction end. And labor law allows for
9 collective bargaining agreements before
10 construction begins. What I mean by collective
11 bargaining agreement is an agreement setting
12 forth wages, benefits and working conditions.
13 That's different in a construction industry
14 than it is in the operations of the hotel. And
15 I think it's an important distinction.

16 So, in the operations, labor law
17 prohibits pre-negotiating collective bargaining
18 agreements before employees are hired and
19 someone has certified that a majority want to
20 join the union. So, in other words, the
21 workers have to organize and be recognized as
22 having a union before a contract can be
23 negotiated. However, in that situation the
24 operation, it is legal for a union and an

1 employer to enter into a contract known as an
2 organizing or labor harmony agreement.

3 Generally, applicants are more
4 resistant to entering into contracts for the
5 operation than they are to reaching collective
6 bargaining agreement for the construction. You
7 may have noticed that yourself as you've been
8 reviewing the applicants for the slots.

9 There are a couple of reasons for
10 this. Union construction work is temporary
11 with a quantifiable cost that ends. The
12 building gets built, it's like a date. You go
13 out on a date. At the end of the night it's
14 over. That's what the construction is like.
15 For some reason, applicants tend to -- They
16 don't mind dating.

17 But when we're talking about the
18 operations, we're talking about something
19 different. We're talking about a deeper
20 commitment to the community.

21 COMMISSIONER ZUNIGA: A marriage.

22 MR. LANG: A marriage, there you go.

23 And for some reason, some applicants are a
24 little skittish about getting married to our

1 communities, because that's what it is. So, in
2 union operations there is really no end in
3 sight. Once there is that relationship,
4 generally it lasts as long as the facility
5 exists with regular opportunities to sit down
6 and reevaluate the relationship. And there is
7 a resistance to that.

8 So, the legislation talks about
9 labor harmony agreements. And there are key
10 elements to these key elements to these labor
11 harmony agreement if they're going to work.
12 And I want to go through what those elements
13 are.

14 The first is that the union agrees
15 that it will not strike or interfere in any way
16 with the operations of the facility. The
17 employer agrees that in the course of workers
18 discussing whether or not to join the union,
19 the employer will remain neutral and not run an
20 antiunion campaign. The employer also agrees
21 to provide lists of employees who works there,
22 agrees to provide access in non-work areas to
23 talk to workers during non-work times. And
24 that a card count to determine majority status

1 is used instead of an MLRB litigation.

2 There are also provisions in the
3 agreement that there cannot be evasion of the
4 agreement through subcontracting or selling
5 assets. And that arbitration is the way that
6 all disputes are resolved instead of litigation
7 or strikes and boycotts. That goes including
8 for the term of the first collective bargaining
9 agreement.

10 It's been our experience that when
11 organizing happens under these conditions, a
12 rational relationship between the parties is
13 much more likely to be attained more quickly.
14 It's been our experience in the gaming
15 industry. It's been our experience in the
16 hotel industry and in the food service
17 industry.

18 Employers that are skittish about
19 having a relationship and are skittish about
20 labor harmony use various strategies to avoid
21 it. One is to just straightforwardly refuse to
22 enter into that type of an agreement.

23 Another is to accept having an
24 agreement but only without one or some of the

1 key elements that I described. For instance,
2 I've seen them in this industry without
3 neutrality. Or employers enter into an
4 agreement with the union that has very little
5 experience in the industry as another way to
6 avoid labor harmony.

7 So, in this industry, there cannot
8 be labor harmony for the service sector of the
9 employees without having a labor harmony
10 agreement with Unite Here. That sounds very
11 self-serving for me to say, I understand. But
12 I will explain why.

13 Unite Here is the only union with
14 significant union membership in gaming. And
15 the only union that has an industry-wide
16 strategy to raise and maintain good quality job
17 standards in gaming, in the service sector of
18 gaming. We represent over 100,000 workers in
19 this industry. In locations where gaming
20 companies have refused to enter into labor
21 harmony agreements with Unite Here and/or have
22 employed avoidance strategies, there are
23 ongoing disruptive labor disputes.

24 As an example, the second handout

1 that I provided you with is an article from
2 this spring, Employees Protest at Rivers
3 Casino. It's an example of where a gaming
4 company promised good jobs in 2009. To quote
5 one of the workers who was organizing the union
6 and who was out on the picket line that day,
7 when the casino opened in 2009, they told us it
8 was going to provide good jobs and be a good
9 neighbor to the city of Pittsburgh but they
10 have not lived up to that promise. Further on
11 Tuesday, the Pittsburgh city council passed a
12 resolution in support of the proposed union.
13 Then they quoted city councilors saying
14 essentially the same thing.

15 Just because another union organizes
16 the workers, Unite Here still has the legal
17 right to call for a boycott of the employer
18 unless Unite Here has waived this right in a
19 labor harmony agreement. Though that may cost
20 the state money and we'd be sorry about that,
21 our union has a duty to maintain standards not
22 just for our members but because we have a
23 commitment to the community that we are in.

24 The state has a proprietary

1 interest, giving you every legal right to
2 encourage applicants to reach labor harmony
3 agreements with Unite Here. At gaming
4 facilities where good jobs have been created,
5 the workers are members of Unite Here. At
6 facilities that are non-union or represented by
7 other unions in our jurisdiction, the wage and
8 benefit standards are low.

9 To end with, I would like to point
10 you to the final handout, which was in the New
11 York Times a couple of weeks ago. Ruling
12 Doubles Paychecks for 1375 Employees at High-
13 Grossing Queens Slot Parlor. Janine Nickson
14 looked as if she had hit the jackpot. Ms.
15 Nixon, a customer relations representative at
16 Resorts World Casino in Queens had just learned
17 that she would be making \$40,000 a year up from
18 \$22,300.

19 Resorts World like most slot parlors
20 and full-scale casinos have long promised
21 thousands of good jobs and millions of dollars
22 in revenue for the state. It was particularly
23 enticing assurance in the poor and working-
24 class neighborhoods in southeastern Queens that

1 surround Resorts World and the aging Aqueduct
2 horse-racing track next door.

3 At the urging of the Hotel Trades
4 Council of Unite Here, state officials required
5 slot parlor operators to sign labor peace
6 agreements that they hoped would insure jobs
7 with decent wages and working conditions.

8 In the course of negotiating the
9 first contract, the two sides reached an
10 impasse. The dispute was put before an
11 arbitrator. And the arbitrator ruled that the
12 wages essentially be doubled.

13 This will restore a path into the
14 middle-class for workers in that community that
15 has been eroded over the last several years
16 given the broader changes in the city economy
17 said James A. Parrott, chief economist for the
18 Fiscal Policy Institute. You can see a big
19 drop-off in African-American and Latinos
20 working in city government.

21 An example right down the road in
22 New York, where the legislation provided for a
23 labor harmony agreement where our union stepped
24 in, organized the workers and workers are going

1 to be making \$40,000 instead of closer to
2 \$20,000. That's the conclusion of my remarks.

3 CHAIRMAN CROSBY: Thank you. It's
4 very interesting stuff. We appreciate you
5 coming in. You and I started talking about
6 this and I thought that it was important that
7 the whole Commission get the insights.

8 If we agree that the legislation was
9 all about jobs and there are jobs and there are
10 jobs, I think we share your interest in having
11 them be as good as possible, never mind in
12 complying with the intent of the law.

13 If there is a battle between the
14 unions over who should organize a shop or not,
15 I'm not sure we want to get into that one. But
16 what you have had to say is really helpful and
17 I appreciate it.

18 COMMISSIONER ZUNIGA: Maybe clarify
19 a couple of things. Is it possible or
20 realistic that an applicant will come before us
21 will come with more than one labor harmony
22 agreement executed with more than one union?

23 MR. LANG: Yes.

24 COMMISSIONER ZUNIGA: That is

1 practical and workable?

2 MR. LANG: It is possible, but just
3 to Chairman Crosby's remarks. I am not
4 suggesting that Commission get involved in any
5 disputes between unions. I'm suggesting that
6 there cannot be labor harmony if an applicant
7 does not have labor harmony with Unite Here.

8 Let me expand on that a little bit.
9 If an auto plant was to be built on the old
10 site of the GM plant in Framingham. I don't
11 even know if that site is still available. It
12 would not be conceivable to people that the
13 hotel workers -- This is a poor example,
14 because we don't have any dispute with UAW, but
15 I'm just trying to make another point. It
16 would be inconceivable to people that the hotel
17 workers reaching a labor harmony agreement
18 would somehow create labor harmony at that
19 facility, given that that's the industry of
20 another union that has a commitment to
21 representing those workers to raise the
22 standard for those workers.

23 Let me give you an even more far-
24 fetched example. What if the carpenters union

1 said we have or an electrical contractor said
2 we have a labor harmony agreement not with the
3 carpenters, with the insulators union. Would
4 it be conceivable to the Commission that
5 somehow the electricians union would not be
6 outside picketing and saying that not only is
7 that unsafe but we can't stand for that?

8 So, I'm not asking you to get
9 involved in a dispute between unions. I'm
10 asking you to look at the reality of what it's
11 going to take to have real labor harmony. And
12 if the union that represents gaming workers is
13 not being spoken to by an applicant, or an
14 applicant is refusing to enter into a labor
15 harmony agreement with that union which happens
16 to be Unite Here, the reality is that there
17 will not be labor harmony. And it's that
18 simple. And I think that the state has an
19 interest in having labor harmony.

20 CHAIRMAN CROSBY: Isn't the adverse
21 of that true as well? If there's another union
22 that feels that they have a legitimate right to
23 represent workers at these facilities and
24 there's a labor harmony agreement with Unite

1 Here, that union might very well take to the
2 streets and create a disruption.

3 MR. LANG: I don't think you could
4 point to an example of that happening anyplace
5 in the country. But you can point to the
6 example -- because if you don't have a
7 commitment to the industry, if you don't have a
8 strategy and if you don't have many years of
9 trying to figure out how to raise up the
10 standard for workers in that industry, you're
11 not going to put the resources into okay, I
12 didn't get that one. It's an add-on. It's not
13 part of an overall strategy.

14 COMMISSIONER MCHUGH: I hear what
15 you're saying. And it's all been very
16 interesting and very helpful and very
17 informative. I am reluctant to believe there
18 is only one solution to a given problem. So, I
19 look forward to hearing more about this
20 terribly important issue.

21 This is a jobs bill. We do have to
22 have -- We have a statutory obligation to
23 ensure that there is labor harmony. But I look
24 forward to hearing from other points of view

1 and other prospectives as we go forward.
2 You've made a compelling case for Unite Here.
3 And Unite Here obviously is a credible,
4 forceful player in this area. It has done a
5 number of good things.

6 But I am looking forward to hearing
7 as I consider your remarks, the remarks of
8 others including the applicants and perhaps
9 from others who also have an interest improving
10 the lives of people who we want to get into the
11 good jobs that these casinos can promise. And
12 that we've got a strong and demonstrated
13 commitment to ensuring, as you noted at the
14 outset. So, I'm grateful for your remarks.

15 MR. LANG: I appreciate that. And I
16 also appreciate the opportunity to speak before
17 you.

18 COMMISSIONER STEBBINS: Brian, I had
19 two points and one is more a statement. You
20 mentioned the Commonwealth's investment or
21 there should be investment by the Commonwealth
22 in terms of workforce development. I've beat
23 this drum before, but if our applicants were
24 any other industry, any other company coming

1 into the Commonwealth with promises of anywhere
2 of 300 to 600 jobs, we'd be doing back flips to
3 offer assistance to help make that happen,
4 especially with respect to workforce training
5 jobs.

6 What I have learned in gaining a
7 growing understanding of is somewhat an
8 interesting model with respect to this
9 industry. There is another question talking
10 about retention rates. It appears that as an
11 industry, it's a volatile retention period
12 during the first six to 12 months. I'm sure
13 this is probably true in a lot of other
14 industries. But this ramp-up period, people
15 decide a 24/7 operation isn't what I'm into. I
16 decided this job isn't for me and there is
17 probably a high turnover.

18 How does that period of time
19 potentially change the dynamics for some of the
20 issues that you've addressed from the labor
21 harmony agreements to contracts and
22 negotiating, etc. or has it based on your
23 experience? Is it no different?

24 MR. LANG: During the ramp-up

1 period, I could speak intelligently about what
2 I've seen happen in hotels. Given that they're
3 the same type of jobs and it's 24/7 as well, I
4 think it is applicable. The highest period of
5 turnover is the first year. Even in situations
6 where we've entered into labor harmony
7 agreements relative to once the hotel has been
8 operating for a few years. That's true on the
9 one hand.

10 In the Boston area because it's so
11 widely known what the standard is for in the
12 unionized hotels, I think that the turnover is
13 lower because there is this expectation no
14 matter what the starting rates are that if
15 there is a labor harmony agreement, there is
16 going to be an opportunity to come up to the
17 same standard with the rest of the city. So, I
18 think people have been willing to hang in there
19 for that.

20 Beyond the ramp-up period, the
21 feedback we've gotten from industry and we're
22 starting to actually quantify it by recording
23 the data is the retention rates are very good.
24 A couple of reasons for that. One is we're

1 able to quantify it for folks that come through
2 the training programs. Generally, those folks
3 are folks that -- I was going to say that are
4 looking to move up within the industry. That's
5 not always the case. Lots of times it's just
6 getting better English language skills.

7 The retention rates are very high
8 actually in the unionized hotels, mainly
9 because of the benefits and the pay. What the
10 industry has told us is we have run a program
11 to, not for the incumbent workforce, but to
12 reach out into the communities in and around
13 the downtown to train people into entry-level
14 jobs as housekeepers. And the feedback we get
15 from the industry there is that after running
16 these programs for the last three years,
17 retention rates are above the 80 percent.

18 Because of the quality of the
19 training not just in the hard skills but also
20 in the soft skills, attendance, industrial
21 accidents actually is down because it is a part
22 of the training component. And when we have
23 our graduations, it is a 13-week program. And
24 then there is a formal graduation, HR directors

1 typically are lined up in the front row ready
2 to try to buttonhole people because the quality
3 of the employees who come out of those programs
4 are so high.

5 COMMISSIONER STEBBINS: Thank you.

6 COMMISSIONER ZUNIGA: Has Unite Here
7 entered into any labor harmony agreement at
8 this point?

9 MR. LANG: Yes.

10 COMMISSIONER ZUNIGA: With our
11 applicants?

12 MR. LANG: Yes.

13 COMMISSIONER ZUNIGA: That's good.
14 I suspect not everybody though?

15 MR. LANG: Not everybody, no.

16 CHAIRMAN CROSBY: Okay. Thank you
17 very much.

18 MR. LANG: Thank you very much.

19 CHAIRMAN CROSBY: Jill and John,
20 we've got a lot of people that have been
21 spending a lot of their time waiting to
22 present. Should we go ahead and try to squeeze
23 in the rest of Jill's group and your
24 presentations and then we'll take a very late

1 lunch break? Thank you folks how have had to
2 wait. I'm sorry this is what takes a while.
3 Let's go ahead with your next presentation

4 MS. GRIFFIN: Chairman Crosby,
5 Commissioners, I am pleased to continue the
6 conversation from the October 31 meeting
7 regarding the importance of diversity in all
8 aspects of gaming.

9 We have invited a newly formed
10 coalition called the Massachusetts Gaming
11 Diversity Coalition to address us today. The
12 Massachusetts Gaming Diversity Coalition
13 consists of the following seven organizations:
14 The Center for Women and Enterprise, the
15 Greater New England Minority Supplier
16 Development Council, the Minority Business
17 Development Agency, Boston Business Center, the
18 Hispanic American Chamber of Commerce, the
19 Mass. Minority Contractors Association, the
20 NAACP New England Area Conference and the Urban
21 League.

22 The Coalition is here today to
23 present best practices in promoting and
24 ensuring a diverse procurement strategy. Their

1 goal today is to both guide the Commission
2 during the evaluation and selection process and
3 also to guide the applicants in the development
4 of their supplier diversity plans.

5 I am going to turn comments over to
6 Juan Cofield of the New England Area Conference
7 NAACP, but also ask if everyone could introduce
8 themselves.

9 MR. COFIELD: Good morning,
10 Commissioners. I am Juan Cofield and the
11 organization that I represent which is the
12 NAACP New England Area Conference is one of the
13 member organizations of the Coalition. I am
14 president of the New England Area Conference of
15 the NAACP.

16 MR. BACON: Good afternoon. I'm
17 Warren Bacon. I'm the director of the Minority
18 Business Center that is part of the Minority
19 Business Development Agency, which is an agency
20 within the US Commerce Department. And we
21 focus on supplier diversity.

22 MR. WILLIAMS: Good afternoon,
23 Commissioners. My name is Darnell Williams. I
24 apologize for my voice. I am the president and

1 chief executive officer of the Urban League of
2 Eastern Massachusetts. one of the founding
3 members of this Coalition.

4 MR. JANEY: Good afternoon, Greg
5 Janey, vice president Massachusetts Minority
6 Contractors Association, also a member the
7 Coalition.

8 MS. KIM: Andie Kim from the Greater
9 New England Minority Supplier Development
10 Council.

11 MR. OSBORNE: Good afternoon,
12 Commissioners. I will speak in my loud voice.
13 I am Neil Osborne. I am the third vice
14 president for the New England Area Conference
15 of the NAACP. I am also the branch president
16 of Mystic Valley Branch the NAACP.

17 MR. ACEVEDO: Good afternoon,
18 Commissioners. My name is Nader Acevedo. I am
19 the president of the Hispanic-American Chamber
20 of Commerce, and I am also a member of the
21 Coalition. Thank you.

22 MR. COFIELD: Again, thank you for
23 having us here and listening. The
24 Massachusetts Gaming Diversity Coalition was

1 organized to ensure a full measure of business
2 opportunities for minority business enterprises
3 and women business enterprises in the
4 Massachusetts gaming industry. Its aim is to
5 assist and support the Massachusetts Gaming
6 Commission in the development of strategies to
7 enlist imaginative programs from a casino
8 licensee applicant which will maximize
9 utilization of MBEs and WBEs.

10 Additionally, the Coalition and its
11 members will make themselves available to
12 assist and support the successful applicant in
13 planning and implementing programs designed to
14 maximize the utilization of MBEs and WBEs.

15 The Expanded Gaming Act of 2011
16 created a statutory framework to facilitate a
17 meaningful participation of MBEs and WBEs in
18 the preconstruction, design, construction,
19 post-construction and ongoing operation of
20 gaming establishments both for casinos and the
21 ancillary facilities within Massachusetts.

22 The Gaming Commission has both an
23 opportunity and a responsibility to give
24 guidance to and express its expectations to

1 licensed gaming establishments to fulfill the
2 objectives of the framework. The Mass. Gaming
3 Diversity Coalition expresses its strong desire
4 for a robust, extensive and sustainable
5 supplier diversity environment of all gaming
6 applicants approved by the Mass. Gaming
7 Commission. This is an essential aspect of
8 true economic development.

9 The Coalition asks the Gaming
10 Commission to (1) require licensed casino
11 operators as a condition of their license to
12 have clearly defined goals for meaningful
13 participation of MBE and WBE firms throughout
14 the casino's operations lifecycle planning,
15 preconstruction activity, design construction,
16 post-construction and ongoing operations of the
17 casino and the ancillary facilities.

18 Adopt an operational definition of
19 the MBE that incorporates certification by the
20 Massachusetts Supplier Diversity Office or the
21 Greater New England Minority Supplier
22 Development Council. And to adopt operational
23 definitions of WBEs that incorporate
24 certification by the Massachusetts Supplier

1 Diversity Office or the Women Business
2 Enterprise National Council.

3 Establish metrics by which
4 performance of licensed casino operators will
5 be measured vis-à-vis a quarterly and an annual
6 report issued to the Commission.

7 Implement an internal infrastructure
8 to ensure adequate compliance and rigorous
9 enforcement activity including the imposition
10 of penalties where MBE, WBE goals are not met.

11 The Coalition further asks the
12 Massachusetts Gaming Commission require each
13 licensed casino operator to (1) establish a
14 diversity procurement strategy, which clearly
15 defines goals for the participation of MBEs and
16 WBEs and with an objective of utilizing one
17 local next Massachusetts-based firms and
18 thirdly regional MBE and WBE firms.

19 Dedicate defined human and other
20 resources to support the implementation of the
21 operator's diversity procurement strategy and
22 establish collaborative and strategic
23 relationships with Mass.-based organizations
24 that can help licensed operators achieve the

1 goals and objectives of their diversity
2 procurement strategy.

3 Exhibit creativity in thinking
4 through the implementation of their diversity
5 procurement strategy and leverage their
6 diversity procurement strategy to help MBE and
7 WBE firms grow.

8 The Coalition will make itself
9 available to the Commission to discuss the most
10 productive manner to achieve these principles
11 and to maximize access and opportunity for MBEs
12 and WBEs.

13 We thank you and look forward to the
14 Massachusetts Gaming Commission to achieve
15 these objectives which the Coalition believes
16 are in the best interest of the Commonwealth of
17 Massachusetts. We are here to answer and
18 respond to your questions and comments. And we
19 may direct the questions to various members of
20 the Coalition.

21 CHAIRMAN CROSBY: Questions?

22 COMMISSIONER ZUNIGA: I don't know
23 if this is a question for you, Mr. Cofield, but
24 I am intrigued by the notion of imposing

1 penalties if certain goals are not met. As you
2 were saying this, I was thinking of this time
3 milestone that we're going to come to. Our
4 applicants are going to make representations
5 and the award of the license is going to be
6 issued on certain conditions.

7 Can you expound your thought process
8 a little bit on this particular aspect?

9 MR. COFIELD: Sure. First, we think
10 that each of the applicants ought to give real
11 thought to developing a procurement strategy.
12 And as they are competing with each other in
13 making the application to you within their
14 districts, we think they ought to be competing
15 with each other and you should look at their
16 application as to who is providing the best
17 diversity procurement strategy.

18 Once they've presented themselves to
19 you, you have to be in a position to judge
20 first based on their experience because each of
21 them has had experience in the gaming industry.
22 And then proactively judge their performance as
23 they move forward. So, if I've committed to do
24 X, Y and Z and after two years or one year you

1 see that I am not doing that and haven't even
2 put into place programs to get me there, then
3 you ought to penalize them. Because we think
4 that you have made a decision for X, Y, Z
5 operator based on their presentation to you and
6 you expect for them to live up to that
7 presentation.

8 So, we do strongly feel and ask that
9 you put into place a criteria to judge them and
10 to penalize them if they are meeting the goals
11 that they've set up and they've presented to
12 you, which in part you have approved them based
13 on their presentation.

14 MR. BACON: If I might add to that.
15 I think we see experience where organizations
16 have come in and said we will do X. They've
17 won and then they don't to X. So, there is
18 very deep-seated concern that this not happen
19 again.

20 COMMISSIONER MCHUGH: I can
21 understand and appreciate that concern, but is
22 there a difference between penalties for
23 failing to perform a range of undertakings of
24 the type you just described and a penalty for

1 failing to reach particular goals in and of
2 itself?

3 And I'm really looking for your
4 insight and input on this. It's one thing to
5 say our target is X-percentage of the workforce
6 have the following characteristics, and
7 penalizing the entity for failing to reach that
8 percentage. It's another thing to penalize the
9 failure to undertake good-faith efforts that
10 were promised to reach that goal even if the
11 goal isn't reached.

12 MR. BACON: I think it's the best-
13 faith effort. And I think one way to kind of
14 address that issue is to have the applicants
15 work with the organizations that can help them
16 do that. We have a sense of who is out there,
17 who can do these things. And it's a reasonable
18 man conversation.

19 MR. COFIELD: And I'd say that that
20 ought to send a flag when they have not met
21 their goals. And you might look at them for
22 further review. And if you determine that in
23 fact they have not taken steps that will help
24 them achieve the goals, then at that point the

1 penalties ought to be imposed upon them.

2 COMMISSIONER MCHUGH: I hear you.

3 Thank you.

4 CHAIRMAN CROSBY: Go ahead.

5 COMMISSIONER STEBBINS: First of
6 all, one, I appreciate your participation here
7 today. It's nice to see as Jill has settled
8 into this job some newer faces and new
9 organizations that have stepped up and wanted
10 to collaborate with us on this process.

11 Certainly, as you look on page two,
12 you talk about -- I certainly would group you
13 with the bullet that talks about relationships
14 with other Massachusetts-based organizations.
15 We've reached out to a number of public
16 entities, public agencies again to help vendors
17 reach a capacity, reach a sustainability level
18 that they're going to profit from vendor
19 relationships with these applicants. And
20 hopefully, I completely expect Jill is going to
21 put you all in that category, because that is
22 going to be helpful to us.

23 I think Warren just got to the point
24 that I was going to make of before we reach a

1 punitive level, I certainly ascribe to the fact
2 that applicant lays out their goals, it is
3 certainly of one factor in which a license
4 award decision will be made. But if they put
5 that in as a way to say this is another way we
6 feel we can bolster our application, then
7 certainly. Before we get to a punitive stage,
8 the collaboration involvement of the
9 organizations represented here today I think
10 would be a huge benefit to make sure that we
11 don't get a relationship low.

12 The question that came up for me as
13 we have looked at not only the mention of MBEs
14 and WBEs throughout the statute, but also a
15 category of veteran owned businesses. It's a
16 newer phenomenon obviously, since the recent
17 conflicts overseas. But my question is is
18 there a role you might be able to help us play
19 or help our applicants play in not only
20 identifying businesses that -- what you see the
21 population being of MBEs, WBEs who also might
22 happen to fall into a category of being a
23 veteran owned business as well. Because I
24 think that's where we might see a struggle in

1 terms of helping identify those VBE's because
2 the organizations, the process, the
3 identification is just not as established as it
4 is for the other two categories.

5 MR. BACON: Well, I think we want to
6 work with both the Commission and the
7 applicants as they have the need for us to
8 help. We have the mechanism for outreach for
9 things that could easily, I think, reach into
10 that category also even though that's not our
11 primary focus but we can certainly help out.

12 COMMISSIONER STEBBINS: It would
13 certainly help us fill a gap, because there is
14 one.

15 MR. WILLIAMS: I think as Warren
16 just stated, Commissioner Stebbins, that's
17 something that I think that we should be able
18 to augment even though it may not be our
19 primary core, but I believe there's room under
20 the tent for us to approach that and also help
21 the Commission achieve its goals.

22 COMMISSIONER STEBBINS: Great, thank
23 you.

24 COMMISSIONER CAMERON: This is an

1 interesting conversation. I have lots of
2 experience with police departments and those
3 who are doing a good job with diversity.

4 From my experience, it's really
5 three things. It's a healthy culture in your
6 organization. It is a good robust recruiting
7 strategy. And then it is the metrics, where
8 are you losing qualified folks along the way.
9 And is there something you can do differently
10 in training and/or whatever other piece of that
11 process that you are losing really quality
12 people that will enhance the organization. So,
13 I thank you for trying to help us with this
14 issue.

15 MR. WILLIAMS: Commissioner Cameron,
16 if I may respond. I think the only other
17 component that I would augment, your
18 intermission is that is our ability for
19 outreach that we can get to those individuals
20 as well as we triage the folks potentially
21 training, etc. So, I think that we will be
22 value-added in terms of what we will be
23 proposing today.

24 CHAIRMAN CROSBY: Has the Consortium

1 met with the applicants, started meeting with
2 applicants?

3 MR. COFIELD: Not as the Coalition.

4 CHAIRMAN CROSBY: But as
5 individuals?

6 MR. WILLIAMS: As individuals, yes.

7 MR. BACON: We are all very active.

8 CHAIRMAN CROSBY: Good. Because
9 we've certainly made a statement. There's two
10 sides of the equation, demand and supply. And
11 so far, we've been speaking to the demand side.
12 And we've made it pretty clear that this is a
13 priority that is going to be very significant
14 in our evaluation process.

15 But there also needs to be help on
16 the supply side. Particularly when cultures
17 are not inclusive, when cultures are not
18 experienced in any kinds of diversity whether
19 its employment or supplier relationships,
20 people's frames of reference -- people
21 sometimes in good faith don't have the tools to
22 figure out where do you go to find this kind of
23 opportunity.

24 And making sure that you all are

1 reaching out, that you're teeing up your
2 suppliers. That you're trying to find out in
3 advance what the demand's going to be. I think
4 we are starting to get lists of what kinds of
5 supplier relationships are going to be
6 necessary, what kinds of goods and services are
7 going to be bought, starting to match people
8 up, making sure that the minority businesses
9 and woman-owned businesses are trained properly
10 so they are to the demanding standards of this
11 industry, etc.

12 So, it's going to take a lot of
13 people putting a lot of effort into this to
14 make it really stick. We will put the heat on
15 the applicants for sure to not only make
16 commitments, but to honor commitments. But
17 everybody's going to need help to make sure
18 that the supply is there to fill that demand.

19 MR. JANEY: If I may, if there is
20 flexibility for creativity in teaming
21 opportunities that is one of the things that is
22 helpful. Certainly, I understand the vendors
23 out there their capacity and their training
24 effort to do the work.

1 But what's helpful is the support of
2 the awarding authority, obviously and some
3 flexibility in the language to allow for some
4 of the teaming opportunities. Not necessarily
5 joint venture, if you will, but again I want to
6 be redundant and have that creativity and
7 flexibility put different firms together so we
8 that can complete the task.

9 So, we all I think collectively and
10 individually as organizations have experience
11 and the knowledge base to put that effort
12 together.

13 MR. COFIELD: Commissioner Stebbins,
14 I want to respond a bit further to your
15 question about outreach to veterans. One of
16 the standing committees of the NAACP is the
17 Veterans Affairs Committee. And the New
18 England Area Conference recently added a chair,
19 filled a chair for the Veterans Affairs
20 Committee. And that Veterans Affairs Committee
21 and the chair is a part of a coalition that is
22 working on increased job opportunities and
23 being aware of the recent emphasis for
24 employing veterans of both white and nonwhite.

1 We think that we will be able to reach out to
2 them and include them quite easily.

3 COMMISSIONER STEBBINS: We found
4 quickly that veterans businesses get recognized
5 primarily two ways at the federal level.
6 Either they get recognized by the Veterans
7 Affairs Department, but that is primarily for a
8 business relationship with the Veterans Affairs
9 Department. Or through a program at Commerce
10 where it's kind of a self-registering thing
11 with really no substantial oversight as to the
12 validity of the application being filed and
13 ultimately ends up with whoever the contract
14 manager is to determine if that really is a
15 veteran-owned business. We would like to think
16 that we could zero in before here in the
17 Commonwealth maybe set a better standard.

18 MR. BACON: Two things to your
19 point. We're a part of Commerce, so we can
20 certainly work that avenue. But our
21 organization is also pretty good at vetting the
22 businesses we work with. So, we want to make
23 sure they know that they are who they say they
24 are.

1 COMMISSIONER STEBBINS: Right.

2 COMMISSIONER ZUNIGA: I just want to
3 mention that there is obviously power in the
4 numbers. So, it is encouraging that you at
5 this Coalition. And I encourage you to
6 continue it. And maybe as a Coalition you get
7 a lot more interest from our applicants and
8 more successful quantifiable outcomes.

9 I did want to mention perhaps at a
10 later point you all could provide us with some
11 specific goals in terms of the goals that you
12 mentioned, some specific recommendations.
13 Obviously, they have to be attainable in order
14 to be meaningful. We'll deal with the
15 accountability piece, etc., and whether those
16 may vary by license or by region. There is
17 Western Mass. and Eastern Mass. has some
18 idiosyncrasies relative to some of the supplier
19 based differences. And if that is something
20 that we ought to take into consideration, we
21 would really like to hear from you at some
22 point.

23 MR. COFIELD: We look forward to
24 getting that to you with more specific

1 outlines.

2 MR. BACON: We have some drawn up
3 that we will be sending you for further
4 discussion just to be helpful.

5 COMMISSIONER STEBBINS: In addition
6 to that, in terms of an applicant's diversity
7 procurement strategy, getting your thoughts and
8 welcome your thoughts in terms of beyond
9 recruitment, beyond setting attainable levels
10 of participation, are there other steps that
11 wouldn't necessarily just address MBEs and WBEs
12 participation but just general business
13 practices that you would expect out of an
14 applicant to make a new or small business
15 potentially able to compete and manage a
16 relationship. This certainly could provide
17 some great business opportunities, business
18 changing opportunities for somebody.

19 MR. BACON: Some of our member
20 organizations do that 24/7.

21 MR. JANEY: One more thing I
22 apologize, just to add, the description of what
23 we're going to call that best-faith effort is
24 going to be key in trying to determine whether

1 somebody is in default or not. So, we would
2 obviously like to participate in assisting with
3 that language, if you will, and establishing
4 criteria, whatever it is, before a contender
5 gets to be in that default category. I just
6 wanted to add that before we closed.

7 MR. ACEVEDO: As was said before, we
8 have great experience in businesses and a very
9 diverse group. And we are looking forward to
10 working with the Commission.

11 MR. BACON: So, for instance, we
12 know that financing is going to be a key to
13 help some of these small businesses. So, we're
14 already doing outreach to sources of financing
15 to help with that. So, we are thinking ahead
16 to be of assistance.

17 CHAIRMAN CROSBY: One last just
18 observation. The surest way to assure a
19 diverse workforce and a diverse supplier base
20 is to have a diverse ownership and/or
21 leadership group. And we put that as one of
22 our criteria.

23 From the parade of people we've seen
24 in here over the course of the last few months,

1 there isn't much in the way of diversity in the
2 ownership and leadership, which means ipso
3 facto there is going to be less sensitivity,
4 less cultural awareness, less experience,
5 knowledge, commitment.

6 So, in your consultations with the
7 companies, you could encourage them to have
8 somebody in their structure who understands why
9 these issues matter, and can help facilitate
10 their accomplishing these objectives. That
11 would go a long way towards addressing what I
12 think is clearly going to be a big, big, big
13 problem. Because at least by all outward
14 appearances, these are not organizations that
15 we've been seeing to have much in the way (A)
16 of diversity and probably sensitivity and
17 cultural ability to accomplish these
18 objectives.

19 MR. BACON: I think that's why we
20 think the supplier diversity plan is very
21 important. And when we get to specific
22 recommendations, there is things that can help
23 address that. As an example, do you give a
24 diverse supplier a one-year contract or do you

1 give them a long-term contract, things like
2 that that kind of bake it into the process.

3 CHAIRMAN CROSBY: Good.

4 MR. JANEY: I wanted to thank you
5 for that. What has been important is that the
6 owners team reflects what it expects from their
7 subordinate, if you will. So, I appreciate
8 that comment.

9 We have been in discussions with
10 some of the owners or some of the applicants,
11 if you will, to encourage that. Because it is
12 very difficult when you sit on an owners team
13 that doesn't reflect what it is that you're
14 expecting of your own service provider.

15 I'm just been echo chamber, if you
16 will, but I want to thank you for that comment.
17 And it starts at the top, respectfully, which
18 is why we have presented to you for the support
19 so that we can then go to the applicants and
20 have it flow downhill, if you will. So, I
21 wanted thank you for that.

22 CHAIRMAN CROSBY: The most amazing
23 example of this, and it's obvious, but still we
24 need examples there had never been an African-

1 American chief of staff to a governor in the
2 history of the Commonwealth of Massachusetts.
3 And I dare say that most people would have said
4 there's just not anybody out there who could do
5 that job.

6 Then we get Governor Patrick. He
7 has two African-American chiefs of staff. It's
8 got to start from the top to be really
9 effective. Thank you very much.

10 MR. BACON: We couldn't agree more.

11 MR. COFIELD: Thank you.

12 MR. JANEY: Thank you for your words
13 of encouragement.

14 CHAIRMAN CROSBY: Okay, John.
15 Wherever Director Durenberger went, don't lose
16 hope. Thank you gentlemen and lady. We are
17 going to do -- Which item are we doing, John,
18 5a, right?

19 MR. ZIEMBA: 5a, yes.

20 CHAIRMAN CROSBY: We are going to
21 skip to the ombudsman report, item one,
22 Category 1 applicants surrounding community
23 update and Category 2 applicants -- no, I guess
24 we'll only do one. We'll on do (a) at this

1 point.

2 MR. ZIEMBA: Only do (a).

3 CHAIRMAN CROSBY: Take the lunch
4 break and then get back to Jennifer.

5 MR. ZIEMBA: I think she might want
6 to try to get one thing in before lunch if we
7 can go expeditiously. To be expeditious, I'll
8 dispense with the introductions. All of the
9 applicants have been told that we've asked them
10 to come in and give us their surrounding
11 community status update, very much like the
12 Category 2 updates that happened a couple of
13 weeks ago.

14 We've asked them to give us
15 presentations probably no longer than 15
16 minutes, if it can be shorter that's great, but
17 expect questions from the Commission.

18 For the order of presentations, what
19 we are thinking is that we will start with
20 Region B with MGM Springfield. Then we will go
21 to Region A, Crossroads, Sterling Suffolk and
22 Wynn Mass.

23 By way of background, we after the
24 last Commission meeting, we asked all of the

1 Category 1 applicants to come and make a
2 presentation today and all of them have agreed
3 to that request. We did receive a note last
4 night that Mohegan Sun has said that they would
5 not participate in today's process in respect
6 to the voters as part of the recount that is
7 underway in Palmer. All of the remainder of
8 those applicants that were invited last week
9 are here today.

10 Can I please be joined by the
11 representatives from MGM Springfield. Then
12 I'll let them introduce themselves and they
13 will take it from there.

14 CHAIRMAN CROSBY: Go ahead.

15 MR. NASTSIA: Thank you, Chairman
16 Crosby and thank you Commissioners for having
17 us here today. As you know MGM is looking to
18 develop a Category 1 resort casino in the city
19 of Springfield. We've been actively working
20 with the Commission and with our host community
21 Springfield as well as our neighbors in the
22 surrounding communities.

23 So, we appreciate the opportunity to
24 be here today to update you on our progress and

1 our efforts to partner with these surrounding
2 communities. We'd also like to applaud the
3 Commission for your thoughtful and successful
4 approach in building on and implementing the
5 framework that the Legislature laid out
6 relative to surrounding communities and host
7 communities.

8 We would also like to thank John
9 Ziembra for all of his assistance and guidance
10 throughout this, most importantly his patience
11 throughout the entire process. With that I
12 will introduce the team members who will tell
13 you where we are relative to surrounding
14 community discussions and how we got here.

15 We have Michael Mathis who is the
16 vice president for global gaming development
17 for MGM. We have Kevin Dandrade. He is our
18 traffic consultant from Tech. We have Carol
19 Brennan from Brown Rudnik, a colleague of mine.
20 Ed Pikula, the city solicitor of Springfield.
21 We have Tim Brennan from the Pioneer Valley
22 Planning Commission and Chuck Irving who is a
23 development partner from Davenport Companies.
24 With that, I'll turn it over to Mike.

1 MR. MATHIS: Thank you,
2 Commissioners, very appreciative of the
3 opportunity to speak with you. I'm already a
4 quick speaker and I want to make sure that we
5 get you to lunch. So, I'll race you through a
6 lot of material.

7 I'd like to make a comment at the
8 outset. Someone earlier talked about the
9 elephant in the room. And Tuesday night was
10 certainly a very interesting night throughout
11 the Commonwealth. And we want to acknowledge
12 that the competitive landscape in Western Mass.
13 has certainly evolved and changed throughout
14 this race.

15 We are not confused about what it is
16 that we have to deliver for this Commission,
17 our proposal. The standards that we insist
18 upon as a company, whether it's diversity or
19 labor relations or sustainability, we believe
20 we are leaders in those areas. It's not the
21 competition that will drive us, it's our
22 corporate standards and what we think this
23 opportunity deserves.

24 So, whether there's five operators

1 or one operator, we plan on delivering and we
2 hope to present at the end of the year, the
3 opportunity to present a world-class proposal
4 to you.

5 CHAIRMAN CROSBY: Thank you.

6 MR. MATHIS: You've got a handout.
7 I'm going to also move along with the slide
8 show as well. Just to give a little context, I
9 know we're going to have an opportunity to talk
10 in detail about our project, but I do want to
11 give a little context. This is our project in
12 downtown Springfield, 15 acres of prime
13 development in the heart of a great American
14 downtown environment.

15 This is a photo from the 1920s.
16 This speaks to vibrancy in the city of
17 Springfield, which once led innovation and a
18 thriving middle-class. In its prime,
19 Springfield boasted 20,000 more residents than
20 they currently have today. So, when you talk
21 about that environment and the ability to
22 sustain what we hope will be a vibrant
23 development and all of the capacity that comes
24 with it, we think this is an environment that's

1 already primed for renaissance, for
2 redevelopment.

3 We literally took inspiration from
4 that 1920s photo in developing our project.
5 This is that same view where we want to bring
6 people back to the downtown area, public
7 transportation, vibrancy on the sidewalks,
8 street-level retail, street-level food and
9 beverage offerings, world-class entertainment.

10 Green areas, public areas, we are
11 showing a skating rink, for example, in the
12 winter but that's an outdoor plaza where we
13 hope to bring people back to the downtown area.
14 Have people stay there. Right now the general
15 view is the downtown area closes down at five
16 o'clock when the commercial area leaves. This
17 is an opportunity to bring people back down to
18 this environment movies, bowling, something for
19 the families, something as a regional draw as
20 well. So, we are very excited about this
21 opportunity.

22 This is my favorite shot of the
23 project. This is our tower. And it's a great
24 mixture of contemporary as well as some of the

1 existing architecture. So, we literally want
2 to turn the lights back on downtown. And there
3 is no finer example in the different shots of
4 our project than this one in our view.

5 What we are here about today,
6 surrounding community update. I think it's
7 fair to say that this is a new process for us.
8 We have always viewed the Massachusetts statute
9 as very progressive in terms of the things that
10 it called out in the requirements. And I think
11 the discussion about whether gaming is coming
12 to this market was settled in the legislation.

13 From our perspective, the
14 Legislature has determined that there is a net
15 benefit from this industry coming into this
16 market. And what we look to understand is what
17 exactly is our relationship with the
18 surrounding communities and what is the
19 standard by which we should be negotiating.

20 You call it out in your regulations
21 and I think the standard is significant and
22 adverse impact. That is what the surrounding
23 communities need to demonstrate. And offset by
24 that are all of the wonderful positive impacts

1 whether it be job opportunities, economic
2 development. We're talking about \$800 million
3 of investment in Western Mass., which is the
4 largest private development, as we understand
5 it, in Western Mass. history.

6 So, as we evaluate these standards
7 and in our conversations, we believe and we'll
8 talk about our approach towards the end that
9 there is a requirement to show upfront
10 significant and adverse impact.

11 Let me just talk a little bit about
12 the project site, again for context. Our
13 project site is in the green area. This is
14 literally the touchdown point for the 2011
15 tornado. In our view, it took a site that was
16 frankly marginally hanging on with a few
17 buildings that were still occupied. And
18 through no loss of life made 15 acres of prime
19 downtown environment available, a site
20 available for this development.

21 There's a lot of great things
22 happening in this area, things that we would
23 normally build ourselves. Six Flags nearby in
24 terms of family experience, the Basketball Hall

1 of Fame as you know, which has been struggling
2 in terms of its projections. MassMutual
3 Center, which a world-class regional convention
4 center, and two great venues, Symphony Hall and
5 City Stage. So, a lot of things that we would
6 normally look to are already in this
7 environment. And we view the casino resort as
8 the engine that will bring activity back down
9 there and bring visitation back to these great
10 amenities.

11 This is our project site. And we're
12 starting to hone in on the surrounding
13 community conversation. There are seven
14 abutting communities. And you will see those
15 highlighted as well as Holyoke. We view
16 Holyoke, although not an abutter, as an
17 important community. It has many of the same
18 demographics, as you know. It has many of the
19 same issues that Springfield is experiencing.

20 So, we have had very robust
21 conversations with Holyoke, and want to
22 congratulate Mayor Morse for his reelection.
23 We've had great meetings with the Mayor and
24 have had productive conversations about

1 workforce development. And I want to extend
2 that congratulations to all the new elected
3 officials that we'll be meeting with currents
4 and elected.

5 I want to talk about the perception
6 of adjacency, which I think can be misleading.
7 If you look at our site, we are closer in a lot
8 of ways to Connecticut than we are to some of
9 our abutters. If you go one, three, five miles
10 out, the physical impact on, for example, to
11 the east of Ludlow and Wilbraham is remarkably
12 less I think than if you look to the west and
13 to the south.

14 In a lot of ways and City Councilor
15 Pikula can speak to this, we view Springfield
16 and many of the wards within Springfield as a
17 surrounding community almost. In our
18 discussions and in our outreach during that
19 community host campaign, we treat a lot of
20 those wards as really separate constituencies.
21 And I think that this map speaks to that.

22 Notwithstanding, we've reached out
23 to all of our abutters and we view them as
24 neighbors. And we know politically,

1 emotionally, they view themselves as
2 surrounding communities. So, we've engaged in
3 those conversations notwithstanding some of the
4 geography that that plays out.

5 I want to talk about our outreach
6 effort. I'm really proud, and this team up
7 here is just a portion of the group that's
8 really focused on reaching out to surrounding
9 communities. Really, going before our very
10 successful July referendum, we've been reaching
11 out to our surrounding communities.

12 Here's a bit of a timeline that
13 walks through that. Back in February of '13 of
14 this year, we started our MEPA process. And I
15 think we are one of the first communities to do
16 that -- one of the first applicants in any of
17 the regions to do that where we sent out a
18 notice that talked about the different impacts,
19 potential impacts of our project and started a
20 dialogue with all of the surrounding
21 communities. Through that we got some feedback
22 about different things that surrounding
23 communities wanted us to study, a lot of it
24 focuses on traffic, as you know.

1 Then shortly after our election, we
2 held one-on-one meetings with seven, our seven
3 abutting communities the week of August 5.

4 They acknowledged that this was the first
5 outreach of any kind by any of the applicants
6 at that time, again, very productive meetings.
7 We walked through all of the different issues
8 that they would like to see us study, the
9 things that we plan on studying. And that
10 dialogue has been ongoing.

11 At this point, I'd like to turn that
12 discussion over to Chuck Irving and Tim Brennan
13 from the PVPC who have been really active in
14 that dialogue.

15 MR. IRVING: Hi, I'm Chuck Irving.
16 I'm with Davenport Properties out of Boston.
17 We're MGM's development partner. And we lead
18 the local on-the-ground discussions with
19 communities about traffic impacts and other
20 things.

21 As Mike said, we began in February.
22 And it's important to note that all of the
23 communities have been just fantastic.
24 Everybody has invited us into their house.

1 Everybody has been active in participating and
2 communicating.

3 But as Mike said, this is a new
4 process to us. So, the biggest help we've
5 gotten in the process has been the PVPC,
6 because we needed a validator for the process.
7 And we needed somebody to step in and to kind
8 of ask the questions that we all didn't know to
9 ask. With that said, I'd like to turn it over
10 to Tim who is orchestrating that process.
11 Maybe you can tell them what we've done and
12 where we're at.

13 MR. BRENNAN: Good afternoon. The
14 last time I was here was in March. We took up
15 this possibility of using planning commissions.
16 I was here with several of my colleagues. So,
17 now I am sort of here to talk to you about on
18 the ground, what we are doing.

19 As already has been explained, MGM
20 came to us in August, indicated to us that this
21 was a process they were interested in. We
22 quickly moved onto convening the communities
23 that they had done the Round Robin back in the
24 summer. At that meeting, we also through the

1 consultant team shared with them information.
2 As was pointed out, certainly the key question
3 that always rises to the top is the traffic and
4 transportation issues. There are other issues,
5 but that is certainly number one. I don't
6 think there is any dispute about that.

7 After that initial meeting, we asked
8 the municipalities to, because this is a
9 voluntary process, to decide whether or not
10 they wanted to participate collaboratively
11 together. Seven out of the eight said yes.

12 MGM made a slight deviation in the
13 way we envisioned this. And actually I think
14 it's a good deviation in the sense they said to
15 us if traffic and transportation are number
16 one, we'd like you to go out and engage a
17 consultant firm that would peer review our
18 work.

19 So, we had a fast track a
20 procurement once we knew we had seven
21 municipalities on board. We've done that. And
22 Friday, we put a firm by the name of Greenman-
23 Pederson under contract, which will be working
24 with us and the seven municipalities.

1 We've also had a query from another
2 municipality that was on the map barely who
3 would like to participate. I prefer them to
4 talk to Mike Mathis and the MGM team about
5 that.

6 So, we are off and running. The
7 obvious constraint is that time. We've had to
8 pack a lot of work and conversations in. So,
9 next week we are convening communities again
10 with both the consultant teams on board. And I
11 feel that this process at this point in time is
12 taking hold. And I am hopeful we can work with
13 our municipalities, who are my customer to get
14 to a point where everyone is comfortable.

15 MR. IRVING: Our company has done
16 five or six large developments in Western Mass.
17 And I can tell you that this has been one of
18 the best processes we've been involved in. Two
19 weeks ago, we held a community meeting in which
20 we invited all of the communities to come into
21 a room and start the conversation.

22 In that meeting, Kevin Dandrade
23 outlined an initial traffic study. And we
24 asked them to come back to us with comments to

1 expand the scope, because as we all know, the
2 numbers don't always tell you what you need to
3 ask about.

4 We all have intersections in our
5 town that are a problem. And you don't see it
6 in the report. So, we are trying to provoke
7 that dialogue. Next Thursday evening, all of
8 the communities come back again and start
9 getting very specific about where that scope
10 will be expanded.

11 The major thing we're trying to do,
12 and I think Tim and I are both in agreement on
13 this, is complete the study in a timeframe that
14 allows us to get to the agreements by the end
15 of the year. And we think we can do that.

16 MR. MATHIS: I am going to take
17 control of the program again.

18 CHAIRMAN CROSBY: I just want to ask
19 a couple of questions.

20 COMMISSIONER ZUNIGA: Is this a
21 study that you reference as the peer-review
22 study or is there a separate one?

23 MR. BRENNAN: Basically, using the
24 information that the developer and the team is

1 bringing forward but we have now a consultant
2 on our team that is going to review that and
3 help us to tell us this is on the mark, this
4 isn't, this is a gap. And to bring that level
5 of comfort and assurance to the municipalities
6 that they feel like their issues are being
7 addressed.

8 COMMISSIONER ZUNIGA: What is that
9 timeline? I don't know if you mentioned it.
10 When is that study expected to be completed or
11 that review?

12 MR. BRENNAN: It's not really a
13 study, as I see it. This is sort of an
14 evolving process as we go along. In each of
15 the meetings, each of the iterations of data
16 that are bringing forth are on the table. We
17 don't think we have the luxury of waiting to an
18 endpoint sometime months in the future. We're
19 sort of trying to work it as we go along.

20 There will be a summary report at
21 the end, but by that time I would hope that a
22 lot of issues would have been addressed.

23 COMMISSIONER ZUNIGA: Which is the
24 eighth community that is not participating?

1 MR. BRENNAN: The town of Hampden I
2 was in earlier this week. And the select board
3 at that point brought forward that they were
4 interested in participating.

5 COMMISSIONER ZUNIGA: The one that
6 is not.

7 CHAIRMAN CROSBY: The one that is
8 not.

9 MR. BRENNAN: West Springfield.

10 CHAIRMAN CROSBY: West Springfield?

11 MR. BRENNAN: Right.

12 CHAIRMAN CROSBY: What's happening
13 with them? I assumed they petitioned us to be
14 a surrounding community?

15 MR. IRVIING: They went to Tim,
16 which I think is the right way to do it. And
17 Tim then came to Mike Mathis. We have said
18 let's have them at the meeting next week. And
19 let's get them involved in the discussion. So,
20 I think that's where we are right now.

21 MR. BRENNAN: But I think to be
22 honest about this, we went, as we normally
23 would to the chief elected official asked he or
24 she whether or not they wanted to sign on. In

1 that case they said no. But I can also tell
2 you from first-hand experience I had multiple
3 other local officials that want to participate.
4 So, that's the situation we're in, trying to
5 walk this tightrope.

6 CHAIRMAN CROSBY: So, what is the
7 status of the surrounding community agreement?
8 Are the seven presumably you've all have agreed
9 that they are surrounding communities and West
10 Springfield has petitioned us? Is that where
11 it stands?

12 MR. MATHIS: Mr. Chairman, I am a
13 former attorney. So, I do have to have a
14 reservation in this conversation. I've been
15 using surrounding community throughout this
16 deck pretty loosely. Per the regs. there are
17 certain ways you become a surrounding
18 community.

19 So, we are not at this point
20 prepared to designate any other communities as
21 a surrounding community. I think there
22 certainly will be at the end of the day. We
23 hope we get there by mutual agreement, which is
24 one of the ways you become a surrounding

1 community.

2 CHAIRMAN CROSBY: So, they've all
3 petitioned us, I guess.

4 MR. ZIEMBA: The petition deadline
5 is December 31.

6 COMMISSIONER ZUNIGA: So, they have
7 not.

8 CHAIRMAN CROSBY: Oh, I'm sorry. I
9 take that all back. Go ahead.

10 MR. MATHIS: I want to touch very
11 quickly on traffic. At the outset I'll say we
12 make no apologies for traffic. I think our job
13 is to create traffic. And I think a successful
14 project will create traffic.

15 In our conversations with the local
16 communities, particularly in Springfield, 1968
17 when the federal government closed down the
18 National Armory that community lost 6000 jobs.
19 Certainly, there are 6000 less cars out on the
20 roads but that is not a good thing. So, we
21 plan on through our 3000 employees at least
22 bringing half of those numbers back and half
23 the cars back.

24 So, at the outset, you can fall into

1 the trap of trying to downplay traffic, but
2 traffic is an indicator of success. And we plan
3 on being successful. I'm going to hand this
4 over to our guru, our traffic guru Kevin
5 Dandrade.

6 MR. DANDRADE: Mr. Chairman,
7 Commissioners, my name is Kevin Dandrade. I'm
8 a professional engineer and a transportation
9 specialist. What I can hope to demonstrate to
10 you today is that the MGM site is superior in
11 its characteristics to be able to accommodate
12 and distribute traffic.

13 We have a very unique situation and
14 opportunity here in the city of Springfield to
15 be able to look at a use that is compatible and
16 consistent with surrounding uses, and to be
17 able to accommodate traffic outside of the
18 traditional peak hours for an urban downtown.
19 If you look at the graph in front of you, this
20 is called a histogram. It shows the
21 variability of traffic over the course of a
22 day. This is on East Columbus Avenue accessing
23 downtown.

24 The blue line represents the spike

1 of traffic in the morning peak hours traffic is
2 coming in. And you can see that consistent
3 drop-off of traffic as the day continues.

4 The green represents the MGM
5 traffic, very low during the morning peak hour
6 and it continues to rise but no acute spike at
7 any one point. And as the urban traffic that's
8 traditionally leaving the city at the end of
9 the day, we are infusing additional traffic and
10 excitement within the downtown. And it's where
11 they cross say 6:00, 7:00 PM where traffic has
12 already come well off of its peak
13 characteristics and able to accommodate it.

14 We are surrounded by significant
15 infrastructure. When you consider the fact
16 that the roads and the highways are built to
17 accommodate that peak morning rush-hour coming
18 in and the peak evening rush-hour leaving the
19 city, we have vast infrastructure around us
20 that has great reserve capacity that we can
21 utilize for the project.

22 When we look at some of the
23 distribution characteristics of traffic to and
24 from the site, we've separated them out

1 painstakingly in various categories, the casino
2 patron and the hotel guest traffic, the retail
3 traffic, the office, the residential and then
4 all of the employees that are expected to come
5 to the facility. They all have their own
6 different distribution models because there are
7 varying characteristics that go along with each
8 of those.

9 Although the casino patron traffic
10 is expected to be 80 percent from the highway,
11 when you blend all of the different uses, you
12 see some of those figures there. This figure
13 represents some of the different access points
14 that come into downtown. We have the luxury of
15 having half a dozen different highway
16 interchanges within approximately one mile of
17 the site. It's important for accessing
18 downtown today, but what it provides is for
19 opportunities to distribute traffic.

20 We have dozens of arterial and
21 collective roadways at the local level, and
22 four different bridges that can go across the
23 Connecticut River to be able to distribute any
24 impact at a point where it starts to distribute

1 and diffuse any acute needs.

2 You can see that crossing the
3 Memorial Bridge we have expected three percent
4 of our total traffic. The other two bridges
5 with state and local roadways are four or five
6 percent crossing those bridges. That's the
7 percentage of traffic.

8 When you look at how this is
9 distributed and how it impacts the existing
10 streets, we are talking about a scale that's
11 changing existing traffic patterns by one
12 percent to three percent on most of these
13 roadways that surround this urban community.
14 This is important because when we look at the
15 ability to characterize our traffic impacts, it
16 no longer becomes this goliath traffic
17 generator that everybody should be worried
18 about. It starts to get diffused down to a
19 level that people can understand when it's
20 distributed out to the boundaries of our
21 adjacent communities.

22 When we look across the river on the
23 north side as Route 20 crosses over to the
24 North End bridge, the amount of trips that

1 we're generating and distributing over there is
2 roughly one-tenth of what is already generated
3 by a retail shopping center just north of
4 there.

5 When we look at trips that are going
6 across the South End bridge over to Routes 5
7 and 57, we're talking about the number of trips
8 both in and out that is comparable to something
9 like a CVS Pharmacy or a fast-food restaurant.

10 When we look out towards Route 83 in
11 East Longmeadow it's something of the caliber
12 where we're talking about the trips that either
13 originate in East Longmeadow or travel through
14 East Longmeadow being equivalent to roughly
15 one-fifth of the Stop and Shop that already
16 exists at the city town line.

17 And when you look at our complex in
18 its entirety, if it was transformed into a
19 retail shopping center that you see all over
20 the place, we're talking about something that's
21 on the scale of roughly 315,000 square foot
22 shopping center.

23 There are some examples that are
24 shown here, ones that Chuck or I have been

1 familiar with that are much larger than what we
2 are talking about as a traffic generator. Yet,
3 it doesn't have the same level of surrounding
4 community impact.

5 Hopefully, this does is to point
6 towards a process that is knowing that there
7 are sensitivities. But it is thorough and we
8 are making it accurate. We have recently
9 received endorsement of our trip rates from
10 Mass. DOT. We have worked in a very
11 collaborative and informational way with the
12 Pioneer Valley Planning Commission, the Transit
13 Authority and many other agencies and
14 communities to make sure that this is
15 responsibly prepared and accurately prepared.

16 So, we look forward to that dialogue
17 over the next several weeks as we look forward
18 to meeting with each and every community.

19 MR. MATHIS: As Kevin and Chuck have
20 told me, there's a reason that Springfield is
21 called the crossroads of New England. Because
22 of all of its great access, we are able to
23 diffuse what is otherwise a tremendous amount
24 of traffic onto a lot of arteries.

1 If I can, I am going to talk about
2 general impacts. I want to identify some
3 mitigating factors that are perhaps unique to
4 our proposal, but I think they are very common
5 among some of the proposals you've seen. A lot
6 of this speaks to, we're going to recruit our
7 employees locally. So, there is no incremental
8 impact from our perspective.

9 There have been other markets, I
10 think Connecticut is a good example, and there
11 are others that I can speak to Connecticut
12 better than I can. But now there's a major
13 development in an otherwise rural and low
14 population area. So, I think there's a lot
15 more infrastructure, whether it be physical
16 infrastructure or employees and labor, new
17 incremental labor and employees to that market.
18 And that causes an incremental bump.

19 There is so much density of
20 population, particularly unemployment that it
21 would be a crime not to draw your employees
22 from the immediate area. And that is our plan.
23 So, a third of our employees we've committed to
24 in our host community agreement with Solicitor

1 Pikula, a third of those will be Springfield
2 residents. Ninety percent of our employees
3 will be from the region.

4 We only expect to bring in 10
5 percent from outside the market and that's to
6 build us some expertise in high-service, high-
7 level skill level casino jobs. So, no
8 significant influx of employees from outside of
9 the market.

10 We also have a couple of knobs that
11 we can turn to help mitigate impact. Off-site
12 employee parking, for example, is an option
13 that we will maintain so that we can get
14 employees out of the downtown area if there
15 happens to be a lot of activity. The same
16 thing with casino shift hours, because we are a
17 24/7 operation, casinos are very known for
18 having odd employee hours because we can take
19 employees out of what otherwise is the rush-
20 hour period. So, these are some of the things
21 that we can monitor and adjust.

22 I just want to talk about the
23 positive impacts of the project, and really of
24 any casino resort that hopefully you approve as

1 a mitigator, 3200 permanent on-site jobs, and
2 we believe 2000 indirect jobs. Over \$120
3 million of annual payroll in the Springfield
4 and the surrounding area.

5 We've committed again contractually
6 in the host community agreement with
7 Springfield that we will target to spend \$50
8 million annually in the region, locally and in
9 the region. That's about 50 percent of our
10 overall spend.

11 We are inducing out-of-state
12 tourism. A big point of the statute was to
13 bring -- repatriate those revenue dollars that
14 have been exported to Connecticut for example.
15 So, we're targeting a third of our customers
16 from Connecticut as part of our plan.

17 Lastly, is what I showed you earlier
18 support of regional attractions. There are so
19 many great attractions in our immediate area,
20 whether it be the Basketball Hall of Fame,
21 MassMutual Center, Six Flags, which we just
22 recently announced a cross-marketing deal on
23 and Symphony Hall and City Stage, we are going
24 to support not compete with existing amenities

1 in the market.

2 So, we get down to what we're
3 calling the MGM Springfield proposal, which is
4 really, I think the point of this hearing. We
5 won't take credit for this proposal. I want to
6 credit really -- When I was here last hearing
7 when the slot operators presented particularly,
8 Penn National Gaming and Parks, they talked
9 about this concept of a lookback.

10 And it's something that we've been
11 thinking about as well. I think a lot of the
12 statute in the regs. talk about, reference
13 known direct impacts, actual known direct
14 impacts. I would suggest to be able to
15 negotiate an agreement that has those kinds of
16 numbers, three to four years before you're open
17 those are internally inconsistent concepts.

18 What we heard loud and clear from
19 the communities, the surrounding communities
20 and very candidly they came to us and said we
21 don't have our hands out for a payment. What
22 we want to make sure are two things. One, we
23 don't to cut a worse deal than the guy next
24 door. That's why people are a little gun shy

1 about being the first one. And we totally
2 sympathize with that situation. And we also
3 don't want to be in a situation a year after
4 opening where we got the number wrong.

5 So given that, we want to have a
6 dialogue about the right way to evaluate this.
7 And we think the lookback approach is the right
8 way. Here are the elements of the lookback
9 approach, and we've documented this in a
10 letter. We provided Ombudsman Ziemba with
11 those letters that we sent to the surrounding
12 communities about a week ago. And I'm to say
13 that even some of our bigger detractors all
14 acknowledged that this is a pretty good model
15 to consider.

16 Recognize that projections are just
17 that, they're protections. We won't get them
18 exactly right. We have a lot of experience in
19 this area, but we won't get them exactly right.

20 Recognize that surrounding community
21 impact payments shouldn't be a windfall to the
22 community. And they shouldn't put the
23 communities at substantial risk in terms of
24 identifying the dollars and the different

1 resources.

2 We want to take this time now to
3 expend resources on establishing the baseline.
4 What is the condition of these communities
5 before the casino comes? Whether it be
6 traffic, employment, whether it be Chamber
7 activity, because that is the positive
8 activity.

9 We hope to drive new Chamber
10 business. We hope to drive new vendors and
11 suppliers and innovation. So, let's identify
12 the baseline now and go back and look at it
13 afterwards.

14 The work should be done by an
15 independent body. We recognize that there
16 needs to be some independence to it. And we're
17 open to a dialogue about who that should be, if
18 there's enough support for the concept.

19 Also we want to provide surrounding
20 communities with funding now to participate in
21 this process, because we know whether it's this
22 process or during the evaluation period,
23 they're going to have to have professionals
24 that are comfortable with this lookback and

1 what the baseline is.

2 We are also prepared to establish
3 minimum payments for surrounding communities to
4 give them some comfort that they will be able
5 to evaluate the impacts themselves, so, some
6 resources now.

7 Most importantly, we want to conduct
8 extensive reviews post-opening. I think
9 Massachusetts has the opportunity to be one of
10 the leaders in the industry and taking this
11 case study of introduction of gaming into this
12 market and what is the impact? We believe
13 strongly having been in this business that
14 there will be a net positive impact. And I
15 know that's what the statute believes and the
16 Legislature. But we'd like to document it.
17 And we'd like Massachusetts to be a leading
18 resource in the industry in that area.

19 That's our presentation. I want to
20 close with a couple of comments about why the
21 lookback approach is one that I think has a lot
22 of benefits. I know there's a lot of pressure
23 on schedule in terms of this process. And one
24 of the benefits I think of the lookback

1 approach is we can take this time now in terms
2 of process to do the work, to do it honestly
3 through an independent body. We don't have to
4 come up with figures that either make sense or
5 don't make sense that are politically driven.

6 We've also had a bit of a changing
7 of the guard in a lot of these surrounding
8 communities. And I think a lot one of the
9 issues we've run into is who are you
10 negotiating with? There's a lot of internal
11 politics that we're not privy to. Now that
12 there's new mayors coming on board, we want to
13 continue the relationship with the existing
14 mayors who have a term through the end of the
15 year but also give the incoming leadership the
16 opportunity to have a role in this lookback
17 approach.

18 So, I think for a lot of the reasons
19 that I just articulated, the lookback approach
20 makes a lot of sense. It's not punitive. It's
21 meant to be fair. It's meant to be didactical
22 and data driven.

23 With that said, last comment on
24 timing is to the extent there is a

1 consideration of extending these deadlines, as
2 someone that's on the ground trying to hold our
3 development -- our proposal together, we're
4 coming under a lot of pressure. Whether it be
5 land option extension payments, where of the
6 position now where we have landowners who are
7 trying to leverage the fact that we have a
8 proposal and that we're committed. And an
9 extension means a further payment and frankly
10 they're being punitive.

11 The other thing to consider is our
12 neighboring states. New York just past
13 expanded gaming, as you know. There is going
14 to be incoming competition in upstate New York.
15 That's a market that we plan to go after. We
16 like to be first to market. Our experience is
17 first to market, you create a database and
18 you're more competitive.

19 So, I'd really encourage the
20 Commission to try to keep to these timelines
21 because I think overall it will benefit the
22 Commonwealth and certainly benefit a project
23 like ours. Thank you very much. I'm sure that
24 wasn't 15 minutes but -

1 COMMISSIONER ZUNIGA: Thank you.

2 CHAIRMAN CROSBY: It sounds like Tim
3 you were sort of net hopeful if not optimistic
4 that in the timeframe you can get this done.

5 MR. BRENNAN: Yes. Again, time is
6 what it is. And we've been clear with the
7 municipalities that that's the amount of time.
8 I think the advantage of working together and
9 also having resources that are at a peer level
10 with the proponent will make a difference.

11 CHAIRMAN CROSBY: Okay. That's
12 great.

13 MR. ZIEMBA: I'd ask the
14 representatives from Crossroads to come down.
15 And I give my extra special apology to them
16 because I think I gave them colloquially an
17 inadequate estimate of time when I said the
18 beginning of the day.

19 MR. ALLEN: Mr. Chairman, members of
20 the Board for the record, my name is Robert
21 Allen. I'm here representing Crossroads and
22 Foxwoods Mass. To my right is Jennifer Gilbert
23 from my office and Alan Kronberg who is the
24 general manager on the ground in Milford.

1 You'll be very happy to know that my
2 engineering team had a MEPA process on-site
3 today. So, while they were here with me
4 earlier, they just left. So, I think staying
5 within my 15 minutes is going to be pretty easy
6 now because the detailed folks -- unless you
7 want me to put my hat of lawyer and engineer
8 on, which I could probably try.

9 As long as we can pull this up here
10 -- Jennifer to my right here has been working
11 with the Mass. Area Planning Council and the
12 surrounding communities to identify concerns
13 and discuss the impacts of the Foxwoods
14 proposal. She can answer any questions today
15 about the process.

16 Just so you understand, we are the
17 applicant for the, as you know, Category 1.
18 We're the ones flying under the radar in Region
19 A. In a way, we're kind of unique in Region A,
20 because we're probably the only applicant that
21 doesn't have a body of water next to us as a
22 surrounding community. So, we're actually
23 dealing with a lot of smaller towns around us.

24 Alan also attended along with Sean

1 Reardon of Tetra Tech and his team. In July of
2 this year, Foxwoods provided significant
3 funding to the Commission in order to utilize
4 the expert services of a regional planning
5 agency process and to facilitate discussions
6 with surrounding communities to focus attention
7 on specific community concerns based on
8 extensive analysis and data that the Foxwoods
9 team provided to Milford.

10 As well as request the RPA provide
11 guidance and expertise in the area of community
12 concerns. I do want to thank Mr. Ziemba who
13 was really critical, played a great part in
14 allowing us to work with this regional
15 approach. Because it was important for these
16 communities to buy into this approach before we
17 entered into it, and Mr. Ziemba was very
18 critical in vetting that and I thank him for
19 that.

20 It is also important to note that
21 one of the unique things that we had to go
22 through that I haven't seen from some other
23 applicants, and perhaps it's because in this
24 region and in other regions most of it is city.

1 We are dealing with a town with three selectmen
2 and a town meeting. And eventually we have to
3 go before town meeting and convince two-thirds
4 of town meeting to go for a zoning amendment.

5 So, what we were requested to do by
6 the town and what we welcomed was a very
7 significant internal process that was actually
8 attended by many people from outside the
9 community. A lot of the mitigation, a lot of
10 the things that you've requested in Phase 2, we
11 had to do up front before the host community
12 felt that they should get into a host
13 community.

14 So, all of the mitigation factors, a
15 lot of our efforts went into this several month
16 process with the town. So, it was vetted by
17 the community itself, by the selectmen, and by
18 the decision-makers in the town. As a result,
19 I think we have a much better proposal. And as
20 a result, we were able to enter into host
21 community agreement.

22 Both the Metro Area Planning Council
23 and the Central Mass. Regional Planning
24 Commission signed a contract with you to

1 provide a broad scope of services for the
2 surrounding community process. And we are
3 pleased to be participating in what we hope
4 will be a step in the right direction to
5 narrowing the focus.

6 As far as the surrounding towns, in
7 order to make the RPA process useful in
8 determining the affected communities, to help
9 us determine what the affected communities
10 were, we decided to invite an expansive group
11 of people, 15 towns around the region and
12 basically through the RPA process identify
13 these.

14 I provided you with a handout. The
15 first page being the map showing the 15
16 communities that were notified as you see up on
17 the screen there. The meetings were held in
18 Bellingham, Hopedale. We had the original
19 meeting in Milford. Not all of the towns
20 attended. And of the 15 towns notified,
21 Foxwoods has now officially sent letters
22 designating six as surrounding communities.

23 As you will note on the map, the six
24 communities that we have designated are

1 Hopedale, Upton, Bellingham, Hopkinton,
2 Holliston and Medway. Our project is about 187
3 acres of which we are only going to develop on
4 about 20 percent of it. We're talking about a
5 low-rise New England style resort casino. It
6 is in the eastern portion of Milford right next
7 to 495 on the Hopkinton, Hopedale line.

8 Of the six communities we
9 identified, three assented the designation,
10 Hopedale, Upton and Bellingham. Three others
11 Hopkinton, Holliston and Medway have not
12 responded. And from what we understand, are
13 waiting to engage in a discussion until after
14 our referendum, which is on November 19.

15 In addition to the six that we have
16 designated, there were several communities that
17 have requested designation. Mr. Chairman, I
18 believe they have just requested it through us.
19 I am not sure that a letter was sent to you.
20 But those communities are Northbridge,
21 Franklin, Millis and Mendon. We do not believe
22 at this time that they qualify. However, the
23 RPA report has not been finalized and we may
24 reconsider that position depending on what that

1 says. And I will get into the timing of that a
2 little bit more.

3 So, we have not made any final
4 determinations. We know that six were
5 designated, and we know that four feel that
6 they should be designated. It is our
7 understanding that RPAs have notified the
8 communities about the statutory mitigation
9 funds available should they not be designated
10 in that process.

11 We've also had discussions with town
12 counsel for Hopedale, Upton and Bellingham.
13 And we'll be meeting with them after our
14 referendum vote on the 19th. We're confident
15 that the concerns of these communities can be
16 addressed. And we hope to have those three
17 agreements finalized and submitted as part of
18 our Phase 2 application.

19 The other three, again, will start
20 discussions after the referendum. We don't
21 anticipate that those three will be easy to
22 negotiate as you can imagine.

23 The RPAs organized the process a
24 little bit. The RPAs organized several

1 meetings. These meetings were about three
2 hours each, held in the surrounding
3 communities. The meetings were well attended
4 by local officials of many but not all of the
5 invited towns. Selectmen, town administrator,
6 police, fire, DPW, planning officials and other
7 municipal employees and also many residents
8 attended.

9 At the meeting on August 12, a
10 detailed presentation of traffic, water, sewer
11 and other infrastructures was made by our
12 engineering team. The second meeting was in
13 Hopedale. Our consultants from our gaming
14 market advisors came from Colorado to present
15 social, economic, fiscal and public safety
16 impacts.

17 At the third meeting, our architect
18 and our engineers talked about environmental,
19 developmental impacts, nuisances, open-space,
20 site design and zoning and land use issues.
21 The MAPC staff also made presentations and had
22 their consultants. There were question and
23 answer session at each meeting. And at the
24 conclusion of each meeting, dozens of questions

1 were sent to us.

2 We worked diligently responding to
3 extensive questions. I think hundreds of
4 questions were given to us after each process.
5 And we're happy to report, we're able to answer
6 each one and get it back to MAPC. The RPAs
7 have engaged several consultants to develop
8 independent labor market and housing analysis,
9 which have yet to be completed.

10 These studies were funded through
11 monies provided through Foxwoods. On or about
12 Wednesday, November 13 we believe the MAPC
13 should release its draft report and
14 recommendation. Coincidentally, we are here
15 before you for our suitability hearing on that
16 same day.

17 MAPC will hold a presentation of the
18 results and recommendations of the RPA study on
19 Wednesday, December 4 and then release the
20 report at the end of that day. So, we believe
21 after we get that report, we'll be able to look
22 at the other areas that feel they should be
23 designated as well as hopefully finalize at
24 least three out of the six.

1 As far as the specific concerns, I
2 won't go into it in great detail, but pages two
3 through six in my report provide you with the
4 main issue, which is really traffic, as you
5 heard from the last presenter. Where cars are
6 coming from, the expected traffic distribution,
7 how patrons will access the site, our new
8 highway access plan, peak travel times, an
9 increase on the local roads of the 15
10 communities.

11 One thing I want to summarize of
12 those map is that we feel that given our
13 location on the property abutting I-495 and
14 Route 16 that we have a real unique opportunity
15 to construct a new interchange that will
16 provide access to and from the highway via
17 Route 16, a connection which currently does not
18 exist.

19 The work required for the new
20 interchange includes construction of a new
21 connecting roadway from Route 16 to a proposed
22 highway ramp from I-495. This roadway will be
23 constructed on property currently controlled by
24 us which is expected to be transferred in fee

1 to the Commonwealth at the conclusion of the
2 construction. We would turn that over to Mass.
3 DOT at that point.

4 Our resort will have its access
5 directly from a new connecting road off of 495
6 without touching any local roads. The traffic
7 analysis estimates approximately 95.5 percent
8 of the patrons will arrive and depart from 495,
9 drastically reducing potential traffic impacts
10 on surrounding communities.

11 The remaining four and a half
12 percent of traffic will be distributed equally
13 on Route 16 to access populations in the nearby
14 communities to the east and west of the site
15 not likely to use the highway system because of
16 their close proximity.

17 Estimated traffic increases on local
18 roads represent approximately one to two
19 percent of current traffic volume and will
20 create only minor impacts to intersection
21 functions and at locations with mostly under
22 the jurisdiction of Mass DOT as opposed to the
23 communities in which they are located.

24 The new interchange will require

1 significant inside widening of 495 to provide
2 the additional lanes needed to consolidate
3 three interchanges into one connector road.
4 All of the anticipated work will be
5 accomplished within the state layout and within
6 the town of Milford.

7 The new interchange has been
8 discussed at several meetings with
9 representatives of Mass. DOT and the Federal
10 Highway Administration, which has informed the
11 current design which they are well aware of the
12 current design.

13 The cost, design, permitting and
14 construction is estimated at over \$100 million
15 and will be borne entirely by the applicant.
16 Although a tremendous project expense, it will
17 illuminate several years typically required to
18 navigate the public funding process for such a
19 major infrastructure improvement. A lot of the
20 concerns we had from the local residents is we
21 hear highway projects all of the time. They
22 start at one point and they don't end for 15
23 years.

24 A lot of that has to do with the

1 funding mechanism. We will be providing 100
2 percent of this funding. And we believe we can
3 do it and our conversations with Federal
4 Highway and Mass. DOT have confirmed with us
5 our feeling that we can get this done in an
6 expedited time period.

7 It will also result in safer highway
8 function system by eliminating an existing
9 substandard interchange between exit 19 and 20,
10 which currently does not meet Federal Highway
11 standards.

12 One of the unintended consequences
13 that we got out of this and a real benefit for
14 us is when we're meeting with Federal Highway,
15 we found out that the current exit 19 and 20 on
16 495 are actually too close to each other.
17 There's a certain distance that has to be. If
18 we were able as part of our process to improve
19 that and make it meet the standards, it would
20 certainly be looked on more favorable. We were
21 able to do that. And we believe that that's
22 going to be favorable to us moving forward.

23 In addition, to the traffic mutual
24 aid has been an issue raised by several

1 communities of course. However, we can assure
2 communities that the host community agreement
3 requires Foxwoods to provide additional police
4 and fire personnel as well as equipment. This
5 will result in the casino being in its own
6 police sector.

7 The casino also will have its own
8 security and holding rooms. If communities are
9 still concerned about mutual aid, we can
10 consider a provision in any agreement that
11 would cover the cost to the surrounding
12 community if they had to respond to a call at
13 the casino.

14 We don't believe that will happen,
15 but what you've heard before about the lookback
16 window, one of the things that we've talked
17 about we have in the host community and
18 something we will be discussing with
19 surrounding communities is this reopener clause
20 or a wait and see clause.

21 The X-factor of not knowing what's
22 going to happen, I think can be taken away if
23 there is a reopener or some kind of wait and
24 see clause that allows us to go back and look,

1 if in fact this hypothetical look isn't what we
2 really think it's going to be.

3 And I think there is a lot of that.
4 We're all making projections here. I've sat in
5 in a tone of these consulting meetings. And a
6 lot of real people have a lot of real concerns.
7 I don't think we can sit there and say 100
8 percent sure that this isn't going to happen.
9 So, I really believe this reopener, wait and
10 see is a good way to calm the angst of some of
11 the people. It certainly worked in our host
12 community agreement. And I believe it's a tool
13 that will work well with the surrounding
14 communities.

15 Again, many of the impacts are
16 unknown and based on speculation. So, we think
17 it's a fair way of handling it. This also
18 keeps communication open between us and the
19 surrounding communities should other issues
20 arise. There are so many areas where the
21 casino can contribute to the health and
22 prosperity of these communities that we are
23 committed to for a long period of time.

24 Just some additional measures taken

1 by Foxwoods to date, in additional to the
2 regional process, we've signed an MOU with
3 Casino Careers Training Institute. The
4 Training Institute is connected to the area
5 community colleges and will work
6 collaboratively with Foxwoods to provide career
7 training to local residents in order to get the
8 skilled labor we need.

9 Also, to acknowledge and reduce the
10 impact on live entertainment venues, we are in
11 discussions with the Mass. Performing Arts
12 Coalition, a nonprofit representing various
13 Massachusetts live entertainment venues. And
14 we hope to sign an MOU with them shortly.

15 With all that said, it's important
16 to consider some of the positive impacts
17 because all of these discussions revolve around
18 negative impacts. Obviously, we feel there's a
19 lot of positive impacts come from this. And
20 you're all well aware of them. The largest
21 being job opportunities, we believe many of
22 which 90-odd percent will be given to local
23 people who are currently living in that
24 community. That should help alleviate some of

1 the concern about traffic. Again, one of those
2 areas where we need to wait and see and come
3 back and look at it.

4 Increase in revenue for local
5 businesses and vendors. Infrastructure
6 improvements, in particular and very unique to
7 this proposal we are going to preserve a very
8 large portion of open space on a site that is
9 ripe for development in Milford. This is 187
10 acres that could be developed into something
11 fairly significant. And we're talking about a
12 significant development but only on 20 percent
13 of the property. And we're still talking a
14 mid- to low-rise development here.

15 I know it's something that a
16 majority of the board of selectmen approved and
17 are excited about. And we believe after the
18 19th, it will show that the majority of the
19 residents in the town of Milford will be
20 excited.

21 So, we're very proud of our
22 proposal. We look forward to come and seeing
23 you next week to talk about suitability. We'll
24 give you some pretty pictures of what the

1 proposal will look like this so you can get a
2 concept. But staying within my 15 minutes, I'm
3 here to answer any questions or Jennifer or
4 Alan.

5 CHAIRMAN CROSBY: Anybody?

6 COMMISSIONER MCHUGH: I have one.
7 Did the three of the six communities who did
8 not accept the designation give you any reasons
9 for accepting the designation?

10 MS. GILBERT: Jennifer Gilbert, yes,
11 it's our understanding that they are waiting
12 until after the referendum on the 19th before
13 they contact us officially.

14 COMMISSIONER MCHUGH: So, that's the
15 only reason. We're waiting to see if you
16 survive?

17 MR. ALLEN: Correct.

18 MS. GILBERT: That is our
19 understanding. Otherwise, there hasn't been
20 much communication with those three
21 communities, although they did attend two of
22 the meetings with the RPAs.

23 CHAIRMAN CROSBY: They communicate
24 with us instead. Could you go back to the very

1 first slide? Just a quick question. Where on
2 495 is this? This A isn't the facility.
3 That's Milford, right? Is that where the site
4 is?

5 MR. ALLEN: It's up in the corner
6 there. Go up a little higher there. Right
7 around there. On the other side of 495, it's a
8 huge retail parking lot with a Lowe's and a
9 Dick's Sporting Goods, T.J. Maxx. This would
10 be right across from a large retail commercial
11 outlet.

12 CHAIRMAN CROSBY: Is that in Milford
13 or is that in Holliston that facility.

14 MR. ALLEN: That facility is all in
15 Milford. This is the easternmost portion of
16 Milford.

17 COMMISSIONER ZUNIGA: The retail
18 facility, where is that?

19 MR. ALLEN: That's still in Milford,
20 right off the exit there. So, that would be
21 where the connector road was.

22 CHAIRMAN CROSBY: Okay. Great.
23 Anybody else? Thank you very much.

24 MR. ZIEMBA: Representatives from

1 Sterling Suffolk.

2 MR. TUTTLE: Thank you, John and
3 thank you, Commissioners. Again, nice to see
4 you here today. I'm Chip Tuttle, chief
5 operating officer of Suffolk Downs, Sterling
6 Suffolk Racecourse. Joining me today is John
7 Stefanini who is one of our attorneys.

8 I will stick to my 15 minutes. I
9 have a less formal presentation. This is meant
10 more as an update to you than anything else.
11 As you know, we have been in various levels of
12 discussion with neighboring communities for
13 several years going back to 2007 and 2008.

14 We have spoken to the leadership in
15 those communities, citizens in those
16 communities, business leaders in those
17 communities. Human services providers, health
18 and human services providers in those
19 communities, law enforcement in those
20 communities, transportation experts in those
21 communities about a wide range of factors
22 regarding our proposed development. We've
23 talked to them both about benefits and impacts,
24 about access to jobs and job training, about

1 local spending programs with their businesses.
2 And as other applicants have pointed out, a
3 great deal of discussion about traffic and road
4 and infrastructure improvements and those
5 impacts.

6 To date, we have recognized Chelsea
7 and Winthrop, two as surrounding communities.
8 They have accepted that designation at least as
9 far as in terms of our discussions with them.
10 Those discussions have been ongoing for quite
11 some time even before we became formal
12 applicants. And those discussions continue.

13 We've had detailed discussions with
14 both of those municipalities and are to the
15 point of actually drafting agreements.

16 We have also been requested by three
17 municipalities Everett, Lynn and Malden have
18 requested surrounding community status with
19 Suffolk Downs. We have had discussions with
20 the Mayor of Lynn and her staff about potential
21 impacts on Lynn. Similarly, we've had those
22 discussions with the Mayor of Malden and his
23 staff. We have not had discussions with
24 Everett since receiving that letter requesting

1 that status by Everett.

2 We have had discussions with Medford
3 and Saugus as well, with two other communities
4 Medford and Saugus about our potential impacts,
5 whether or not those municipalities met
6 standards of being impacted enough to be
7 potentially designated surrounding communities.

8 So, that is the level of those
9 discussions to date with the communities around
10 our development. I should also point out that
11 we have, as other applicants have been, we have
12 been through the MEPA process, a great deal of
13 it. We've filed our draft environmental impact
14 report on September 3. Five municipalities
15 commented on that Boston, Revere, Medford,
16 Malden and Somerville all made formal comments
17 on our DEIR file.

18 CHAIRMAN CROSBY: Anybody? You've
19 had a lot of conversation with potential
20 surrounding communities for the other two
21 proposals that have come before us today. But
22 I've heard very little about -- are any of them
23 particularly antagonistic? Are there likely
24 problem relationships?

1 MR. TUTTLE: We haven't had any that
2 were particularly antagonistic. We've had very
3 cordial discussions with all of them. We
4 believe we have no reason to believe those
5 won't continue.

6 CHAIRMAN CROSBY: Okay. In terms of
7 a schedule, that's where the bump in the road
8 comes.

9 COMMISSIONER STEBBINS: I should
10 have asked this question maybe of the other two
11 applicants as well. Traffic is obviously the
12 most popular topic, because it seems to impact
13 everybody. They can kind of feel and see and
14 touch that impact a little bit more. Are there
15 issues related to underground infrastructure
16 water, sewer that other communities have raised
17 with you or that you yourself might see as an
18 issue?

19 MR. TUTTLE: Those have been raised
20 in host community discussions but not in
21 surrounding community or impacted community
22 discussions.

23 COMMISSIONER STEBBINS: Okay.

24 CHAIRMAN CROSBY: Anybody else?

1 Thank you very much.

2 Are we going to try to skip to --
3 Oh, sorry. How could I forget? I saw how many
4 pages your proposal was and decided your report
5 was and tried to forget it.

6 MR. TACCO: I try to forget it as
7 well. Mr. Chairman, members of the Commission.
8 Thanks for having us here. With me is Chris
9 Gordon, who is the project manager for Wynn
10 Everett. My name is Steve Tocco. I am
11 president of ML Strategies. And I am the
12 senior advisor to Wynn Development on this
13 project.

14 Again, this is an interesting topic
15 for me having run Logan Airport for a number of
16 years, impacted communities issues are not
17 uncommon to me. But this is a little bit
18 uniquely different.

19 It's challenging but doable. And
20 I'll take you through a little bit of a roadmap
21 of how we've approached it. We'll talk to
22 Chris about some of the specific studies that
23 we've embarked on and are continuing.

24 As you know, everyone has mentioned

1 the exhaustive MEPA process, which gives
2 everyone a chance to sort of know exactly what
3 you're doing. And they weigh in on how they
4 think that it should be done. And that takes
5 place through a very public process. Many of
6 our surrounding or adjacent communities have
7 attended those meetings have commented. So,
8 Chris can get into that.

9 We really looked at it as trying to
10 really focus on actual impacts. And I think
11 that's where the statute takes us.
12 Unfortunately, I think most of that is on
13 negative impacts, not positive. But I do think
14 and several people have mentioned today, it's
15 helpful if you go into a community that they
16 are interested in the positive impacts as well
17 as just the negative impacts. And some
18 communities approach it that way and some
19 others don't.

20 I point particularly to Malden, who
21 we have an agreement and we will be executing
22 next week a surrounding community agreement.
23 They came to the table very early on with a
24 very open mind. Wanted to be good neighbors,

1 wanted to support Everett in their effort to
2 revitalize themselves.

3 We had a whole series of meetings
4 and studies and dialogue and came to an
5 agreement which was if there could be a model
6 for everybody else, it would be well worth
7 hearing from Malden how they approached it.

8 Of course, we were lucky. In
9 Everett as a host, we had 87 percent of the
10 people voted to support our project, which I
11 think helps even in the surrounding community
12 discussions, because they have relationships
13 and friends in those communities. I think in
14 the case of Malden in particular they grabbed
15 that neighborly approach and said let's see if
16 we can work this out and help you guys win.
17 They may be, I'm not sure, but they may be the
18 first surrounding community agreement that's in
19 place.

20 I did want to talk a little bit
21 about the outreach, which has been
22 comprehensive and the details of that outreach.
23 In our binder on schedule five, we've listed
24 every single meeting we've had with everybody

1 in any of the communities, some adjacent and
2 some not.

3 We've reached out beyond just public
4 officials. We've tried to reach out to
5 community leaders, nonprofits, minority support
6 groups that can work with us on training and
7 otherwise. We've had vendor fairs. We've had
8 one in Cambridge on employee opportunities with
9 the Wynn team. The actual human resource team
10 came out and met with people to talk about
11 here's the type of jobs. And here is how we
12 need to prepare. Everybody needs to prepare to
13 apply for them. We are going to create some
14 4000 jobs. And that gets back a little bit to
15 the economic value of this proposal.

16 There are significant job
17 opportunities that are going to flow into every
18 adjacent community. Everett has a high
19 unemployment rate, but they are really not that
20 large. So, we are going to draw heavily on
21 Boston, and we're going to draw heavily on all
22 of our surrounding communities. And we've been
23 running programs in those committees to make
24 sure that people understand, number one, what

1 do you need to get ready and how can we help
2 you get ready.

3 Because in the case of Wynn, they
4 honestly believe their greatest strength is
5 their workforce. So, they are pushing us very
6 hard to focus on that early on, and we've done
7 that.

8 With that said, I am going to turn
9 this -- We looked at these discussions, by the
10 way, as an opportunity to create a real
11 dialogue and relationship that really needs to
12 last long term. It was one of those thoughts
13 that we entered when we decided whether we were
14 going to go through the area planning approach
15 or not.

16 Most of our communities that we are
17 talking with really didn't seem interested in
18 all that. But more importantly, we thought it
19 was important that we really get in and dig in
20 and have. In some of these cases we've had 10,
21 20, 30, 40 meetings. And in that process, I
22 think you hear more than just about the
23 agreement. You really get a sense of the
24 community, the people in the community, the

1 struggles they have. I think you build bonds
2 that long after this thing is built, they're
3 going to pay a dividend for everybody, not just
4 Wynn but for everybody around it.

5 Chris Gordon will take you through
6 some of the specifics. And I'll get back and
7 talk about specific communities.

8 MR. GORDON: Thank you, Steve.
9 Thank you for having us. When we started
10 thinking about the neighboring communities and
11 which are surrounding communities and how to do
12 that, we tried to put some logic to it because
13 it could become horse trading or politics in
14 order to try and figure out how can you
15 actually approach the issue.

16 So, we started with just the
17 geography. This is in your binder but
18 obviously our site is in yellow here on the
19 Mystic River in Everett. The towns around us
20 are labeled, but Malden, Medford, Somerville,
21 Charlestown, parts of Boston of course,
22 Chelsea, Revere. Those are the towns we really
23 started to think about, towns and cities as far
24 as what the relationship was.

1 We also just to quantify it a bit,
2 we started thinking about what are the actual
3 linear feet of boundaries? How many major
4 roads? How many minor roads? And started to
5 think about where some of this should actually
6 be impacted. You can see they run from things
7 like Malden has over two and a half miles of
8 contiguous boundary with Everett, all of the
9 way down to a much smaller boundary in some of
10 the other towns.

11 Some that are very near by, but we
12 don't have a land boundary with. Medford and
13 Somerville we have some road connections with
14 Medford, but there's actually no land that
15 touches. So, we try to think about this in a
16 bit of quantitative technical approach.

17 We also looked at roads. Just like
18 all of the other applicants who have said
19 today, traffic is a big issue for us. So, we
20 looked at how many major roads, how many minor
21 roads, where they connect. And I'll talk in a
22 minute more about our traffic. But we tried to
23 at least start here and think about what is it,
24 what are our neighbors and how can we be a good

1 neighbor.

2 We then went to a little bit more of
3 a detailed approach. If you think about real
4 estate development, there's sort of four
5 classic ways that you regulate it or think
6 about impacts. Things like economic impact,
7 infrastructure impact, environmental impact and
8 anesthesics are sort of the four pillars that
9 most people around the world think about when
10 they are trying to regulate real estate.

11 The two big ones that jumped out as
12 us were the economic and the environmental
13 impact, because we think a casino like this
14 would have those kind of impacts on the
15 neighboring cities.

16 For the economic impact we've done
17 two very comprehensive economic studies that
18 are in your binder. One was on the impact on
19 Everett. What do we do for jobs and taxes and
20 that sort of thing? And the other with the
21 surrounding towns around us, what impact would
22 that have on them.

23 The metrics they used were things
24 like tax revenue, jobs, spending, what people

1 spend in local businesses. We're pleased to
2 say those are overwhelmingly positive. The tax
3 revenues, the jobs, all of the numbers we
4 looked at from the economic studies, and again,
5 they're in your binder but they're very
6 positive for the towns around us, cities around
7 us and also of course for Everett. So, that
8 was good.

9 Not to take that for granted, but we
10 were then able to move on to more of the
11 environmental impacts. We're almost done with
12 our draft EIR. As you know, we filed our ENF
13 in March that's our environmental notification
14 form. We got significant comments back from
15 many of the towns and cities around us, very
16 helpful, very thoughtful.

17 We had significant meetings with
18 state agencies, people like the DOT, DCR and on
19 and on, got very constructive comments. So, we
20 are now in the process of answering all of
21 those in the EIR, which will be filed, we hope
22 in the next month.

23 In that you can see a list. I won't
24 read it for you, but significant studies are

1 underway right now, all of the transportation,
2 air quality, etc. to really think about what
3 are the impacts of this project on the
4 surrounding communities.

5 The good news is most of those are
6 very positive. I guess this is good news, but
7 we have a very contaminated, very broken piece
8 of land. So, most of everything we're going to
9 do has been viewed very positively. We're
10 remediating the site. We're cleaning up parts
11 of the river. We're doing a lot of stuff out
12 there that needed to be done a long time ago.
13 So, most of this you'll see is quite positive.

14 The one that of course is an issue
15 always is traffic. Our friends at MGM used
16 some comments today about how traffic is not
17 always a bad thing, but if you're trying to get
18 home and you're not going to the casino, it can
19 be a bad thing. So, we're trying to figure out
20 how do we deal with the traffic.

21 Luckily, our traffic numbers we
22 think are pretty good. Our capacity for
23 transportation is very good. We're going to be
24 adding water shuttle access. We have three

1 rail stops within a mile. We have significant
2 roadways around us, including Route 99 that
3 services our site. Route 93 is very near. So,
4 we're very optimistic.

5 In any event, we're studying the
6 heck out of that. And we're working with all
7 of the cities around us as well as Everett
8 itself to figure out what we can do to fix
9 that. We've got a very aggressive plan
10 including significant improvements to a lot of
11 the roadways around us. Things like Sweetser
12 Circle, Santilli Circle, Wellington Circle,
13 Sullivan Square, Route 99, Revere Beach
14 Parkway, Mystic Parkway, those are all areas we
15 are going to be improving. And you'll see that
16 in our DEIR that we'll be making commitments on
17 what we're going to do.

18 We think that will go well. We've
19 been communicating that information to the
20 surrounding communities as we get it. So, each
21 time a portion of that study is done, we give
22 it to the communities around us, and they've
23 been receptive. They've been appreciative.
24 Depending on which community they are and their

1 impact, there've been different levels of
2 support for that, but certainly I think they've
3 been appreciative of the information. And that
4 will continue.

5 You'll hear from Steve in a minute
6 of what that interaction has been, but it's
7 been a significant amount of communication with
8 those groups.

9 MR. TOCCO: Chris, do you want to
10 just quickly -- I know you talked about the
11 transportation. In addition to our filings,
12 we're going to be rolling out two comprehensive
13 presentations over next 30 days.

14 One will be in a regional
15 transportation improvement initiative that will
16 include both the money we're going to spend but
17 also as you well know there are serious funds
18 available in the Gaming Act that flow in
19 through the tax.

20 Some of these issues that people are
21 forced to face like Wellington Circle as an
22 example, and Sullivan those have been problems
23 for four or five decades. No one developer is
24 going to come in there and fix them. We can

1 really get it started, but there is money
2 available in the Gaming Act that really finally
3 do major transportation fixes.

4 And we've talked with all of the
5 surrounding communities about joining with us
6 in a structured strategic way to really, if we
7 are lucky enough to get a license, to really go
8 get that money and do some things that no one
9 has ever tried to do. They are \$100-\$150
10 million fixes. So, we'll have more to say
11 about that later.

12 The other thing we are going to be
13 announcing is a pretty aggressive water
14 transportation system in and around the harbor
15 of Boston feeding our site. We are working
16 with the Boston Harbor Association. In fact,
17 we are funding a study for them to sort of look
18 at there's a lot of desperate players in that
19 water transportation world right now. But
20 we're going to pull out all of those factors
21 together and come up with a system that is a
22 system and not just a separate freelance taxis
23 or shuttles. So, we'll probably have that to
24 roll out over the next 30 days as well. And

1 we'll make sure you are all briefed on that.

2 I'm going to quickly give you a
3 status on some of the communities. And then
4 we'll certainly be glad to answer questions. I
5 mentioned Malden. There were several, several
6 meetings. We're probably going to have a
7 formal signed next week when the Wynn team is
8 in town.

9 They really as we did our analysis,
10 it became clear to us that they were the most
11 impacted. They share the longest border.
12 There are many, many roads that cross. If
13 anyone is going to cut around the bad traffic,
14 they've going to cut through a lot of these
15 roads in Malden.

16 I think that speaks to the issue of
17 really getting to know the community, because
18 they were right. And there are some crossroads
19 that are very major that no one including DOT
20 asked us to look at. We decided that you need
21 to look at it, because Malden thought they
22 should be looked at. We came up as part of our
23 community agreement with them ways to work
24 along the whole border. So, that there's a

1 transition in and out of Everett.

2 Everett is getting a lot of money,
3 will be improving a lot of things. But we
4 didn't want where the rubber meets the road
5 between Malden and Medford to see a distinctly
6 different set of circumstances. So, part of
7 our agreement was to really take care of that
8 and focus it in an aesthetic way as well as a
9 traffic management way.

10 Again, it's been a pleasure working
11 with Malden. I think if we can get to the same
12 place with many others. Boston, although we
13 started off rocky, we had several meetings with
14 them. They've been very productive. Chris has
15 two or three more scheduled in the next two
16 weeks. We have already reached out to the new
17 mayor and he has expressed a willingness to get
18 briefed on the project. So, we are going to
19 set that up when he gets back from his
20 vacation. He certainly should be involved in
21 some of these discussions.

22 The real focus is Charlestown. And
23 we've had a number of meetings in Charlestown.
24 Again, they are all included here and I didn't

1 want to bore you with them, but the Mothers of
2 Charlestown is the most important group in
3 Charlestown. And they are like 1500 strong.
4 It's pretty amazing. But we've been working on
5 a pretty regular basis with them.

6 Everybody talks about Sullivan
7 Square. That's really it. There's other
8 things they care about, but that is one through
9 nine and then there might be a tenth. So,
10 we're really focused on that.

11 We're working with the city
12 transportation department on their proposed
13 fix. And we are readjusting some of those
14 numbers to take account of our project. We've
15 had actually very positive ongoing discussions
16 with Boston and I think they'll continue.

17 Medford, Medford we've been talking
18 on a regular basis. We have a comprehensive
19 update meeting with them November 25. The
20 Mayor really wanted to get by his re-election
21 before he entered into any serious discussions.
22 As part of his re-election, he was pretty
23 hostile. But we understood it. He had to do
24 what he had to do. But we kept good open

1 communications. We know each other very well
2 and said afterwards we'll sit and really start
3 to talk. And that's what we are going to be
4 doing.

5 We had about five or six meetings
6 and we've met with some of the community groups
7 there. But he really didn't want to move very
8 fast until after he got by that. So, I think
9 we're going to be in good shape there.

10 I think having Malden done, which
11 gives us a framework is going to be helpful
12 now. We have a reopener in Malden but quite
13 frankly we think Malden being the most impacted
14 next to us, we can use that as a model to
15 really get into some serious discussions with
16 the other communities.

17 Somerville, we have not designated
18 surrounding. There have been active ongoing
19 discussions with the Mayor, although he's been
20 a pretty public opponent of the project. We
21 still continue to meet with him and his team.
22 And I think at some point, we're going to work
23 hard to get to resolution.

24 We are not sure they really have a

1 direct impact other than positive impact with
2 jobs, because we really don't share a border
3 with them. I think their biggest issue is
4 going to be Sullivan Square. And we're going
5 to be working on that with the city of Boston
6 anyway. So, we will continue to work with
7 Somerville. They may not be designated by us
8 as surrounding, but we certainly think we can
9 fix their big problem or work towards fixing
10 their big problem, which is traffic.

11 The rest of it, the funny part is
12 you go in and you try to start the discussion
13 with the positive impacts but it doesn't last
14 too long. So, I think that's the case.

15 In Chelsea, we had several
16 communications and meetings. We have a big
17 presentation with them on November 25. They
18 were reluctant to meet early on. They have a
19 strong commitment to the Suffolk proposal. And
20 we understood that.

21 But recently we've reengaged and we
22 are starting to talk to Chelsea. They do share
23 a border with us. And we are going to
24 hopefully start to really focus on some of the

1 impacts. There are some other ideas we have
2 about Chelsea, because having run the airport,
3 I know how many people cut through the backdoor
4 of Chelsea to avoid the tolls on the bridge.

5 So, there are some things we thought
6 about with DOT like an example, they're going
7 to do an automatic tolling process on the
8 bridge. If they just do the same thing on two
9 levels instead of one, so they can catch the
10 traffic going and coming, you really stop a lot
11 of people jumping the bridge to ride through
12 places like Chelsea.

13 So, we're trying to think outside
14 the box about other things that can really
15 improve the area that really isn't related to
16 us. But if you help change things for the
17 better anywhere, I think it's helpful.

18 Revere, Revere is actually
19 prohibited from talking to us. In their host
20 agreement there is a probation about them
21 dealing with us. So, the Mayor was on record
22 as saying he is not interested in discussions.
23 If he gets interested in discussions, we will
24 certainly start discussions.

1 That's sort of where we are on our
2 adjacent communities. I think it has been a
3 long process becoming fruitful. Thrilled about
4 Malden and I think pretty far along the way,
5 and I do think we have a real chance of working
6 something out with the city of Boston as well.
7 Thank you. I will take any questions. I know
8 it's been a long day.

9 CHAIRMAN CROSBY: Anybody?

10 COMMISSIONER STEBBINS: Just real
11 quickly same question I asked the last one.
12 Any problems with infrastructure under the
13 ground water, sewer, anything like that?

14 MR. GORDON: We've done an extensive
15 study of that and no. We're working with the
16 NWRA, the city of Everett and others. And yes
17 there are things we have to upgrade and fix,
18 but it all seems to be quite doable.

19 COMMISSIONER MCHUGH: The deadline,
20 ideal deadline for all of this to be wrapped up
21 is December 31. What's the prognosis?

22 MR. TACCO: I think we have Medford
23 we'll have Malden -- I mean we'll have Medford,
24 we have Malden already. I think there's a good

1 chance we can get to Boston. I'm not sure
2 whether Somerville has that kind of impacts.
3 We're going to work with Chelsea. I'll have a
4 better sense of that probably in the next two
5 weeks. So, I think we'll have three to four of
6 them. Hopefully, we have them all, depending
7 upon how the next few weeks play out. People
8 are becoming more willing to sit and talk.

9 COMMISSIONER MCHUGH: You said that
10 Revere, I had forgotten this, but is prohibited
11 from talking with you.

12 MR. TACCO: Yes, there was a
13 restriction in their host agreement.

14 COMMISSIONER MCHUGH: Does that mean
15 they're also prohibited from asking to be a
16 surrounding community?

17 MR. TACCO: I don't know. They
18 haven't asked us. And I don't know whether
19 they sent a letter to you. So, I don't know.
20 I don't think you should prohibit them but we
21 haven't at least in our discussions.

22 The Mayor also of Everett has been
23 very helpful in reaching out to his colleagues
24 in the area in talking through some issues with

1 them. And he will actually come to us and say,
2 no, they need help on this. So, the host
3 community relationship we have and his
4 willingness to work hard with his neighbors has
5 been very helpful.

6 CHAIRMAN CROSBY: Your Mayor of
7 Everett?

8 MR. TACCO: Yes, he's been great.

9 CHAIRMAN CROSBY: Thank you. Thank
10 you very much.

11 MR. TACCO: Thank you.

12 CHAIRMAN CROSBY: Do we want to
13 finish up the Jennifer vote and then take our
14 dinner break?

15 MR. ZIEMBA: Mr. Chairman, we had
16 originally scheduled Mr. Silverstein to give us
17 a presentation of five minutes at the end of
18 this presentation. I don't know if you want to
19 go now or after lunch when people are fresh.
20 You've been here all morning.

21 CHAIRMAN CROSBY: Fine, we've come
22 this far. Let's do it. Sorry, I forgot about
23 that.

24 MR. SILVERSTEIN: Good afternoon,

1 members of the Commission and Mr. Chairman.

2 It's a pleasure to be before you once again.

3 As I said, I'll be brief.

4 I had originally written on behalf
5 of six potential surrounding communities to the
6 Mohegan Sun project in Palmer, requesting an
7 extension of the deadline to seek designation
8 and correspondingly to reach agreements.

9 Obviously, the Palmer proposal is a
10 bit up in the air right now. And if that does
11 somehow go forward depending on the recount
12 obviously time is even going to be that much
13 more scarce in terms of reaching those
14 agreements.

15 For purposes of today's discussion,
16 I will note that I represent surrounding
17 communities, potential surrounding communities
18 to all of the other active projects other than
19 the Wynn proposal you just heard from where I
20 negotiated the host community agreement on
21 behalf of the city of Everett.

22 And I can tell you that all of my
23 clients have concerns in terms of the amount of
24 time available. Given the amount of time that

1 was taken by most of the Category 1 applicants
2 to reach host community agreements, the fact
3 that they didn't initiate any surrounding
4 community discussions really until after they
5 reached those agreements, it's put a lot of
6 pressure on the surrounding communities to try
7 to evaluate impacts and reach agreement where
8 there is really no precedents in terms of
9 reaching surrounding community agreements in a
10 very short period of time.

11 And I'll note that for instance you
12 heard from Foxwoods, the RPA process is
13 indicating that they'll have their report out,
14 their final report sometime in December.
15 Leaving again not a lot of time before the RFA-
16 2 deadline to negotiate there.

17 And MGM the RPA process is just
18 focusing on traffic right now. I will note
19 that I represent one holdout from the RPA
20 process. And Mr. Chairman you asked about West
21 Springfield. I also represent the town of
22 Wilbraham which is participating in that
23 process. I think for different reasons both of
24 those communities would benefit from having

1 more time.

2 I should note that I represent
3 Everett as a potential surrounding community to
4 the Suffolk Downs project, which also is in
5 some flux of course. But I will note that the
6 Mayor of Everett first met with Suffolk Downs
7 in March of last year, 2012. I sent a letter
8 requesting surrounding community status in
9 September and we have not heard back. So,
10 obviously it's going to be very difficult to
11 evaluate impacts.

12 We've asked for disbursements to
13 evaluate impacts. There's has been no
14 response. And at this point, coming to you for
15 an involuntary disbursement doesn't really seem
16 like the most timely request.

17 There are a lot of moving parts.
18 And so on behalf of the surrounding
19 communities, you've heard from all of the
20 applicants and I certainly and all of my
21 clients certainly understand the fact that the
22 Legislature budgeted for a certain revenue, and
23 from that there's a lot of pressure on the
24 Commission. And the Commission very

1 understandable and justifiably wants to move
2 forward as quickly as possible with the
3 licensure process.

4 But on behalf of surrounding
5 communities who have a lot of concerns, a lot
6 of unanswered questions at this point, I've
7 been asked to request an extension of time.
8 And my letter requested 180 days. I understand
9 that's a long period of time, but really any
10 time that these communities can get to try to
11 first receive evaluation of impacts, digest
12 them, get the resources and to negotiate
13 agreements and actually undertake that process
14 I think would be very much appreciated.

15 I'd be happy to answer any
16 questions. Other than that, I think my letter
17 lays it out in a little more detail why I think
18 a variance is warranted.

19 COMMISSIONER MCHUGH: There are two
20 things that come to mind immediately. That is
21 to what extent do the lookback agreements that
22 have been discussed here and have been
23 incorporated in a number of agreements both
24 proposed and executed help to allay fears? It

1 really does seem logical that predictions are
2 predictions and we're not going to fight and
3 worry and consider the accuracy of those. And
4 the reality is the better test.

5 MR. SILVERSTEIN: I absolutely
6 understand, Commissioner. I think that's a
7 great point. And I think in concept it's a
8 great concept to incorporate into these
9 agreements. But I think it's also important to
10 understand that surrounding communities don't
11 have a lot of leverage. But what they have is
12 the ability to negotiate now.

13 One of the criteria of licensure
14 that the Commission adopted in its regulations
15 is the "quality of surrounding community
16 agreements". This is really the last and best
17 opportunity for surrounding communities to try
18 to reach substantive agreements rather than
19 kicking the can down the road.

20 That I absolutely agree is a useful
21 tool and an important element of potential
22 surrounding community agreements. But let's
23 face it, once the applicant has the license
24 from the Commission, it's got less incentive to

1 be forthcoming if all it has to do is go to
2 arbitration and has nothing to lose in
3 effecting a lookback provision a year, two
4 years, three years down the line, as opposed to
5 coming up with an agreement and reaching
6 agreement with surrounding agreements now.

7 And I want to clarify, surrounding
8 communities that are willing to work with the
9 applicant. I think that's an important
10 distinction. And I can certainly say that
11 those are the communities I am working with.

12 COMMISSIONER MCHUGH: At least one
13 of them I understand is not, West Springfield.

14 MR. SILVERSTEIN: The Mayor of West
15 Springfield, who again there is going to be a
16 new mayor coming in in West Springfield, so
17 that creates its own issue in terms of
18 negotiating within the timeframe.

19 I can unequivocally say and I think
20 if the representative of MGM were still here,
21 they would confirm this. The Mayor of West
22 Springfield has been very open to working with
23 MGM. He did not want to work on the RPA
24 process. You have to bear in mind that at the

1 time that this was being proposed, West
2 Springfield was a potential host community.

3 And the same RPAs that would be
4 representing West Springfield as a potential
5 surrounding community would be representing
6 other communities that were on record as
7 opposing the West Springfield project. So,
8 that was the reason that he was concerned about
9 it.

10 COMMISSIONER MCHUGH: So, quickly
11 then moving to my second concern, I frankly
12 would be reluctant to consider any extension
13 unless a plan for an extension were accompanied
14 by a plan with a lot of detail as to what is
15 going to happen during the extension. The
16 process we now have calls for a period of some
17 60 days if you go through the arbitration
18 process, to come to the end of --

19 CHAIRMAN CROSBY: Or more as we have
20 now added because we have that flexible window
21 before we start the 60 days, so a minimum.

22 COMMISSIONER MCHUGH: -- a minimum
23 of 60 days. But at the end of that something
24 is done. Either it's done through arbitration

1 or it's done through a voluntary. And it seems
2 to me that that has the benefit of putting a
3 predictable endpoint on when this is going to
4 happen. The endpoint may be cushioned by a
5 lookback component of whatever comes out of
6 this.

7 But the fact is that we are going to
8 get to the December 31 deadline without these
9 agreements being in some cases even seriously
10 discussed. And I'm not going to look and see
11 why that has happened. So, just extending it,
12 the deadline, doesn't strike me as an act that
13 is likely to produce any agreements.

14 We've been at this now for months.
15 So, I would be really interested if there were
16 some kind of a formal proposal to extend the
17 deadline, some kind of a proposal that had some
18 mechanism that was built into it for day by day
19 or hour by hour negotiations designed to
20 produce results. Otherwise, it seems to me
21 that the process we've set up is inevitably
22 going to have to be utilized anyway. And we
23 might as well utilize it earlier rather than
24 later.

1 MR. SILVERSTEIN: I think that's a
2 fair point, Commissioner. I think the concern
3 of the communities I'm representing is that the
4 months and months the, in fact, more than a
5 year going on two years since the Act was
6 passed, none of it that delay has been on the
7 part of the surrounding communities.

8 Again, where you have an RPA report
9 in Milford coming out in December and that RFA-
10 2 deadline at the end of that month with the
11 holidays intervening, where you have right now
12 the RPA process in Springfield only addressing
13 traffic not other types of impacts, and all of
14 those surrounding communities simply don't have
15 the tools they need to evaluate those impacts.

16 And I think it's a fair point that
17 just again pushing the deadline down at this
18 point isn't a terribly attractive proposition
19 from the Commission's standpoint, I understand
20 that. But I think at least we know now that
21 process is underway for evaluating impacts.
22 But the problem is the narrow window for these
23 communities to get the impact evaluations and
24 then essentially have no time and basically

1 have to just accept what they are offered. I
2 think that's the concern. Even just a little
3 bit of time to negotiate would be of
4 assistance.

5 COMMISSIONER MCHUGH: I certainly
6 hear you. I understand what you're saying as
7 well. But I also think that a calendar of
8 events within that time would be helpful, at
9 least as one Commissioner for me to think about
10 constructively what this is likely to produce.

11 MR. SILVERSTEIN: Understood.

12 CHAIRMAN CROSBY: There's not such a
13 short window. There is, as Commissioner McHugh
14 said, it's actually a bare minimum of 70 days
15 after December 31 during which assessment of
16 this material -- there is nothing in the system
17 that says the surrounding community will just
18 have to accept what is offered. That is simply
19 not even one of the options unless they choose
20 to do it themselves. The bottom line is an
21 arbitration process which is an objective
22 arbitration process and which I think
23 reinforces very much what Commissioner McHugh
24 said about the lookback.

1 There is no leverage in the
2 surrounding community now that it's not going
3 to have in a year, because the ultimate
4 agreement with the applicant is in arbitration.
5 If the applicant doesn't like what the
6 surrounding community is proposing then it will
7 go to arbitration and that will be the same in
8 the lookback provision.

9 So, I am not sold at all on the
10 notion that there isn't between the time that
11 is in the system, and we've indicated our
12 willingness to add to that minimum 70 days.
13 We're doing it in the case of the Category 2's
14 now. So, there is probably more like 100 days
15 after December 31 during which this negotiation
16 and discussion and assessment can go on. That
17 coupled with the lookback option, I am not
18 moved by this argument at the moment.

19 MR. SILVERSTEIN: Understood,
20 Commissioner. I think one point I believe,
21 you, Mr. Chairman that the similar presentation
22 for Category 2's, expressed some concern about
23 this concept of netting out positive and
24 negative impacts in a lookback provision. I

1 think that's a real concern of how do you
2 measure that.

3 So, I think the devil is going to be
4 in the details of what a lookback provision is
5 going to look like, what it's going to provide
6 for. I would just note that we're talking
7 about looking for more time to negotiate an
8 agreement. And when I requested the extension
9 of 14 days, essentially 15 days to negotiate
10 Category 2 agreements and the Commission
11 allowed that, I'll note that that's an
12 extension of a couple of weeks for proposals
13 that are essentially somewhere between a 10th
14 and a 20th the size and magnitude of the
15 Category 1 agreements.

16 And the other point I'd like to make
17 is that all of my clients are hopeful of
18 negotiating an agreement outside of an
19 adversarial process. So personally, I
20 certainly take your point. I wouldn't take the
21 time for undergoing an adversarial arbitration
22 process, which is going to be drawing attention
23 and energy away from trying to negotiate
24 something which is certainly my clients' goals.

1 I personally would not include that
2 in the time to negotiating an agreement.
3 Because at that point you're hiring experts.
4 You're incurring expenses. A lot of my clients
5 are very small towns with little or no paid
6 staff to look at some of these issues.

7 So, I certainly take your points,
8 Commissioner McHugh in terms of trying to lay
9 out more of a schedule. And I can work with my
10 clients in doing that.

11 Again, if you are not getting impact
12 assessments until the second week of December
13 and the RFA-2 deadline where technically you're
14 supposed to have your agreements done by then,
15 and I know there is the 30 days to continue
16 negotiating thereafter if you have been
17 designated. But the communities that have not
18 been designated and are first getting perhaps
19 preliminary impact assessments in that
20 timeframe, it is a very short window to come to
21 the Commission if they are not designated and
22 try to petition on limited information and on
23 limited resources.

24 CHAIRMAN CROSBY: Anybody else?

1 MR. SILVERSTEIN: I appreciate the
2 time.

3 CHAIRMAN CROSBY: Thank you for
4 hanging around. Yes, Sir?

5 MR. DAY: Mr. Chairman I was just
6 checking to see, Director Durenberger has those
7 two items, one vote.

8 CHAIRMAN CROSBY: Let's do it.

9 DR. DURENBERGER: Hello.

10 CHAIRMAN CROSBY: Welcome back.
11 That was a long break.

12 DR. DURENBERGER: We were on 3c I
13 believe, which was an update on recent
14 legislation affecting racing in the
15 Commonwealth.

16 COMMISSIONER MCHUGH: You've covered
17 that very well in the materials, Director.
18 It's pretty straightforward, is it not?

19 CHAIRMAN CROSBY: Yes.

20 COMMISSIONER MCHUGH: The
21 legislation is emergency legislation that
22 applies to this year. It's revoked on the
23 first of the year. So, it basically allows
24 Suffolk to close down early.

1 DR. DURENBERGER: That is correct.

2 COMMISSIONER MCHUGH: Is that it?
3 Is that the essence of it?

4 DR. DURENBERGER: That is the
5 essence of it. I was going to use that as a
6 segue into some discussion about what we
7 anticipate coming before you in a couple of
8 weeks with some suggestive legislative
9 language. And I thought this would segue into
10 that very well. But perhaps we'll save that
11 discussion for another day. Is that the
12 feeling that I'm having?

13 COMMISSIONER MCHUGH: That might be
14 the emanations.

15 DR. DURENBERGER: Well, I actually
16 will give myself a point for understanding
17 that. And we will move onto item 3d. This was
18 a request from Suffolk Downs Racetrack pursuant
19 to the passage of that Chapter 123 of the Acts
20 of 2013. Suffolk as of November 2 had
21 conducted 720 races over 81 calendar days which
22 fulfills the minimum requirements in the law.
23 And they respectfully request for the reasons
24 outlined in the memo primarily relating to

1 purse structure and horse shortage that the
2 remainder of the meet -- that we amend the
3 racing schedule and conclude the meet as of
4 November 2.

5 COMMISSIONER MCHUGH: And I take it
6 from the memo that you are in agreement with
7 that?

8 DR. DURENBERGER: I am 100 percent
9 in agreement with that for the reasons outlined
10 in the memo.

11 CHAIRMAN CROSBY: Do we have a
12 motion?

13 COMMISSIONER MCHUGH: I move that we
14 accept the request of Sterling Suffolk
15 Racecourse to terminate the racing calendar,
16 the 2013 racing calendar as of November 2,
17 2013.

18 COMMISSIONER CAMERON: Second.

19 CHAIRMAN CROSBY: Any further
20 discussion? All in favor signify by aye. Aye.

21 COMMISSIONER STEBBINS: Aye.

22 COMMISSIONER ZUNIGA: Aye.

23 COMMISSIONER MCHUGH: Aye.

24 COMMISSIONER CAMERON: Aye.

1 CHAIRMAN CROSBY: All opposed? The
2 ayes have it unanimously. I am going to
3 suggest we take a lunch break.
4

5 (A recess was taken)
6

7 CHAIRMAN CROSBY: We are reconvening
8 at 3:05 public meeting number 88. We are going
9 to item number eight Research and Problem
10 Gambling, Mark Vander Linden, Director.

11 MR. VANDER LINDEN: Good afternoon.
12 Thank you, Mr. Chairman and Commissioners. I
13 have a couple of agenda items here. First on
14 that is to talk about our report we have due on
15 November 22.

16 According to section 108 of Chapter
17 194 of Acts of 2011 we need to provide report
18 of activities under section 71, which is the
19 research agenda that will be submitted no later
20 than two years after the effective date of the
21 Act, which is November 22. So, I've been
22 working with our SEIGMA team to craft this
23 report. I think the report in general will
24 provide a good overview about -- there's

1 several items but it will certainly meet that
2 mandate.

3 The report is going to give an
4 overview of the research mandate, what was our
5 process for procurement for this project, a
6 description of the approach used by SEIGMA
7 including the details of the methods they are
8 using, activities from the point which they
9 started in April to date. And then at the end,
10 what are the recommendations for ongoing
11 research activities of the Commission.

12 Certainly, not going to read the
13 report.

14 CHAIRMAN CROSBY: Oh, come on.

15 MR. VANDER LINDEN: Okay, then.

16 DR. VOLBERG: It's only 50 pages.

17 COMMISSIONER MCHUGH: Don't even
18 think about that.

19 CHAIRMAN CROSBY: Commissioner
20 McHugh is losing his sense of humor.

21 MR. VANDER LINDEN: I certainly want
22 to do that but would welcome any feedback that
23 the Commissioners may have on the report. Our
24 goal to get this rolled out on time would be

1 that any feedback from you all would be
2 received by next Thursday, the 14 of November.
3 And that we would then begin doing the final
4 draft of it and have it released on the 20 of
5 November.

6 COMMISSIONER STEBBINS: You are
7 still missing the executive summary portion,
8 correct?

9 MR. VANDER LINDEN: Exactly. Thank
10 you for pointing that out. The executive
11 summary we wanted to wait to draft that until
12 we saw if there was any feedback from you all
13 to make sure that that was included in there.

14 CHAIRMAN CROSBY: I haven't had a
15 chance to read it yet, but I doubt we're going
16 to have anything very substantive to add. We
17 will get back to you by then.

18 MR. VANDER LINDEN: Fantastic.

19 COMMISSIONER MCHUGH: Is there a
20 softcopy available someplace?

21 MR. VANDER LINDEN: I can make sure
22 that you get an electronic copy.

23 CHAIRMAN CROSBY: What is a
24 softcopy?

1 MR. VANDER LINDEN: An electronic
2 copy.

3 COMMISSIONER MCHUGH: It's easier to
4 make comments, the few that will come.

5 DR. VOLBERG: We expect a line by
6 line, Commissioner.

7 COMMISSIONER MCHUGH: Don't worry
8 about that.

9 MR. VANDER LINDEN: I would like to
10 turn it over to Rachel Volberg who is the
11 principal investigator to just give us an
12 update on where the project is at this time.

13 CHAIRMAN CROSBY: Great.

14 DR. VOLBERG: Thank you, Mark. Good
15 afternoon, Commissioners. A long morning for
16 you I guess before lunch. So, we are going to
17 try and take only a very small amount of time.
18 I want to start by proudly introducing our
19 project director Amanda Houpt. Amanda started
20 with us on September 30. So, she's been with
21 us just a little over a month. She's done
22 fantastic work already, which this report is
23 the first deliverable that I put on her to-do
24 list.

1 CHAIRMAN CROSBY: Great.

2 COMMISSIONER MCHUGH: Good, welcome.

3 MS. HOUPHT: Thank you so much for
4 having me.

5 CHAIRMAN CROSBY: That's a big job.
6 You had to learn what's going on pretty fast.
7 Great.

8 DR. VOLBERG: What I'd like you to
9 do is just two things today. One is to give
10 you an update on some the major activities that
11 the project has been engaged in. And then to
12 proudly show off, another proud show off of the
13 website that we've been developing for the last
14 few months.

15 So to start with, the major activity
16 that we set out with at the beginning of the
17 project was we knew we had to get the baseline
18 survey into the field as quickly as possible.
19 I am happy to report that field work started on
20 September 11 of this year. And we are already
21 at 2600 completes. So, we are on target as far
22 as where we expected to be for data collection
23 at this point.

24 The online panel survey, which was

1 the supplemental sample of folks who are
2 interviewed or sampled through a separate
3 source was somewhat delayed. We had some IRB
4 approval issues, but we were able to start
5 field work earlier this month. And we are at
6 675 completes on the online panel.

7 CHAIRMAN CROSBY: What's the target?

8 DR. VOLBERG: Well, the online panel
9 could be completed very, very quickly, much
10 faster than the --

11 CHAIRMAN CROSBY: What's the number?

12 DR. VOLBERG: The ultimate number is
13 5000, but the 675 is 81 percent of the released
14 sample which was 833 email addresses that were
15 released. So, the online panel is rolling out
16 more slowly so we can match as closely as
17 possible the field work period so we don't get
18 a temporal effect that might affect one or the
19 other of the samples.

20 CHAIRMAN CROSBY: Right.

21 DR. VOLBERG: We are still working
22 with the Commission on figuring out the
23 strategy for the targeted sample which we are
24 hoping to piggyback on the baseline survey.

1 There's an additional 1000 interviews that we
2 want to do focused on the host and surrounding
3 communities of the successful slot parlor
4 application. But for a number of reasons the
5 geography is still sort of up for debate. So,
6 we need to finalize that fairly soon so we can
7 begin the process of negotiating an amendment
8 to the ISA between the University and the
9 Commission and then a subcontract amendment
10 with NORC, which is doing the data collection.

11 One of the other main activities we
12 have on the project is problem gambling
13 services evaluation. We have obtained the
14 helpline data from the Massachusetts Council on
15 Compulsive Gambling. And we are currently
16 analyzing those data to I believe we look back
17 to 1997 on those data. So, we are going to
18 have 1997 through 2011 to look at.

19 We are also in the process of
20 preparing an online survey for treatment
21 providers who have been certified as able to
22 provide problem gambling treatment in
23 Massachusetts. And we are going to survey them
24 about their experiences and sort of what their

1 clientele look like and get their ideas on how
2 they think treatment services can be improved
3 in Massachusetts's.

4 We have a lot of secondary data that
5 is going to be described in detail in the
6 report that you have in terms of the specific
7 impact areas that we identified in our
8 proposal. How those are sort of being
9 translated into specific secondary data
10 sources. And how we plan to bring all of those
11 data into the project to be able to analyze
12 them and make sure that geographies are
13 consistent.

14 We have a number of options that we
15 are considering for regional definitions
16 related to labor markets and suppliers and
17 consumer spending. We are also rethinking the
18 options that we want to use for our purchase of
19 the REMI model, which was going to do the
20 economic forecasting.

21 And my main responsibility has been
22 to make sure that the economic impact team and
23 the social impact team keep talking to each
24 other so that we make sure that we have

1 consistency across those two big pieces of the
2 project.

3 Then finally, we have our data
4 management center, which is being built, housed
5 at the School of Public Health at the
6 University of Massachusetts Amherst. We have a
7 number of plans for establishing protocols
8 through data sharing.

9 Ultimately, as per the wishes of the
10 Commission, as expressed to the RFR, we want to
11 make as much of this data available to the
12 public as possible and other data that will be
13 available to other researchers.

14 It actually requires a lot of
15 planning and thought ahead of time to make sure
16 that people's identities are protected, to make
17 sure that when the data are provided to people
18 that they are of utility. So, we're doing a
19 lot of thinking around that set of issues.

20 Last but not least, we've been
21 designing a website. We went live yesterday
22 with the website. We've had eight unique
23 visitors. We are the ninth unique visitor, I
24 believe. I just want to talk a little bit

1 about this website because it's basically going
2 to be the world's portal to our study. And we
3 gave a lot of thought to who might be
4 interested in the study. What they might want
5 to see from the study. And so trying to think
6 about how to communicate with a lot of
7 different audiences.

8 So, there are sort of two design
9 components. We had a web designer who we
10 worked with at the University. He really did a
11 great job, I think. So, we sort of divided it
12 into the look and feel of the website. And
13 then thinking about the content areas.

14 So, I want to talk a little bit
15 about the look and feel. The first sort of
16 piece of look is we developed a logo. You can
17 see that at the top of the page. Under the 150
18 years at UMass Amherst, we have our SEIGMA
19 logo. The round piece in the middle is the
20 state of Massachusetts superimposed on a coin,
21 which we sort of went back and forth a good
22 bit.

23 We didn't want it to look too much
24 like gambling but the idea is that it evokes

1 gambling but also at the same time evokes the
2 many different pieces of the pie in terms of
3 impacts we're trying to look at.

4 In terms of the images that you see,
5 we've got three different images on this home
6 page. Then there's images on the remaining
7 tabs as well. We very specifically wanted to
8 have a balance of neutral, positive and
9 negative images.

10 So, on this page for example we've
11 got a gambling image, which we felt was
12 neutral. We've got a construction image which
13 is the positive. And then the last image is
14 traffic, which we thought sort of evoked a
15 little bit more of what people tend think of as
16 the negative part of the proposed expansion.

17 At the bottom, I'm going to make
18 Amanda do the stuff while I do the talking. At
19 the bottom of the page and in fact at the
20 bottom of every page we have an acknowledgment
21 of our source of funding. Actually, where the
22 Massachusetts Gaming Commission actually is
23 named, there's a link straight through to the
24 Commission's website. So, we felt that was

1 important and we put it on every page.

2 This homepage, and now I'm moving
3 into the content areas, this is intended to be
4 a succinct summary of the project and what's
5 going on. So, that's on the left side of the
6 screen. On the right side there are news and
7 highlights specifically of the project.

8 And then if you go back up, and
9 we'll click over to the news tab, we wanted to
10 sort of focus -- On the homepage, we're
11 focusing just on the project. This news page
12 we are carefully selecting stories that appear
13 in the news that have to do with events related
14 to the casino expansion that we feel are
15 potentially going to affect our work. So,
16 these are all decisions that were made recently
17 in the Commonwealth that could potentially
18 affect where we are sampling for the targeted
19 example for example and things like that.

20 Further down, and you don't have to
21 page down there Amanda, further down there's a
22 number of items that are focused on things
23 where the project has actually or frankly I
24 have been in the news for something that is not

1 necessarily project related. And we are
2 planning to separate those out so that the news
3 that is specific to what the project may do
4 will be separate from any time that we appear
5 in the news. I think Mark was one that made
6 that suggestion. So, we just haven't
7 implemented it yet.

8 On the right-hand side we have a
9 couple of other news related issues. The
10 topics for debate is intended to give us a
11 place where we can highlight discussions within
12 the research community about the work that
13 we're doing. And then further down under the
14 Massachusetts gambling news, we have a link to
15 the Gaming Commission and the news portion of
16 your website. Then the Springfield Republican
17 and Mark Arsenault's In the Cards blog where
18 there's a lot of stories about what's happening
19 in Massachusetts with expanded gaming.

20 Moving onto the people, we have two
21 tabs under people. One is our executive team.
22 So, you can page passed me and down to Ed
23 Stanek and Rob Williams and Dan Hodge. The
24 four of us continue to meet once a week. We

1 never seem to be at a loss for things to talk
2 about. But that is only the executive team.

3 Then we have the project team. We
4 wanted to highlight all of the people and
5 organizations that are a part of this project.
6 These are expert advisors, Laurie Salame at
7 UMass Amherst, Mark Nichols at University of
8 Nevada, Reno and Natasha Dow Schull at MIT.
9 Moving down we have our project and data
10 management team. There's Amanda and Martha
11 Zorn and Sophie Bryan is the RA who supports
12 the data management center.

13 The social team is professors Poudel
14 and Rodriguez-Monguio as well as the two RAs
15 who support their work. The economic analysis
16 is under the oversight of Dan Hodge on the
17 executive team. And then he has a number of
18 people over at UMass Donahue Institute. We are
19 in the process of trying to decide if we can
20 get pictures of them. But in the meantime, we
21 took the their logo from their organization.

22 And then down at the bottom we have
23 data collection NORC and it says public affairs
24 and Market Street Research which is in

1 Northampton, Massachusetts.

2 Next is publications. This page is
3 going to be substantially built out. Right now
4 all we have here are two documents. One is our
5 theoretical framework of the report that Rob
6 Williams and his colleagues prepared. And then
7 our research plan. Over time, we expect this
8 to be greatly expanded.

9 CHAIRMAN CROSBY: Like the report to
10 the Legislature you've got there, right?

11 DR. VOLBERG: Yes, exactly.
12 Actually, that's going to be a Commission
13 report. I guess we could put a note here and
14 say thank you Commission. This page really
15 speaks to the multitude of audiences that we
16 feel that we need to speak to.

17 The research links are basically
18 everywhere that I am aware of that has a
19 gambling research initiative underway that
20 funds work. And it's listed alphabetically
21 because we couldn't come up with a better way
22 to do it. On the right-hand side, we have sort
23 of been switching in and out.

24 But this particular research

1 spotlight is an interesting article in
2 Scientific American that talks about the
3 similarities in brain activity between drug
4 addiction and gambling addiction. So, it's
5 sort of what's new and interesting in the
6 research realm.

7 The regulator links and the problem
8 gambling links are both in this area, they are
9 organized in the same hierarchy in these two
10 areas. So, first we have Massachusetts. So,
11 the Gaming Commission, once again there is a
12 link to the Gaming Commission.

13 We have regional links. We figured
14 that there would be interest in going through
15 our website to other states in the Northeast or
16 certainly in New England that have gambling
17 issues, and then the national regulatory
18 agencies, and then a couple of spotlights on
19 the Expanded Gaming Act. And once again, the
20 Commission has a direct link. So, there's lots
21 of way to get from us to the Commission.

22 Then on the problem gambling links,
23 the same sort of hierarchy with the
24 Massachusetts Council first and then our New

1 England compatriots and then a link to the
2 National Council. Then also on the right some
3 information about Gamblers Anonymous and
4 calling the helpline.

5 And I believe -- Is that last but
6 not least.

7 COMMISSIONER CAMERON: Question, the
8 police officer there, what is that supposed to
9 signify?

10 DR. VOLBERG: If you go back to the
11 homepage has three images. Then if you go to
12 news it's a neutral image. We went with a
13 neutral image there too. This was sort of to
14 try and get a mix of sort of positive, negative
15 and neutral images. We are certainly open --

16 COMMISSIONER CAMERON: So the police
17 officer is the negative image?

18 MR. VANDER LINDEN: It would be a
19 positive image.

20 DR. VOLBERG: It would be a positive
21 image but addressing the negative issue of
22 crime.

23 COMMISSIONER MCHUGH: There's two
24 positives in there.

1 DR. VOLBERG: That's right.

2 CHAIRMAN CROSBY: Go cops, go cops.

3 DR. VOLBERG: It's obviously been a
4 long day. We are almost finished here. This
5 is the last tab that we'll show you. We're
6 asking for people who want to contact us that
7 for all inquiries except media please contact
8 Amanda. But if you're a reporter, you need to
9 talk to me. And I think that's it.

10 CHAIRMAN CROSBY: Obviously, Michael
11 and Elaine, you want to make sure that our site
12 has a prominent spot on it to get to this. I'm
13 sure that will happen soon if it hasn't
14 happened already.

15 MR. VANDER LINDEN: We had a meeting
16 with Elaine maybe three weeks ago to preview
17 this with her and discuss ways to make sure
18 that Commission is highlighted appropriately,
19 given the appropriate credit. And then also to
20 make sure if it hasn't happened already we'll
21 make sure that the links between the two happen
22 too.

23 COMMISSIONER STEBBINS: I think it
24 would also be helpful for Rachel for the media

1 inquiries you get not necessarily your answer,
2 but the subject matter would be good
3 information to share back and forth.

4 DR. VOLBERG: That's a good idea.

5 CHAIRMAN CROSBY: And when you get
6 press inquiries, do you to touch base with
7 Elaine before you take them or how do you
8 handle that?

9 DR. VOLBERG: So far, I have not
10 gotten any press inquiries about Massachusetts.
11 There were a number of reporters that I talked
12 with around the Connecticut Keno issue. I
13 speak with the media quite often and have for
14 many years.

15 Not all of them, in fact relatively
16 few of them know about what's going on in
17 Massachusetts. I have taken the opportunity to
18 say I'm working on this really great project
19 and pay attention to Massachusetts. But so
20 far, I haven't had any.

21 CHAIRMAN CROSBY: We don't need to
22 spend a lot of time on this, but it's worth
23 thinking about, particularly when stuff comes
24 out that is of note, we are very careful to

1 coordinate and think through what we say and
2 how we handle it. And making sure there is a
3 close connection between you and Elaine makes
4 sense. Great. It's terrific.

5 COMMISSIONER MCHUGH: It's really
6 good.

7 COMMISSIONER ZUNIGA: I want to
8 mention just one thing. From this morning, a
9 recurring theme was this notion some of these
10 applicants and surrounding communities are
11 studying impacts in the future and having this
12 lookback provision in there.

13 So, I look forward to the notion
14 that you say about sharing data but also that
15 could go two ways. We could also obtain data
16 that's out there that would make your job
17 easier relative to studies that are out there
18 or are being conducted or variables or factors
19 that interest some of these surrounding
20 communities, some more than others, to kind of
21 start thinking about that activity and start
22 thinking ways of sharing data or even just
23 knowing what's going on.

24 COMMISSIONER STEBBINS: I think one

1 offered to pony up some resources too, if I
2 heard them correctly.

3 DR. VOLBERG: We'll take resources.

4 MR. VANDER LINDEN: I'll be
5 reviewing the minutes for that part of it,
6 Commissioner and will do a follow-up.

7 DR. VOLBERG: I think that's
8 actually a good point because there is a lot of
9 information that the applicants are collecting.
10 And there is information that the communities
11 are collecting as well. And it would certainly
12 be a cost efficiency if we were to be able to
13 access the traffic reports, for example. It
14 would be a great source of data to be able to
15 make available to people eventually.

16 CHAIRMAN CROSBY: That's a really
17 good point. I'm glad you brought that up.

18 COMMISSIONER ZUNIGA: Cost
19 efficiency was exactly what I was thinking
20 about.

21 CHAIRMAN CROSBY: That's a
22 connection John can help you make if you need
23 to. I can't imagine as time passes there'd be
24 any resistance on the applicant's part to share

1 these reports. They're public reports. So,
2 that's a great idea. Is that it?

3 MR. VANDER LINDEN: Yes.

4 CHAIRMAN CROSBY: Great, thank you
5 very much. All right, what are we back to now,
6 back to the Ombudsman.

7 MR. ZIEMBA: Mr. Chairman, with your
8 permission, I'd like to bundle a couple of
9 items. Items b and d, they're included in
10 Counsel Blue's memorandum to you, which I think
11 she is going to present.

12 MS. BLUE: So, at our last
13 Commission meeting, we were discussing the
14 possibility of a variance from some of our
15 regulations. In particular, we were talking
16 about the 30-day timeframe between the
17 surrounding communities are designated when the
18 hearing in the host community occurs.

19 So, if you go into the materials, we
20 have a memorandum in there that talks about the
21 specific sections of 23K and the specific
22 sections of our regulations which impact that
23 discussion. Then we've also included a
24 timeline in terms of how you might approach

1 scheduling the designations and then the
2 holding of the host community hearing.

3 COMMISSIONER ZUNIGA: Is it fair to
4 say that with either of the two options,
5 granting a waiver or not, we end up in a
6 similar date at the end?

7 MS. BLUE: Yes. Whether we do a
8 waiver or whether we proceed as our regulations
9 are currently drafted, we end up at about the
10 same final award date. The difference comes in
11 the middle where you have a hearing in the host
12 community that you would start and then
13 continue until such time as the surrounding
14 community agreements were completed.

15 MR. ZIEMBA: This timeline
16 anticipates communities utilizing and
17 applicants utilizing the entire periods for
18 arbitration and negotiation for their
19 agreements.

20 MS. BLUE: If they did not go to
21 arbitration or they went through a shorter
22 period, then obviously that would tighten up
23 the timeline. But the timeline shows the
24 entire 60-day period, the 30 days for

1 negotiation and the 30 days for arbitration.

2 COMMISSIONER ZUNIGA: In your
3 opinion, what alternative would get closer to
4 the concern of the surrounding community having
5 not enough time to negotiate whether that's --
6 whether we're counting the arbitration or not?

7 MS. BLUE: I think the option
8 following the regulations as they are currently
9 written gives them a continuous period of time.
10 So, they go from negotiations into arbitration.
11 So, they are proceeding sort of in a continuous
12 timeframe. Then you would have the hearing in
13 the host community after they are completed.

14 So, you could ask questions about
15 the process, what they negotiated, where they
16 were. But I think overall they have the same
17 amount of period of time to negotiate or to
18 complete it. It's just that they have that
19 hearing where they're going to come before you
20 in the middle of that process.

21 COMMISSIONER ZUNIGA: Which one of
22 the two alternatives would have the risk of
23 ultimately extending our deadline passed
24 February 23, in your opinion? If say something

1 like an arbitration process was too little time
2 envisioned by us.

3 MS. BLUE: Well, if the arbitration
4 took longer and I think that's something we've
5 thought about all along in terms of our
6 timelines. If it did take longer, it would
7 extend the process out.

8 If you look at the statute, you
9 really can't take action, action being the
10 award of a license until all of those
11 agreements are completed. So, any time that
12 that period was extended then that would run
13 the risk of extending the ultimate award date.

14 I don't think that any one of these
15 two options necessarily runs a greater risk of
16 extending that award date. It really is more
17 about how long it takes for the arbitration or
18 the negotiation period to go forward.

19 COMMISSIONER MCHUGH: That 30-day
20 arbitration period is entirely a creature of
21 our regulations. And we would have and I would
22 hope we'd take the opportunity to check in on
23 how the arbitration is proceeding as it goes
24 along to make sure that it's on track and to

1 get the parties together. For example, if the
2 arbitrator designation doesn't occur on time,
3 we could get them in here and say --

4 COMMISSIONER ZUNIGA: What about it?

5 COMMISSIONER MCHUGH: Right, right.

6 A real consideration -- Both come out at the
7 same place. But a real consideration is the
8 optics of starting the statutory hearings in
9 situations where all of the surrounding
10 communities haven't been designated, whether
11 that contributes to the angst, for want of a
12 better word, that is manifested legitimately
13 among some of the surrounding communities that
14 haven't been designated. They'll all be
15 designated, but that have not had a chance to
16 go through the surrounding community process.

17 My sense is we can explain it and be
18 very careful to articulate the fact that we're
19 starting this, to give them more information.
20 To in a way assist them in making this ultimate
21 surrounding community arrangement. But there
22 is, I think, the potential for a concern that
23 the train has left the station now and we're
24 still on the platform.

1 COMMISSIONER ZUNIGA: Because we
2 started the statutory hearing without a
3 designation.

4 COMMISSIONER MCHUGH: No, they'll
5 all be designated by then.

6 COMMISSIONER ZUNIGA: Without an
7 executed agreement.

8 COMMISSIONER MCHUGH: So, we've
9 started it on what is by definition an
10 incomplete application. Under the statute, you
11 don't have a complete application inferential
12 until all of the surrounding community
13 agreements are filed or executed.

14 So, it could have the appearance of
15 starting these statutory hearings on an
16 incomplete application. Now, as I said, if we
17 are careful, I think we can say that we're
18 doing that really in an effort to make sure
19 this process completes on time. Because these
20 host community hearings may take more than a
21 day. And starting them then would give us time
22 to have two sessions, three sessions if
23 necessary.

24 And in the process, give the

1 surrounding communities an opportunity to learn
2 more about the project, to learn about the
3 applicant's reaction to the project, to learn
4 more about the applicant's reactions to our
5 questions than they may otherwise have, if we
6 left the whole process to the end.

7 So, it would have that benefit but
8 we'd have to be careful to reinforce that.
9 That we are not making any prejudgments and we
10 weren't going to make any judgments until we
11 had a chance to have a hearing on their
12 surrounding community agreements as well as
13 everything else.

14 CHAIRMAN CROSBY: I think
15 reinforcing that point, if we postponed the
16 host community agreements, it would almost be
17 as if it's after-the-fact. We would have done
18 all of the other evaluation and sort of be
19 sitting just twiddling our thumbs and it makes
20 the host community agreements, I think, appear
21 to be just sort of in name only.

22 So, I think to the extent you can
23 figure out a public interest here, it seems to
24 me that the public interest is served by doing

1 it sooner, earlier in the process as long as
2 you make sure that everybody has a chance to
3 speak. That it is making a nontrivial step
4 towards getting more information out there,
5 getting more participation earlier in the
6 process before we've had any time to let our
7 positions crystallize.

8 COMMISSIONER MCHUGH: Yes. And I
9 think that it also has the advantage of a more
10 deeply participatory process, because we've
11 taken this whole hearing process in a series of
12 bites. So, you have a chance to bite and chew,
13 and bite and chew. Maybe there's a better
14 analogy. But you really do have a chance to
15 digest information before we come to the final
16 decision-making hearing. And I think one can
17 characterize that as a benefit.

18 It's just the question whether given
19 the level of anxiety that's understandably out
20 there we add to that by doing it this way.

21 CHAIRMAN CROSBY: Have you gotten
22 any pushback one way or the other or any
23 feedback one way or the other?

24 MR. ZIEMBA: No. I think one

1 potential aspect, after we make our decisions
2 on surrounding community status, if indeed we
3 choose a community and say that that community
4 is not a surrounding community or a potential
5 about the way that we did our notices. We sent
6 out our notices to all of those who have been
7 designated, all those that have reached
8 agreement or are about to reach agreement, and
9 then those who have just petitioned for a
10 surrounding community status.

11 So, in between the time that we sent
12 our notice on October 1 and the date of the
13 hearing, we will have made our determinations
14 on surrounding community status. So, if
15 anything you may get a complaint from a
16 community if indeed they are not designated as
17 a surrounding community saying well, I received
18 this notice ahead of time even though it very
19 carefully said in the body of the letter that
20 this does not mean that you are a surrounding
21 community. That community might say we want to
22 have our say at that hearing.

23 CHAIRMAN CROSBY: Let them. Because
24 we have decided to have applicant, host

1 community, surrounding communities, I forget
2 what else.

3 MS. BLUE: And citizens, yes.

4 CHAIRMAN CROSBY: As long as we are
5 not opening up a legal ground here that
6 theoretically you're not supposed to have the
7 host community hearings until you have
8 completed -- If there is any legal ground that
9 is giving somebody fodder to appeal our
10 decision or our process or something, as long
11 as that's not a problem then I think it's
12 better to have it sooner. I think it's in the
13 public interest to have it sooner.

14 COMMISSIONER MCHUGH: There's always
15 the potential. Any time there is an ambiguity
16 in the statute, there is a potential for
17 litigation. The legal team and I participated
18 in conversations with them, thought this
19 through. And this looks like an entirely
20 defensible and appropriate way to interpret the
21 statute and to move forward.

22 The statute says you cannot take
23 action until that hearing has been held, until
24 30 days after that hearing has been held. But

1 then goes on to define what action is. And the
2 action it defines is grant an application,
3 reject an application or defer that decision
4 for up to 30 days. So, those are the three
5 categories of action.

6 CHAIRMAN CROSBY: Okay.

7 COMMISSIONER MCHUGH: So, it seems
8 to me that this not only fits the statute and
9 is a sound interpretation of the statute, as
10 the Commission has the primary responsibility
11 for doing, but also functionally related to
12 maximizing the information that's out there and
13 information that is available to us and to the
14 communities as we move forward. So, it seems
15 to me that this would be a good approach.

16 CHAIRMAN CROSBY: Do we need a vote
17 or not?

18 MS. BLUE: There's two things you
19 would need to do. You would need to grant a
20 variance from the regulations, because you
21 would be having the host community -- hearings
22 in the host community within about 12 to 14
23 days after you do the designation. So,
24 designations are scheduled for November 21.

1 So, the first thing would be to grant a
2 variance from the regulation.

3 The second thing we started to
4 discuss at our last meeting was that the
5 regulation provides that some of these
6 activities, and we extended the date to file a
7 petition, were supposed to occur upon or before
8 the RFA-2 application. So, we would want to
9 grant a variance from that.

10 Obviously, we'll accept executed
11 agreements and we'll accept petitions for an
12 extended period of time after the RFA-2
13 respond. So, we really need to grant two
14 variances.

15 And for the Commission to grant a
16 variance, there are four findings that the
17 Commission must make. They must find that it's
18 consistent with the purposes of 23K; that
19 granting the variance will not interfere with
20 the Commission's ability to fulfill its duties;
21 that the granting of the variance will not
22 adversely affect the public interest; and that
23 not granting the variance will cause a
24 substantial hardship.

1 I think we discussed each of those
2 topics. And I think I would be comfortable in
3 granting the variance and making those
4 findings.

5 CHAIRMAN CROSBY: Right. Okay. So,
6 it seems like we've got a consensus here.
7 Commissioner McHugh, do you want to set up the
8 motion?

9 COMMISSIONER MCHUGH: Let's take the
10 variance from the 30 days in the regulation
11 between the time of designation of the
12 surrounding communities and the statutory
13 hearing.

14 With respect to that 30-day period,
15 I move that the Commission declare that the
16 four conditions for granting a variance have
17 occurred and that the Commission grant a
18 variance reducing the period of time between
19 the designation of surrounding communities and
20 the holding of the statutory hearing to --

21 MS. BLUE: I believe it's between 12
22 and 14 days, between the 21st and then the last
23 scheduled hearing in the host community is
24 December 5.

1 COMMISSIONER MCHUGH: To no less
2 than 12 days.

3 MS. BLUE: Yes.

4 COMMISSIONER MCHUGH: That's the
5 motion.

6 CHAIRMAN CROSBY: Second?

7 COMMISSIONER CAMERON: Second.

8 CHAIRMAN CROSBY: Any discussion?

9 All in favor, aye.

10 COMMISSIONER STEBBINS: Aye.

11 COMMISSIONER ZUNIGA: Aye.

12 COMMISSIONER MCHUGH: Aye.

13 COMMISSIONER CAMERON: Aye.

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

16 COMMISSIONER MCHUGH: The second
17 variance that we need is from which section?

18 MS. BLUE: It's from the requirement
19 that the petitions for surrounding community
20 status be provided at or around the time of the
21 RFA-2 application. Our regulations tie it into
22 the RFA-2 application. We extended the
23 timeframe for an additional 21 days after that.
24 So, it's from the RFA-2 requirement in that

1 same surrounding community section.

2 COMMISSIONER MCHUGH: So, I would
3 move that the Commission find that the four
4 factors for a variance have been met, given the
5 additional time that surrounding communities
6 sought to make and arrange surrounding
7 community status with applicants. And that we
8 extend by 21 days the deadline for surrounding
9 community -- for conferring surrounding
10 community status on a surrounding community by
11 voluntary agreement between the applicant and
12 the surrounding community or by -- What was the
13 first one?

14 MS. BLUE: We allow them to file a
15 petition by October 31, as opposed to 10 days
16 after the RFA-2, which would have been roughly
17 the 14th, I believe.

18 COMMISSIONER MCHUGH: I thought
19 there were two. I'll just stop the motion
20 right there. Let me restate it.

21 That the Commission find that the
22 four factors required for a variance have been
23 met with respect to the timeliness of a
24 voluntary surrounding community designation

1 between an applicant and a surrounding
2 community. And that the time for the
3 Commission's acceptance of those voluntary
4 designations be extended by 21 days. Does that
5 do it?

6 MS. BLUE: I think that's correct.
7 And then the second piece of that would be that
8 we would accept surrounding community
9 agreements that were voluntarily entered into
10 after the deadline for filing the RFA-2
11 application.

12 COMMISSIONER MCHUGH: All right.
13 I'll make that clear and I'll add to that and
14 that we accept the surrounding community
15 designations between an applicant and a
16 surrounding community that are filed no later
17 than 21 days after the RFA-2 deadline.

18 MR. DAY: This is Category 2,
19 correct?

20 MS. BLUE: Yes, this is just
21 Category 2.

22 MR. DAY: Just Category 2.

23 COMMISSIONER MCHUGH: Did I say
24 Category 2, I meant two, Category 2.

1 MS. BLUE: I think what we'll do
2 because it's a very complicated section of the
3 regs., we can put this into a motion for you at
4 the next meeting that we can pass.

5 COMMISSIONER MCHUGH: Is that
6 timely? That will be a lot better. I usually
7 can wing it pretty good, but --

8 MS. BLUE: It's kind of technical.
9 So, we'll put it into a motion.

10 CHAIRMAN CROSBY: I've lost track of
11 what he was talking about.

12 Okay. John, another big issue here
13 is -- First of all, this is all moot if they
14 don't go into the arbitration process, right,
15 which is what we're hoping because this would
16 be horrible if we had to postpone the license a
17 month and a half from the ninth, which is our
18 plan to the 25th of February would be really
19 unfortunate. I guess we don't have any way to
20 handicap that at this point?

21 MR. ZIEMBA: I have daily
22 conversations with the applicants and many of
23 the communities. And I would handicap it by
24 hourly sometimes. If you talked to me

1 yesterday at this point, I would have been very
2 convinced that we would have a substantial
3 number of them done by the end of this week or
4 early part of next week.

5 As of earlier this morning, I was
6 hit with some pessimistic news. So, I'm going
7 the other way. But hopefully, that'll turn
8 around by tomorrow.

9 CHAIRMAN CROSBY: It is what it is.

10 MR. ZIEMBA: Daily meetings with
11 these communities, and one thing I will note is
12 that, and I think it is quite obvious when
13 communities make petitions for a surrounding
14 community status, there is no guarantee that
15 they're going to be designated as a surrounding
16 community. It is a petition that the
17 Commission will have to weigh very heavily the
18 arguments on both sides.

19 So, we have a number of agreements
20 that are hopefully being made by applicants and
21 communities. And there is some risk for both
22 applicants and communities if they don't reach
23 those agreements.

24 Applicants they have the risk of

1 going into an arbitration that they may
2 experience an award that they weren't
3 predicting. And for communities either they
4 could be not designated as a surrounding
5 community and thereby left without any
6 agreement or go onto an arbitration process
7 where they receive something that is much less.

8 So, that's just a reminder out there
9 that this process hopefully will reach results
10 not through the adversarial process.

11 COMMISSIONER MCHUGH: It's worth
12 noting, Mr. Chairman, that although I share,
13 and I think we all do the thought that it would
14 be too bad if this were pushed back to February
15 25 that that outside date has been a part of
16 the schedule since we discussed it last
17 February.

18 CHAIRMAN CROSBY: Right, I agree.

19 COMMISSIONER MCHUGH: Our hope had
20 been and remains that we don't have to go out
21 that far. But we built in that contingency and
22 had it in mind for a long time.

23 CHAIRMAN CROSBY: I agree. We know
24 that, I'm not sure the public does. And this

1 might be an opportunity to sort of remind
2 people that the January 9 is our deadline but
3 for this one set of factors, which is outside
4 our control. And that we could slip to as late
5 as the end of February if the communities and
6 the applicants can get their acts together.

7 COMMISSIONER MCHUGH: Right. It's
8 really beyond our control.

9 MR. ZIEMBA: So, to sort of finalize
10 the presentation for today. My memo reflects
11 the dates that Counsel Blue just talked about.
12 What we anticipate is that we would have
13 communities into the Commission next Thursday
14 on the 14th. Any communities or applicants
15 that want to provide further information to the
16 Commission regarding their petitions for
17 surrounding community status.

18 I've talked to a number of different
19 communities. It's not quite clear that all of
20 those communities will want to make further
21 presentation before the Commission. Some feel
22 that they did a very substantial job in their
23 written petitions. So, over the course of the
24 next week, we'll find out which communities

1 will want to participate in that hearing.

2 Then we are hoping that we can get
3 recommendations to the Commission on the 21st
4 for decision. And hopefully it's not the
5 current number of nine petitions but it is
6 something significantly less than that. The
7 process that we've identified for reviewing
8 those applications is included in that memo.
9 But it's a combination of internal resources,
10 staff resources, ombudsman's office, legal
11 office, the problem gaming and research office
12 in tandem with our consultants.

13 One thing I will note, obviously
14 there is going to be sort of very heavy
15 reliance upon the McFarland Group to do some of
16 the traffic analysis as that is the major
17 component of most of these applications.

18 One of the subcomponents, one of the
19 other topic areas is a housing related matter.
20 Many of these communities have raised concerns
21 regarding the impacts on housing and school-
22 aged children. That is something that we may
23 need to review a little bit further. We have
24 some pretty good advice from the regional

1 planning agencies, but not in all of the areas.

2 So we're exploring bringing on some
3 additional expertise to the Pinck and Co. crew
4 to do that. And we are working on the contract
5 logistics, which may require an amendment to
6 their contract to bring on a sub-consultant at
7 the same rates as Pinck and Co. but that may
8 require an amendment, but that's not up for
9 consideration today as it hasn't been noticed.

10 One thing I will talk about further
11 is that -- So, we have surrounding community
12 petitions. And then we have one involuntary
13 disbursements petition for a surrounding
14 community. That is a separate petition. Under
15 our regs., it was really anticipated that
16 communities would make petitions for funding
17 for the involuntary disbursements process
18 before our application deadline. This one has
19 come after our application deadline.

20 But what we have talked about with
21 the applicant and the community of Fitchburg is
22 that potentially that they come before the
23 Commission next Thursday and we could take a
24 look at that involuntary disbursement standard.

1 The standard for a review for an
2 involuntary disbursements petition under our
3 regs. is different from the review of
4 surrounding community petitions. Surrounding
5 community petitions standard review involves a
6 review of the application, review of the
7 traffic plan, review of the infrastructure
8 plan.

9 But the review of an involuntary
10 disbursements petition is pursuant to 205 CMR
11 114.03(2B), the Commission may take action on
12 the application either upon administrative
13 review of the filings or it may convene a
14 hearing on the application at which it may
15 allow presentations from the community and
16 applicant.

17 So, I don't know if it was really
18 anticipated that we do the full review for the
19 involuntary disbursements petition the way that
20 we will with a surrounding community petition.

21 The importance of that is obviously
22 there will be additional resources that will be
23 utilized for the surrounding community
24 petitions during the full review. But this

1 involuntary disbursements petition potentially
2 we could do it next week, but based on the
3 filings and the additional information that
4 they provide at that meeting.

5 This is an unexplored area,
6 obviously, because we anticipated involuntary
7 disbursements would occur before the
8 application but not after the application.
9 That approach is consistent with the regs.

10 MS. BLUE: It is consistent, yes.

11 CHAIRMAN CROSBY: Between now and
12 next Thursday, you're going to have utilized
13 all of those resources to make recommendations
14 on what?

15 MR. ZIEMBA: No. Between now and
16 the 21st.

17 CHAIRMAN CROSBY: Okay, there will
18 be presentations on the 14th.

19 MR. ZIEMBA: Yes, presentations on
20 the 14th by communities and applicants.

21 CHAIRMAN CROSBY: Are you going to
22 give us written recommendations that we'll be
23 able to then think about?

24 MR. ZIEMBA: We'll give you written

1 recommendations before the 21st, hopefully by
2 the 19th on however many are outstanding.
3 Potentially, if there is a possibility, maybe
4 we could give you some notes in advance of the
5 14th if that's possible. I'm not quite certain
6 that it is.

7 CHAIRMAN CROSBY: So, any
8 petitioning community or applicant that wants
9 to can come in on the 14th and make a
10 presentation.

11 MR. ZIEMBA: Yes. Even though we
12 only have one community that has made a request
13 in its petition to come and present to us, I
14 think that there probably should be some
15 consistency between the Category 2's and the
16 Category 1's. I think it is highly likely the
17 Category 1 surrounding communities would want
18 to make presentations before the Commission.

19 CHAIRMAN CROSBY: Okay. I don't
20 think we need a motion for that. I think that
21 sounds fine. That's what we were looking for.
22 Great.

23 MR. ZIEMBA: That's what I have.

24 CHAIRMAN CROSBY: Thank you, John.

1 What's next, I guess Director Day you can sort
2 of pick your poison here. Do you or Rick or
3 both?

4 MR. DAY: I think probably we should
5 put the regulations. If I understood
6 correctly, the process is we're still planning
7 on making sure -- we're planning on awarding a
8 license still January 10.

9 CHAIRMAN CROSBY: Correct.

10 MR. DAY: So, with that we need to
11 be prepared to have our regulations in place.
12 So, I would like Todd and David.

13 CHAIRMAN CROSBY: If we're going to
14 lose you at -- We do have this one other
15 business, new business item that wasn't
16 anticipated at the time of the agenda. I do
17 want to have Commissioner McHugh here for that.
18 So, if we get to 4:30, I think we better stop
19 and turn to that topic.

20 MR. DAY: Mr. Chairman, it is
21 obviously up to you, but I don't see any
22 particular problem if you want to move me all
23 of the way, my whole thing to next week that's
24 fine too.

1 CHAIRMAN CROSBY: I think the budget
2 update we really need to do. I would be okay,
3 application evaluation discussion that was --

4 MR. DAY: We do have some issues
5 with the evaluation questions for one thing,
6 but then we also have some questions about the
7 evaluation teams and apparent conflicts.

8 CHAIRMAN CROSBY: I think we should
9 try to do budget and that. And we can move the
10 other two.

11 MR. GROSSMAN: Good afternoon.

12 MR. ACOSTA: Good afternoon.
13 Commissioners, we are here once again to talk
14 about the draft regulations 205, 132 through
15 138. I just want to take a quick moment to
16 thank Counsel Grossman for the work that he's
17 done with respect to these regulations. This
18 is not a simple task. This is quite complex.
19 And I just wanted for the record to personally
20 thank Mr. Grossman here for the work that he's
21 done.

22 And with that, I think he will do
23 the highlights.

24 MR. GROSSMAN: Sure. The endgame

1 here would be that the Commission is
2 comfortable approving these regulations to move
3 forward in the promulgation process. If that
4 is the case, we would be able to have these
5 regulations in effect on January 3.

6 So, what you have before you or may
7 not have before you.

8 CHAIRMAN CROSBY: I don't have them
9 for some reason, but that's okay. It's all
10 right. I've got it all in my head.

11 MR. GROSSMAN: Exactly. You have
12 before you the whole set of regulations. And I
13 should just note that some of them are a work
14 in progress. We put in some things as
15 placeholders that we'll need to develop over
16 the course of the next few weeks if you are
17 comfortable with the concepts we are talking
18 about.

19 But given the hour here, I'll just
20 try to hit some of the highlights. And over
21 the course of the next few weeks, we can all
22 continue to sit down and discuss what we have
23 included in here with an eye towards a public
24 hearing on December 13, if all goes to plan.

1 So, after the conversation at your
2 last meeting, we added a new section in as
3 134.11. It deals with the registration
4 process. What we decided to do was pull it out
5 of the licensing. So, there's a clear
6 delineation between individuals who have to be
7 licensed and individuals who have to be
8 registered. And in effort to draw a brighter
9 line, as we talked about, we thought it would
10 be easier to have separate sections on the two.

11 The statute in fact deal with
12 registrations differently. In the analogy that
13 we've been using, just to kind of make it clear
14 and make sure we're all on the same page, is
15 that the registration process is designed
16 largely to be akin to that of the registration
17 process for motor vehicles. That is that you
18 tell us, you tell the registry who owns the car
19 and where it's going to be headquartered and
20 that is essentially the extent of it. They
21 don't get into how much they like the car and
22 stuff like that.

23 So, here we've set out a process
24 where people essentially are just being

1 registered, as distinguished from the licensing
2 process where there is more of a substantive
3 review. So, what I mean by that we will get
4 into in a moment. That was one of the key
5 distinctions between this version and the last
6 version.

7 We have on page seven, we added in
8 some new language that deals with gaming vendor
9 qualifiers. Essentially, what we have done, is
10 set out standards that the Commission can use
11 and the Bureau and the Division of Licensing
12 can use in identifying who the qualifiers to a
13 gaming vendor will be. Because before all we
14 had was essentially the statutory language
15 which talks about a five percent shareholder of
16 the common stock. Of course, vendors may not
17 all be corporations or entities in which stock
18 is issued. So, we have added in essentially
19 the same language that is included in the
20 regulations previous for the identification of
21 qualifiers to the casino applicants.

22 The reason, as you can see on the
23 screen for those of you who don't have a copy,
24 that we've highlighted some of the language. I

1 think the Commission needs to look at and we
2 need to talk about how in depth you want to
3 look at the individuals who would be deemed
4 qualifiers.

5 Here for example, in the highlighted
6 section, we talked about folks who may be
7 lenders, underwriters, close associates and
8 such of a gaming entity. So, the question is
9 are those the types of individuals or entities
10 that we are interested in having qualified as
11 an essential licensee to a gaming vendor.

12 It's a policy question. I don't
13 think there's any harm in leaving it in for the
14 time being unless you're prepared to talk about
15 it now. Although this might be a conversation
16 you need more time to really think about and
17 prepare for. But that's why it's highlighted
18 there. So, it's one thing to think about in
19 the future what the scope of a gaming vendor
20 qualifier would be.

21 Which takes us to page nine and the
22 waiver and exemption section. I just wanted to
23 point out, and this was added at the last
24 minute. We haven't had a chance to fully

1 develop it, if you will, but we've added it in
2 as a placeholder. There are indeed other
3 jurisdictions that have more fully formed rules
4 on this.

5 On the bottom you'll see an
6 exemption section. So, that there are certain
7 types of acts or activities that if performed
8 would take you outside the realm of an entity
9 that would have to be licensed as a vendor.

10 For example, and I just threw these
11 in really quickly. This is not an exhaustive
12 list. And in fact the descriptors would need
13 to be fleshed out far more than they are here.
14 For example, an entity that provides insurance
15 or 401(k) plans that does advertising, other
16 types of transactions, police details, things
17 like that where perhaps you would otherwise
18 qualify under the definitions of what a vendor
19 is that we talked about whether you'd be exempt
20 from having to be licensed for those certain
21 types of activities.

22 COMMISSIONER MCHUGH: Did you mean
23 activities?

24 MR. GROSSMAN: I did. In fact, yes.

1 So, it says there entities. It should be
2 activities. I think kind of the in the next
3 draft you'll see that section will be largely
4 redone. That's just kind of placeholder at the
5 moment.

6 The next number of pages starting on
7 page 10 -- Let me back up. On page 10, we have
8 a section for labor organizations. We need to
9 talk about, not necessarily right this second,
10 but at some point whether this is how we want
11 to handle the registration of labor
12 organizations. This is a model that we culled
13 together from a couple other jurisdictions.

14 There's a statute in the
15 Massachusetts Act, it's section 32 of chapter
16 23K, I believe, that basically gives the
17 Commission the authority to ensure that labor
18 organizations are registered. There's not a
19 lot of meat on those bones though. So, the
20 question is whether we have an interest in
21 flushing that out as we have here or not.

22 It could be a pure registration
23 where labor organizations merely have to give
24 their name and some minimal information as

1 opposed to here where you have to provide the
2 names of your officers, agents, principal
3 employees and the like. So, that is something
4 to keep in mind as we move through this process
5 as well.

6 After that starting on page 10 and
7 running through the next 15 pages ending on
8 page 23, we have the forms section. There is
9 one form here basically for each type of
10 license or registration that will be required.
11 So, this is a critical element here. And we
12 need to make sure that we set out any key
13 information that you're going to want to see.

14 I think we need to take another look
15 at some of the information we are requesting in
16 the forms to ensure as, just to pick up on the
17 conversation from last week, that it's all
18 meaningful information. That there are items
19 that we plan on making use of as part of the
20 investigation. It's not just busywork, if you
21 will. And we want to keep it as is.

22 Conversely that there's nothing
23 we've left out. This is where the heart of the
24 forms in the licensing process is centered.

1 If we forward then over to page 23,
2 we see at the bottom the submission of the
3 application. So, this section here just talks
4 about basically what has to be submitted. And
5 starting at the bottom of the page, you see
6 section one. It says the completed -- you have
7 to submit a number of things for each license
8 and registration. The first thing you have to
9 submit is in section one a form.

10 And we identify here in section one,
11 which form from the preceding section that you
12 have to submit. And it depends on which
13 license or registration you are seeking. So,
14 you would submit that specific form. You would
15 then also have to submit a passport style
16 photograph. You would have to get
17 fingerprinted and submit proof of your
18 fingerprinting, identification documents, any
19 applicable fee.

20 And now we are back at the issue
21 that we talked about once before which is
22 whether you will have to provide proof of an
23 offer of employment from a gaming licensee
24 pending your licensure and registration. So,

1 that's where that is.

2 I don't know if it is something you
3 want to talk about now or later. But obviously
4 at some point we'll have to make a decision as
5 to whether to keep that in there.

6 What we have done, and by we, I
7 don't know if we talked about it, so I take
8 responsibility for this, is limit it to just
9 the key gaming employees, the gaming employees
10 and the gaming service employees. So, the way
11 it's drafted, the vendors wouldn't have to
12 demonstrate any proof of employment or anything
13 like that.

14 CHAIRMAN CROSBY: You know, that's
15 one where I'd love to hear different arguments
16 from the industry too. I don't feel like I've
17 really thought that through. I don't know
18 exactly how to think that through. You've had
19 experience with it. So, I guess you know how
20 the industry would react. But it might be
21 something that we could get feedback from the
22 applicants on.

23 COMMISSIONER ZUNIGA: I suspect we
24 will when we post this for public comments.

1 COMMISSIONER MCHUGH: I have that
2 feeling with respect to a lot of them as well.

3 MR. GROSSMAN: Speaking of which, we
4 are getting into kind of the meat and potatoes
5 here. And this is where I think we'll get a
6 lot of comments from all of you, the next
7 section which deals with the process.

8 So, that's page 25, 134.09, it talks
9 about how the applications essentially will be
10 processed, your rights of appeal, things of
11 that nature. And we'll get to this in a
12 moment, but I would just flag for you that in
13 the following two sections, sections 10 and 11,
14 we talk about the affirmative standards of
15 licensure. That gets to the discussion that we
16 had last week about how in depth we want to see
17 the investigations and things like that.

18 But for purposes of this section,
19 09, we are just talking about the process
20 itself. And we broke it up by the different
21 types of licensure and registration as you'll
22 see. It goes one through five. It's broken
23 down into the keys and the gaming employees,
24 the gaming service employees, the vendors and

1 the vendor qualifiers, the non-gaming vendors
2 and the labor organizations.

3 There are a lot of similarities in
4 the process between the keys and the gaming
5 employees and the gaming vendors. Those are
6 all kind of dealt with one way. And then the
7 registrations are dealt with slightly
8 differently. And it all comes back to the
9 nature of the investigation and the standard of
10 proof.

11 So, one of the ways that we're able
12 to differentiate the registration from the
13 licensure is in fact the standard of proof
14 that's required. The statute talks about
15 applicants for the licenses having to
16 demonstrate their suitability by clear and
17 convincing evidence. It's very similar to the
18 RFA-1 process.

19 Such language does not exist to the
20 best of my reading when it comes to
21 registrations. And I think that was done for
22 the reasons that we discussed last week, which
23 was that the Legislature didn't intend to hold
24 the registrants to that same burden.

1 So, what we've done, we'll get to
2 that in a moment, to account for that is said
3 that the registrations will be presumptively
4 issued. The applicants don't have to initially
5 meet any burden of proof for the issuance of
6 the registration.

7 Whereas in contrast, and this is
8 what we talk about here, in order to be issued
9 a license you have to meet your burden of
10 proof, you go through the investigation and
11 then your license is issued. So, it's handled
12 in a different way. There is no presumption
13 that you'll be issued a license. You first
14 have to go through the background check to get
15 the licenses.

16 So, just some of the highlights here
17 real quick are when it comes to keys. As
18 you'll recall, we set out two different type --
19 We've broken down the key gaming employees into
20 two categories. And we've talked about
21 renaming one of them because a number of people
22 have voiced some level of concern over the
23 title. The way it presently reads is that we
24 have key qualifiers and keys.

1 So, the term key will probably be
2 modified with some other term one way or
3 another to set it out. But the key qualifiers
4 are the individuals at the very upper end of
5 the casino, the principles, folks of that
6 nature. And the way the system is presently
7 set up, if the Bureau or Division of Licensing
8 were to determine that that individual has what
9 we'll call a clean application and nothing has
10 come up in the background check. The person is
11 suitable. Then they could recommend, make a
12 recommendation of approval of the license.

13 For the key qualifiers, they would
14 then have to forward that recommendation along
15 with the application to the Commission. And
16 only the Commission could then issue a key
17 qualifier license. So, those are the very
18 upper level licenses.

19 As opposed to the keys and the
20 gaming employee licenses, where if the Bureau
21 or the Division were to find that an applicant
22 has met their burden of proof and demonstrated
23 their suitability that the Commission would
24 allow for the Division or Bureau to issue those

1 licenses on their own without Commission
2 review.

3 So, that's one of the key
4 distinctions between the key qualifiers and the
5 keys gaming employees. That's what this says
6 presently. All of this of course is subject
7 to modification. But that's how this was
8 designed.

9 The gaming vendors were designed in
10 a similar way. So, the gaming vendors would
11 have to go through a similar process to the key
12 qualifiers. And that is that if the Division
13 or the Bureau were to find that the applicant
14 had met its burden of proof of demonstrating
15 its suitability, it would recommend approval of
16 the license.

17 It would then forward that approval,
18 the recommended approval, along with the
19 application to the Commission. And then only
20 the Commission could issue a gaming vendor
21 license.

22 I think we did the same thing with
23 the gaming vendor qualifiers. I think they
24 also fall into that category that only the

1 Commission could sign off on that. As opposed
2 to the gaming employees and all of the
3 registrations, which the Division and the
4 Bureau would have authority to issue on their
5 own without Commission review.

6 So, that's if everything comes out
7 and people have -- entities have met their
8 burden of proof. If entities have not met
9 their burden of proof, it's a very similar
10 process we've set up for everyone. This again
11 is all kind of born out of what the statute
12 says. This is section 30 and 31, which talks
13 about licensing of employees and vendors
14 respectively.

15 Essentially, what the regulations
16 say is that if the Bureau finds that an
17 applicant for a key gaming license or a gaming
18 employee license or a gaming vendor license
19 have not met their burden of proof, they will
20 deny the application in writing to the
21 individual or entity.

22 Now this is without any hearing or
23 anything like that. If something has come up
24 in the background check, whether it's a

1 criminal conviction or some other issue, which
2 we can get to in a second. They will deny it
3 in writing. They'll advise the individual or
4 entity the basis for the decision. And advise
5 that the individual has a right of appeal.

6 By statute, that right of appeal is
7 to the Bureau. So, we'll have to discuss, but
8 the way it's presently set up, the Bureau would
9 appoint a hearing officer, who would then
10 adjudicate these appeals that would come in.

11 At that point, the hearing officer
12 could affirm the decision, in which case the
13 hearing officer would issue a decision to the
14 applicant telling them that still the
15 application is denied. And advising them at
16 that point that they have a right of appeal to
17 the Commission. So, everyone can take the
18 appeal all the way up to the Commission.

19 The way this is a setup, based on
20 what the statute says, it would be essentially
21 an administrative appeal on the record. So,
22 you would not be sitting at a public meeting
23 and have witnesses coming in and testifying on
24 these licenses.

1 It would be a review of the record
2 to determine essentially whether the decision
3 was arbitrary and capricious, things of that
4 nature. We wrote that in. That's on page 27.
5 Everything I'm talking about is basically on
6 pages 25, 26 and 27.

7 And essentially what we have done
8 for purposes of the Commission adjudication of
9 the final appeals, if you will, is looked to
10 Chapter 30A, I think it's section 14, which
11 talks about how courts adjudicate 30A appeals.
12 And we pulled out some of those reasonings, and
13 we said that essentially the Commission will
14 just look to whether a decision was made in
15 excess of authority based on error of law
16 whether it was arbitrary and capricious,
17 unsupported by the evidence, things like that.

18 So, if you were to find that the
19 hearing officer was mistaken or made an error,
20 then you could overturn that decision. So,
21 that would be for denials on the papers by the
22 Bureau and then by the hearing officer.

23 If the hearing officer were to
24 conduct an appeal hearing and decide that the

1 person's license should be issued, then the
2 Bureau again would have the authority to issue
3 the license for gaming employees and for key
4 employees. But key qualifiers again, and
5 gaming vendors they can only make the
6 recommendation that the Commission issue a
7 license.

8 CHAIRMAN CROSBY: Todd, excuse me.
9 We've got about five minutes before 4:30. Are
10 you going to be more than that?

11 MR. GROSSMAN: Perhaps, only because
12 we're going to get to kind of the registration
13 situation. That might take a few more minutes.

14 CHAIRMAN CROSBY: I want to talk
15 about the unanticipated issue and that's
16 important. So, maybe we should stop for a
17 minute and bring that up. Catherine, do you
18 want to lead us on this?

19 MS. BLUE: So, late in the day
20 yesterday we received a petition from the town
21 of Hopkinton to intervene in the Crossroads
22 suitability proceeding. That proceeding is
23 scheduled for next Wednesday, November 13. If
24 the Commission would like, I can go a little

1 bit through the standards for the decision and
2 what you need to consider. But we thought it
3 was appropriate that since that hearing was so
4 close that we take this up at this Commission
5 meeting.

6 Pursuant to this Commission's
7 regulations, we've adopted the regulations
8 found in 801 CMR 1.00. Those are the rules for
9 formal hearings in an adjudicatory process.

10 Under those rules, any party not initially a
11 party to a proceeding who may be substantially
12 and specifically affected and wishes to
13 intervene shall file a petition with the
14 presiding officer to ask for their permission
15 to intervene.

16 In the case of the Commission,
17 because the Commission hears all suitability
18 hearings as a Commission of the whole, the
19 presiding officer in that case is the entire
20 Commission. So, it would be up to vote of the
21 Commission to determine whether to allow this
22 petition to intervene.

23 Under the Commission's regulations,
24 only the aggrieved applicant has automatic

1 standing. So, there are no other individuals
2 or parties that have standing in a suitability
3 proceeding unless the Commission in its
4 discretion determines to grant the right to
5 intervene.

6 The consideration that the
7 Commission needs to think about is whether in
8 fact the town of Hopkinton is specifically and
9 substantially affected by the suitability
10 determination. I would suggest to the
11 Commission that a suitability determination is
12 solely for the purpose of determining whether
13 an applicant is suitable and may proceed to
14 file an RFA-2 application.

15 This determination does not
16 specifically or substantially affect any
17 particular surrounding community. It does, of
18 course, affect the applicant. The reasons --

19 CHAIRMAN CROSBY: It clearly has an
20 effect on a surrounding community because if
21 the suitability is denied, there is no impact
22 on the surrounding community. If it isn't
23 denied, there is an impact on the surrounding
24 community.

1 MS. BLUE: The impact to the
2 surrounding community, if the applicant is
3 found suitable, isn't any different than it
4 would be under the regulations and under the
5 statute. All surrounding communities have the
6 opportunity and you could say the obligation to
7 negotiate some sort of an agreement with the
8 applicant. And if they fail to be able to do
9 that then there is a process set up by the
10 Commission to go through arbitration.

11 The process is the same. There is
12 yes, if the applicant is not suitable then the
13 process ends. So, the surrounding community
14 then has no further activity. But assuming
15 that an applicant is suitable, all surrounding
16 communities are faced with the same type of
17 impact in terms of they have to negotiate some
18 sort of an agreement.

19 COMMISSIONER ZUNIGA: I would argue
20 that perhaps you already did, surrounding
21 communities are affected by a casino coming to
22 their neighborhoods, not by the determination
23 of suitability of applicants.

24 That really affects the applicants

1 which is your point.

2 MS. BLUE: I think that's correct.

3 COMMISSIONER MCHUGH: It is true, is
4 it not that under our regulation, the
5 substantial impact criteria is what triggers
6 the Commission's discretion. It does not
7 mandate that a community that's substantially
8 impacted be given party status -- be given
9 permission to intervene.

10 MS. BLUE: No, that's correct. It
11 is in the sole discretion of the Commission to
12 make the determination. Substantial and
13 specific impact is one of the things that can
14 be considered, but that doesn't necessarily
15 require that they be given permission to
16 intervene.

17 COMMISSIONER MCHUGH: Right.

18 CHAIRMAN CROSBY: I got the letter
19 last night, but I hadn't read it yet. Does the
20 letter offer any reasons, any substantive
21 reasons that they have something to contribute
22 that can't be contributed in the letter or in
23 some other venue? Is there any policy reason
24 why we should do this presented?

1 MS. BLUE: No. In the petition
2 itself, it describes the impact as being the
3 necessity to be negotiate a surrounding
4 community agreement. That's what they say is
5 their substantial and specific impact.

6 But in this particular case, there
7 really isn't anything that can't be given to
8 the Commission either through written comments,
9 which we have asked for or through a meeting
10 with the IEB, which this particular petitioner
11 has had regarding comments on this application.
12 And will be able to provide comments in the
13 future at both surrounding community meetings
14 and the meeting in the host community.

15 So, there are other points in the
16 process where this particular petitioner can
17 provide comments. And those opportunities have
18 existed and will continue to exist in the
19 future.

20 COMMISSIONER MCHUGH: That for me is
21 the key question. Is this petitioner in a
22 position to offer a perspective, input,
23 information that can't be obtained from anybody
24 else? The qualification issue is one that is

1 committed to the IEB.

2 The IEB has in each case and I think
3 our prior hearings demonstrate that in each
4 case has been carried out intensively,
5 intrusively, thoroughly, and has surfaced
6 issues that have been put before the Commission
7 for the Commission's decision. We have not had
8 in the past, I think, an issue that was not
9 raised by the IEB that ultimately bore on our
10 decisions.

11 In addition to that, as you rightly
12 point out, anybody in the public has the right
13 to bring to the attention of the IEB and
14 directly to us particular pieces of information
15 that they have that they think bears on the
16 suitability issue.

17 In fact, this applicant has already
18 done so through letters and other kinds of
19 things that I think -- has already been done
20 so. So, it seems to me that there is little
21 new -- there is nothing new, let me make it
22 more definitive, that this petitioner can add
23 to the presentations that we will have next
24 week. And if it feels that something has been

1 omitted, they still have the right before we
2 make our decision to let us know.

3 And it seems to me further that one
4 of the things we have to be very careful to do
5 in this suitability determination is keep the
6 focus on the facts not on ideas about gambling,
7 not on ideals about ideas and opinions, about
8 the utility of a casino in a given location,
9 not about the benefits and detriments of casino
10 gambling or this casino.

11 We've been rigorous about that and
12 we've been focused about that. And we've kept
13 our eye on the ball as has the IEB. And I
14 think we need to keep our eye on the ball and
15 keep that focus narrowly on the qualifications
16 to proceed.

17 And I don't think that allowing this
18 applicant to participate would help us do that.
19 And in general, it seems to me that the kind of
20 focus that understandably, understandably many
21 surrounding communities or potential
22 surrounding communities have is much better
23 brought to bear on the RFA-2 process when we
24 are considering all of those issues but not the

1 narrow factual issue of qualification, period.

2 MS. BLUE: I would just like to add
3 one other piece of information, which is we did
4 ask for comments on this specific applicant.
5 The deadline that we put for those comments is
6 November 12, which is next Tuesday. There is
7 some time for this petitioner to submit
8 comments for that particular suitability
9 proceeding. But also recognize that if they
10 came in after the fact, we would certainly
11 review them. And we would circulate them to
12 the Commission.

13 CHAIRMAN CROSBY: Which we've said
14 repeatedly. The suitability is a snapshot in
15 time. It's always subject to review.

16 Did you by any chance have an
17 opportunity to ask Director Wells whether she
18 thought there was any reason why their
19 discussion with this community didn't do the
20 job? Did she think there was any reason why
21 they need to come before us?

22 MS. BLUE: I didn't ask her
23 specifically about this petition, but I did ask
24 her about the meeting she had with this

1 applicant. She did assure me that she was very
2 forthright and forthcoming with them about
3 whenever they had comments, she would accept
4 them. She asked them for the comments at that
5 time and told them she would accept them at any
6 time in the future. And she has not received
7 anything in addition to what she has already
8 gotten through her investigation.

9 COMMISSIONER STEBBINS: Do we need a
10 motion to deny this petition?

11 MS. BLUE: Yes, a motion and vote.

12 COMMISSIONER STEBBINS: Mr. Chair, I
13 move that the Commission deny the petition to
14 intervene as offered by the representatives
15 from the town of Hopkinton.

16 CHAIRMAN CROSBY: Second?

17 COMMISSIONER CAMERON: Second.

18 CHAIRMAN CROSBY: Any further
19 discussion? All in favor of the motion, aye.

20 COMMISSIONER STEBBINS: Aye.

21 COMMISSIONER ZUNIGA: Aye.

22 COMMISSIONER MCHUGH: Aye.

23 COMMISSIONER CAMERON: Aye.

24 CHAIRMAN CROSBY: Opposed? The ayes

1 have it unanimously. Will you respond to that,
2 Catherine, the letter?

3 MS. BLUE: Yes, I will send a
4 response to their attorney.

5 CHAIRMAN CROSBY: Thank you. Okay,
6 gentlemen, back to you with an eye to the
7 clock.

8 MR. GROSSMAN: Right. Okay. So,
9 when we last left off, we were talking about
10 the appeal process. We can move on from that.
11 The only thing I would note at this point, I'm
12 on the bottom of page 26 now where I make
13 reference there to the informal fair hearings
14 rules for the hearings.

15 And the way it's written here, it
16 would pertain to all of these hearings. And
17 the existing language of the regulations that
18 have already been promulgated make reference to
19 some of these being conducted under the formal
20 fair hearings rules.

21 So, I circulated for your review
22 last evening a separate document that proposes
23 amendments to the existing regulations. Again,
24 you don't have to make this decision right this

1 moment, but I just wanted to include this as
2 part of the presentation so we could get it
3 moving through the process. Where we would
4 essentially delete the references to making
5 these hearings conducted under the formal
6 rules.

7 COMMISSIONER MCHUGH: I don't
8 understand that. Is that the amendments to 205
9 CMR 101 and 112?

10 MR. GROSSMAN: Yes.

11 COMMISSIONER MCHUGH: Why are we
12 striking the hearings before the Bureau and
13 special proceedings hearings?

14 MR. GROSSMAN: The hearings before
15 the Bureau talk about the four kinds of
16 hearings that we talked about here on page 25
17 through 27. And all it really does is it says
18 that the hearings shall be -- some of them
19 should be conducted under the formal rules;
20 some of them should be conducted under the
21 informal rules.

22 I would suggest that it's a better
23 practice to conduct these types of hearings
24 under the informal rules. So, for that

1 purpose, I'd recommend that we delete the
2 reference to the formal rules.

3 As far as deleting the whole thing
4 is concerned, I think it's better placed here
5 along with the process as opposed to having it
6 in a separate section where we talk about how
7 the hearings would be conducted.

8 COMMISSIONER MCHUGH: But in the
9 earlier section, it applies to any hearing
10 before the Commission can take one of these
11 forms, right?

12 MR. GROSSMAN: There are two other
13 sections, 01 and 03 which I didn't include here
14 which talk about hearings before the
15 Commission, which are different. For example,
16 the RFA-1 hearings we're presently conducting
17 are conducted under the formal rules. We're
18 not touching that.

19 COMMISSIONER MCHUGH: But aren't
20 there other hearings before the Bureau other
21 than licensing hearings?

22 MR. GROSSMAN: Well, these are the
23 only ones that are talked about in the
24 regulations. There could reasonably be other

1 hearings, I suppose.

2 COMMISSIONER MCHUGH: Talked about
3 in the regulations, there's no other statutory
4 hearings before the Bureau?

5 MR. GROSSMAN: There will be some
6 that we talk about at the end of these regs.,
7 disciplinary type hearings.

8 COMMISSIONER MCHUGH: Right.

9 MR. GROSSMAN: But those aren't
10 referenced in 101.

11 COMMISSIONER MCHUGH: I guess my
12 only point is that this section is a licensing
13 section.

14 MR. GROSSMAN: Right.

15 COMMISSIONER MCHUGH: And if we're
16 going to hearings before the Bureau for other
17 than licensing purposes, and I think we are,
18 then doesn't it make sense to have the hearing
19 section in a section that has hearing
20 regulations, generally? I throw that out.

21 MR. GROSSMAN: It would. We should
22 definitely look at this. This was just kind of
23 again I put it out here because if we don't
24 move an amendment to this section through the

1 process, we may have procedural problems coming
2 back and trying to amend this section. So, we
3 are flagging the issue now. We can always by
4 the time we get to the public hearing not do
5 this.

6 COMMISSIONER MCHUGH: Okay, that's
7 enough. The hour is late. I just want to flag
8 that because I'd like to give that a second
9 thought.

10 MR. GROSSMAN: Absolutely. That's
11 essentially the hearing process. Again, we can
12 all sit down and talk about this on an
13 individual basis just so you are all clear as
14 to what the regulations say, the draft
15 regulations I should say.

16 Sections 10 and 11 talk about the
17 affirmative standards. These by and large come
18 right out of the statute. They reflect
19 sections 12 and 16 of Chapter 23K.

20 Section 12 talks about the
21 suitability standards and the reputation.
22 Sixteen talks about the criminal offenses.

23 As far as the licensing side of
24 things we basically say -- we do say, not

1 basically, that the Bureau shall evaluate and
2 consider all of the following things: the
3 integrity, honesty, good character, financial
4 stability, things along those lines that the
5 statute makes reference to.

6 We've added in a few other things.
7 And one in particular I'd like to draw your
8 attention to that's not referenced in the
9 statute but otherwise it's not captured. So,
10 it is something that we need to think about.

11 That is, so we've on page 28 here,
12 it's B-6, there's a similar provision in the
13 next section. It talks about looking at
14 whether the applicant has been convicted of a
15 crime of moral turpitude. So, when we look at
16 someone's criminal record, all the statute
17 talks about are disqualifies for felony
18 convictions and then crimes related to perjury,
19 theft and fraud type issues. It doesn't
20 include anything else.

21 So, the question becomes whether you
22 want to limit the review to just those issues
23 or to everything else. So, by including this
24 moral turpitude provision in here, it would

1 allow you to look at that. We would obviously
2 have to be clear on what crimes of moral
3 turpitude are. We have a chart that we can
4 look at. There are a number of ways to go
5 about doing that. I just wanted to note that
6 is not in the statute. That was something that
7 was added in. I think there are a number of
8 other jurisdictions that have similar language
9 in there.

10 CHAIRMAN CROSBY: What is moral
11 turpitude?

12 MR. GROSSMAN: It's obviously one of
13 those things that is probably somewhat
14 difficult to define, the term.

15 CHAIRMAN CROSBY: But you know it
16 when you see it?

17 MR. GROSSMAN: But you know it when
18 you see it. What I've done in the past and
19 been a part of is taking a list of every crime
20 there is in the Commonwealth and actually
21 identifying which crimes are crimes of moral
22 turpitude.

23 So, you know very directly if you've
24 been convicted of this, this is a crime of

1 moral turpitude. So, it's not a matter of
2 looking at a record and trying to figure out
3 whether it is or isn't. So, there are ways to
4 deal with it. This is one way to make sure
5 that we have some way to look at convictions
6 that appear on someone's record and take action
7 if we want. Without it you'd have to perhaps
8 bootstrap it in some other way. So, this is
9 just a more distinct way to do that.

10 CHAIRMAN CROSBY: Okay.

11 COMMISSIONER ZUNIGA: And moral
12 turpitude is included for registrants?

13 MR. GROSSMAN: It is. Why don't we
14 kind of move over there and I'll show you kind
15 of the distinction as to how these two sections
16 work. And then there are a couple of other
17 things too.

18 One of the distinctions we're able
19 to draw between licenses and registrations was
20 in the review of these types of things.
21 Basically, where in the licensing section it
22 says that the Bureau and the Division shall
23 consider those things, we wrote into the
24 registration section that, this is on the

1 bottom of page 29C, that the Bureau may
2 consider these things.

3 So, if it were to do a review after
4 the issuance of the registration and something
5 comes up, it has a way to take action. And in
6 fact, that is consistent with section 16 of the
7 statute, which allows the Commission to take
8 action for these types of issues. But at the
9 same time recognizes the distinction between a
10 license and a registration.

11 So, it's the shall versus the may.
12 We also factor in the presumptive issuance
13 versus meeting the burden. So, there are all
14 of these different ways that we're trying to
15 delineate between the license and the
16 registration.

17 The other area that I would just
18 draw your attention to are the criminal offense
19 reviews. And the statute is clear, again this
20 is section 16, when it comes to the delineated
21 crimes. That if you are an applicant for a key
22 gaming employee license and you've been
23 convicted of those crimes, it's an automatic
24 disqualifier. At least this is my read of the

1 statute, but this is something that we should
2 obviously take a look at.

3 So, the regulations reflect that.
4 That essentially if the Bureau denies your
5 license application on the basis that you have
6 been convicted of one of these disqualifying
7 crimes, you have no right of appeal to anybody
8 from that. I suppose you could argue that it
9 wasn't you, but aside from that you can't argue
10 rehabilitation. That's the point.

11 Whereas if you have been convicted
12 of one of those crimes, there are certain
13 circumstances under which you may be able to
14 argue rehabilitation. And that's something
15 else that needs to be talked about. The plain
16 reading of section 16 is that you can only
17 argue rehabilitation for one of those crimes,
18 the felony, the perjury and theft, if the
19 conviction was greater than 10 years prior to
20 the date of the submission of the application.
21 That's my reading of the statute.

22 There is a, I don't want to
23 necessarily call it a conflicting provision,
24 but if you look at section 30, it talks about

1 the fact that it's in the Commission's
2 discretion as to whether to allow the issuance
3 of a license based upon rehabilitation. It
4 doesn't include that 10-year language. So,
5 whether that was intentional or not, it's hard
6 to say. But it's something that we need to
7 look at closely.

8 The way the regulations are
9 presently written though, it includes the 10-
10 year period. So, if you have been convicted of
11 one of those crimes, you can only demonstrate
12 rehabilitation if it was greater than 10 years
13 ago. Whereas for crimes of moral turpitude we
14 built in that you can demonstrate
15 rehabilitation at any time.

16 Moving onto page 31, we talk about
17 temporary licenses. This will be, as I now
18 understand, a key provision. This applies to
19 gaming employees and to key gaming employees.
20 And based upon the amount of time it will take
21 to conduct a background investigation, it will
22 become important my understanding is, and David
23 can address this issue probably a little better
24 than I, but many if not all applicants will at

1 some period or point need a temporary license
2 so they can begin working while we're
3 conducting a background check.

4 The statute talks about some of the
5 areas that have to be included in the review.
6 The one thing it does not include is the
7 section C, which is in red there. And as you
8 can see, it is not very well defined. It's
9 just added in at the end is what the standard
10 will be that the Commission will look at to
11 determine whether to issue a temporary license.
12 Whether it's presumptive, whether it's a
13 reasonable likelihood of success type of
14 standard or something along those lines. I
15 haven't had a chance to look at other
16 jurisdictions to see how that is done. But I
17 think that will be a key.

18 One of the other issues, and the
19 reason this is highlighted in yellow is that
20 the statute talks about the petition coming to
21 the Commission. So, if there's a great volume
22 of these, some consideration should be paid to
23 whether that type of delegation is made to the
24 Bureau and the Division as well or whether you

1 want to see all of these temporary license
2 petitions come in.

3 On page 32, we talk about the fees.

4 MR. ACOSTA: With respect to the
5 fees, keys will be charged \$1000 and they will
6 be subject to any additional billings based on
7 the hours required to complete the
8 investigation if they exceed \$1000. The
9 average fees in other states for keys run about
10 \$2500. I don't expect that figure to really
11 change significantly here in the amount of time
12 it will require to complete a key background
13 investigation. Based on my experience, we'll
14 suggest that the average cost would be in the
15 \$2500 range.

16 The \$1000 represents an initial
17 deposit towards the final cost. The final cost
18 being determined by number of hours required to
19 complete that background investigation.

20 Gaming licenses will be \$300 for
21 three years. That is comparable to other
22 states. It's actually less than some states.
23 It probably falls in the middle or lower
24 middle.

1 Gaming service employee registration
2 is \$75, \$75 every five years. I think it's
3 pretty reasonable. That of course incurs at a
4 minimum of \$75 will cover some of the basic
5 costs of the fingerprinting and some of the
6 basic background investigation.

7 Gaming vendors, there will be an
8 initial deposit of \$10,000. And again similar
9 to the keys, they will be subject to any
10 additional costs based on an hourly rate to
11 complete the background investigation.

12 Gaming vendors, in particular the
13 bigger companies, background investigation will
14 probably be in the \$20,000 range. In the prior
15 state that I worked in, application when it was
16 all said and done was at a minimum of \$25,000.
17 And it did not include the cost for its
18 qualifiers. That was an additional \$2500 per
19 qualifier.

20 So, the gaming company could very
21 easily be paying between \$30-\$40,000 when it
22 was all said and done. In this particular
23 case, we're looking at \$10,000. One thing that
24 should be noted the non-gaming vendors, we're

1 asking for \$100 registration. The statute is
2 clear that if you do a certain level of
3 business that you will then qualify or be
4 classified as a gaming vendors.

5 So, you will be looking at a number
6 of non-gaming vendors that will be subject to
7 fees and conditions of a gaming vendor. That
8 will be the \$10,000 initial deposit and subject
9 to the additional costs.

10 Labor registration is \$200. The
11 other cost there is to replace the actual
12 credential, which is \$10. Late fees is a model
13 that we are looking at. With respect to
14 renewal applications, we are looking at other
15 states how they practice that. We haven't come
16 up with what a reasonable fee is and what kind
17 of scheme. So, while it's notated there, there
18 is no value associated with it.

19 MR. GROSSMAN: Part and parcel of
20 that is the terms of licenses. Essentially,
21 they are all at the three-year levels that the
22 Commission discussed previously with the one
23 exception that's the gaming service employees.
24 That was adjusted to five years to give those

1 folks a little extra time. This is all again
2 subject to further consideration. But that's
3 what's contained in the draft.

4 There's nothing else in here that's
5 tremendously exciting.

6 COMMISSIONER ZUNIGA: I have a
7 general question or a high-level question. All
8 of the scrutiny that goes into the gaming
9 vendors, as it's here laid out, all of the
10 partners and all of the officers, which would
11 appear to me that is the same for many other
12 jurisdictions. As well as the fees when you
13 put them all together per company, per
14 qualifier, doesn't that really result in a
15 consolidation of this industry?

16 These vendors are becoming
17 essentially just very few because they have to
18 be licensed in multiple jurisdictions. And
19 they're the only ones that can afford to go
20 through the scrutiny and the costs. Is that a
21 fair statement?

22 MR. ACOSTA: I think it is a fair
23 statement. Right now there is only a few out
24 there. I think for us to make a decision

1 because there's only a few there, I'm not sure
2 how you can work it any differently. Because
3 there's only so many people making slot
4 machines. There's only so many people making
5 these types of gaming equipment that would come
6 to this agency to apply for that type of
7 license.

8 COMMISSIONER ZUNIGA: And it's a
9 rhetorical question or if you'd pardon the hour
10 this late of the hour. I guess I'm wondering
11 what is the real end purpose. You mentioned
12 the word busywork, and I appreciate that. Are
13 we doing anything close to that when we're
14 thinking about the level of scrutiny that we're
15 going to do on a few companies that are out
16 there because they're the only ones capable to
17 do this, both go through the scrutiny and pay
18 the fees that are required? This is not a
19 regulation question.

20 MR. GROSSMAN: I would just make one
21 note for everybody, there is a provision in
22 here which is based on a provision of the
23 statute which deals with reciprocity for
24 vendors. That is something we should also look

1 at and make sure we have a process in place
2 that would allow the Commission to accept a
3 vendor license from another state here. And
4 what type of scrutiny you'd want to pay to
5 someone like that. So, perhaps you don't go
6 through the full background check again.

7 There are standards in here that we
8 can take a look at. I assume that is an
9 account of your very question.

10 MR. ACOSTA: I don't understand that
11 the reciprocity rule would encourage new
12 business or to expand the business pool. I
13 don't know if it's fair for Massachusetts to
14 just simply charge a company \$10,000, the next
15 day to overtly charge \$25,000 just because we
16 established some kind of a system that allows
17 for the \$10,000 to be the amount that is
18 charged for this company.

19 COMMISSIONER ZUNIGA: I am not
20 interested in the delta between what we may be
21 charging or others are. I am more just really
22 wondering as to the ultimate purpose. If in
23 the end there is only a few companies that get
24 to be licensed because they are the only ones

1 that can first conduct business in the gaming
2 world and then secondly, be able to withstand
3 the scrutiny and pay the fees.

4 CHAIRMAN CROSBY: I don't
5 understand.

6 COMMISSIONER ZUNIGA: Are
7 regulations like this times every other
8 jurisdiction resulting in very few companies
9 being able to -- vendors being able to be
10 licensed. Which then in my view what's the
11 purpose of going through this investigation yet
12 one more time if they've already been through
13 all of this.

14 CHAIRMAN CROSBY: Wouldn't this
15 reciprocity do it? Whether we're having an
16 influence on the industry or not, I don't know
17 and I don't know that it makes a difference.

18 But the reciprocity -- If 10 other
19 jurisdictions have done this very recently, I
20 would argue it's pretty silly for us to do it
21 all over again, particularly if some of those
22 jurisdictions are jurisdictions whose systems
23 we know and have trust in and have confidence
24 in, we ought to have pretty hard close working

1 reciprocity agreements.

2 I agree it's kind of silly to have
3 everybody doing the same thing over and over
4 and over again if somebody had to pay for it
5 each time.

6 I had a question. In
7 multijurisdictional, personal history forms for
8 key qualifiers and vendor qualifiers. Oh,
9 vendor qualifiers. But the vendors themselves,
10 do they use the business background, the same
11 business background form that we use for
12 licensees, for applicants?

13 MR. ACOSTA: It's a condensed
14 version of that, but it's similar.

15 CHAIRMAN CROSBY: I didn't see a
16 reference to that. I can't help commenting
17 that I can't imagine how we can do the vendor
18 qualifications for \$25,000 and for a company
19 it's \$1.5 million. It's not like it's 10 times
20 \$25,000 it's like 100 times. It just doesn't
21 make sense. How can you do a reasonable
22 background somewhat similar to what we've been
23 doing and do it for \$25,000? Or how the hell
24 are we spending \$1.5 million to do it on the

1 other license? I just don't get that. It's
2 such a huge discrepancy. It's almost worth
3 looking into, I think. I don't understand.
4 It's a massive disconnect in the numbers.

5 COMMISSIONER CAMERON: I don't think
6 it's the same background investigation. It's
7 not the level of personal interviews, the level
8 follow-up on everyone else they do business
9 with. I don't believe it's the same
10 investigation. It's we're strictly looking at
11 that company and those qualifiers. It's not
12 the same investigation.

13 CHAIRMAN CROSBY: Well, it's clearly
14 not the same investigation. But the order of
15 magnitude is so enormous. The least expensive,
16 simplest background is what \$600,000 or
17 something like that?

18 COMMISSIONER ZUNIGA: Yes. Our
19 average was more like \$750,000 but they have
20 gone up recently.

21 COMMISSIONER CAMERON: So much more
22 complicated, all of it. The financial
23 partners, there's just so much more to it.

24 CHAIRMAN CROSBY: Some of them, it

1 just strikes me as really -- Okay, anything
2 else?

3 MR. GROSSMAN: If there are no
4 further questions, then again, I would
5 reiterate that we could shoot for a public
6 hearing on these regulations on December 13.
7 We can start to send out the notices to the
8 Local Government Advisory Council and then to
9 the Secretary of State, start the notifications
10 in the newspapers and get it into the Mass.
11 Register. That would be the plan.

12 And with your vote, we would move
13 this and the other draft, so, the two drafts
14 through the process.

15 CHAIRMAN CROSBY: Today?

16 MR. GROSSMAN: If you do it today,
17 if you want to do it today, then we can keep
18 that schedule. Get a public hearing on
19 December 13, they would, barring any unforeseen
20 circumstances, be in effect January 3.

21 If you wanted to take some time to
22 digest these further, it would just bump the
23 process out two weeks.

24 COMMISSIONER CAMERON: Which is

1 cutting it awful close.

2 COMMISSIONER STEBBINS: You're still
3 allowing flexibility for additional comment we
4 talked about for stakeholder groups to weigh
5 in.

6 MR. GROSSMAN: That's a great point.
7 We can post these immediately for public
8 comment.

9 CHAIRMAN CROSBY: We can still meet
10 with you on our own and comment too. I would
11 say we ought to go ahead and move whatever it
12 is you want us to move.

13 MR. GROSSMAN: Absolutely. Thank
14 you. So, it would be the two drafts.

15 CHAIRMAN CROSBY: Commissioner
16 McHugh?

17 COMMISSIONER MCHUGH: I would move
18 that the draft of the licensing regulations and
19 the draft amendment to the hearing regulations
20 be placed in line for promulgation through
21 notification of the Local Government Advisory
22 Committee and such other steps as Counsel may
23 deem appropriate to have the public hearing and
24 to have the regulations ultimately adopted.

1 COMMISSIONER STEBBINS: Second.

2 CHAIRMAN CROSBY: Anymore

3 discussion? All in favor, aye.

4 COMMISSIONER STEBBINS: Aye.

5 COMMISSIONER ZUNIGA: Aye.

6 COMMISSIONER MCHUGH: Aye.

7 COMMISSIONER CAMERON: Aye.

8 CHAIRMAN CROSBY: Opposed? The ayes

9 have it unanimously.

10 MR. GROSSMAN: Thank you.

11 COMMISSIONER MCHUGH: Sadly, I have

12 got to depart.

13

14 (Commissioner McHugh exits meeting

15 room)

16

17 CHAIRMAN CROSBY: We have just a

18 couple more quick things and then we're right

19 behind you.

20 COMMISSIONER STEBBINS: We assumed

21 the late fee will be as much if not more than a

22 returned check.

23 CHAIRMAN CROSBY: I thought you were

24 going to say the late fee for what we get paid

1 for this meeting.

2 MR. DAY: Mr. Chairman, did you want
3 us to move through the budget items and just
4 hold off on the schedule questions?

5 CHAIRMAN CROSBY: The application
6 evaluation discussion and the budget, those
7 two.

8 MR. DAY: Oh, you want to do the
9 application evaluation discussion?

10 CHAIRMAN CROSBY: Yes, we need to do
11 that.

12 MR. DAY: Commissioner McHugh is
13 leaving and he is one of the individuals that
14 has a big question on the evaluation. But I'll
15 hit it when we get there.

16 Let me just start out real quick.
17 First item, I have one item under my general
18 update. In our last meeting, we presented a
19 proposal to obtain licensing and document
20 content system. The Commission approved our
21 recommendation but directed staff to return to
22 the Commission with further detail regarding
23 the number of licenses to be purchased and
24 related financial details. You'll find

1 memorandum under tab 6a from our CIO John
2 Glennon. And he will briefly summarize it real
3 quickly, John.

4 MR. GLENNON: I handed out an
5 addendum with corrections this morning, first
6 thing. So, that replaces what's in the
7 package. And we'll update the public package.

8 Essentially what we did was to do
9 the validation and due diligence with Director
10 Wells and Director Acosta and HR in terms of
11 creating a model of the number of users that we
12 would need for the licensing system. That is
13 what you see here.

14 Essentially, it's a projection of
15 staff out four years. That's the basis for the
16 costing recommendations in the two options.
17 So, I'll entertain any questions on the
18 staffing model.

19 COMMISSIONER STEBBINS: How did they
20 set the number for the external administrative
21 users?

22 MR. GLENNON: Five HR persons, five
23 locations I think was what we used for this
24 slide for a total of 25.

1 MR. DAY: Could you just hit the two
2 options real quick?

3 MR. GLENNON: Sure. So, we took the
4 numbers, worked with the vendor and there are
5 two options. There's an upfront purchase of
6 the licenses, which is option one. Then there
7 is purchasing kind of buy as you go over a
8 period of time.

9 The difference between purchasing
10 the all upfront and doing it over time, I
11 think, there's a cost to that, both in terms of
12 the maintenance and the cost of individual
13 licenses. The vendor makes it -- incentivizes
14 us to buy the licenses upfront.

15 So, I articulated in here the
16 difference in those costs and the incremental
17 cost of maintenance through year four and
18 outward. I think again the challenge is the
19 Commission has with the transitional budget is
20 going to make a decision whether you go with
21 option one or option two.

22 I would recommend purchasing them
23 all. The difference is \$60,000 between the two
24 year-one expenditures and if you go out to the

1 out years. By the end of year four, you
2 would've spent \$240,000 plus \$40,000 a year
3 more on a go-forward basis on maintenance.
4 That's the summary.

5 CHAIRMAN CROSBY: Year one would
6 mean this fiscal year?

7 MR. GLENNON: Yes.

8 COMMISSIONER ZUNIGA: Thank you for
9 clarifying from last week the two options. I
10 am still and I know this is not your number.
11 But I am still a little hung up on what has
12 become in my view a given in terms of the
13 number of employees that this organization will
14 have.

15 Somebody came up with a number in
16 the strategic plan a little while ago of 150.
17 And that has become a given. That is something
18 that I still would like to understand a little
19 better in terms of functions and headcounts and
20 org. charts. And I know you've taken steps to
21 do that, but I think that is a significant cost
22 driver that is now showing up for the first
23 time here. And we need to make decisions soon.

24 But I am still not convinced that we

1 need. I just wanted to mention that. That's
2 something that I'd like to understand in the
3 next few days. The first org. charts that I
4 saw included a lot of assistants, a lot of
5 great names, great sounding names. And since
6 then, we've made some progress in terms of
7 understanding what we will need and when we
8 need that. And I'd like to just continue that
9 understanding.

10 CHAIRMAN CROSBY: Where did you come
11 up with the 150? You didn't just take it out
12 of the strategic plan, did you or did you?

13 MR. GLENNON: I didn't back into the
14 150 number. What we did is we counted the
15 number of staff in each area on page on that
16 the directors thought that they were going to
17 need, the largest number being Director Wells
18 investigation unit because of the need to staff
19 the facility seven by 24 with multiple troopers
20 in the investigation unit. So, we didn't build
21 it up to 150. This was really done kind of
22 ground up by each functional area.

23 COMMISSIONER ZUNIGA: That's the
24 detail that I'd like to see at some point.

1 CHAIRMAN CROSBY: That's important.
2 If it just fell out of the strategic plan a
3 year and a half ago that wouldn't make a lot of
4 sense. But if you've done a zero-based
5 analysis now with directors in place who are
6 beginning to know something about what they're
7 doing that would be more reasonable.

8 So, if you could share that that
9 would be good. This is the numbers, right?
10 So, each of you could talk to the directors
11 individually as to where they came from. This
12 is the department by department analysis of
13 where the numbers come from.

14 COMMISSIONER ZUNIGA: Then it's up
15 to 133.

16 CHAIRMAN CROSBY: Plus the external
17 groups, on-sites I guess that is, right?
18 That's on-site?

19 MR. DAY: At the casinos.

20 CHAIRMAN CROSBY: So, it sounds like
21 there is some rationale there, but to the
22 extent you want to go over it, you can check
23 with the individual directors who came up with
24 these numbers or with John.

1 COMMISSIONER ZUNIGA: I will do
2 that.

3 CHAIRMAN CROSBY: To me, the key
4 thing is the year-one numbers. We're having
5 this discussion for two reasons. One is it's
6 prudent to have discussions like this. And two
7 is we're tracking our ongoing budget needs,
8 which is part of the next discussion.

9 On the second issue, the fact that
10 there is the difference between year one in the
11 two scenarios, year one being the sort of
12 critical variable year for us, most critical,
13 is relatively slight. And it seems pretty
14 straightforward to me.

15 COMMISSIONER ZUNIGA: At a first
16 look, 17 employees for Racing strikes me as
17 high given recent developments.

18 CHAIRMAN CROSBY: She ought to know
19 more than the rest of us. So, 17 for Racing,
20 where are you getting that? Oh, I see.

21 MR. DAY: Now that I know we're on
22 the same boat with the question here, these
23 were numbers that were supplied by the
24 directors individually to John. So, they are

1 estimates. They aren't based on our
2 organizational chart or projection.

3 COMMISSIONER ZUNIGA: I stand
4 corrected, but I still would like to understand
5 a little bit more some of the assumptions here.
6 I understand there's two or triple shifts in
7 investigations. I still think there's a lot of
8 numbers here.

9 CHAIRMAN CROSBY: Why would Racing
10 be adding seven in the three years out? We'll
11 double-check these, but let's assume in the
12 order of magnitude, they have got to be
13 somewhere pretty close.

14 MR. DAY: Part of what the issue is
15 we have to take what we have at this point and
16 look forward. At this point, we are still
17 assuming that we have a valid racing shop and
18 that hasn't changed. So, I think that's what
19 we're trying to do.

20 CHAIRMAN CROSBY: But even on the
21 face of it, that one number does jump out at
22 me. We're assuming the Racing doesn't change
23 that we're going to have harness racing and
24 thoroughbred racing on an ongoing basis.

1 That's the assumption. You have to assume
2 that. Why would be adding seven people in year
3 three?

4 COMMISSIONER CAMERON: The only
5 thing is I know the legislation calls for
6 additional racing days under this new -- if
7 you're granted a license, it goes from 100 to
8 120. So, I'm just not sure if that's part of
9 the scenario, additional racing days that are
10 mandated with the gaming license.

11 CHAIRMAN CROSBY: She's pretty
12 thorough. She probably knows what she's
13 talking about. But we ought to find out. It
14 certainly jumps out at me. That one certainly
15 jumps out at me. Okay. Are you comfortable
16 going forward on the scenario one, right? Do
17 we need a vote on that?

18 MR. GLENNON: I think you delegated
19 us authority to negotiate the last time. So,
20 we just wanted to answer the question that was
21 outstanding. Thank you very much.

22 CHAIRMAN CROSBY: Thank you for
23 doing. It's helpful.

24 MR. DAY: Thank you, John. Mr.

1 Chairman, the next item is under tab 6B,
2 includes some financial reports for the Phase 1
3 investigations slot application evaluation,
4 Phase 2 costs and cash flow should be under 6B.

5 I would like to note as we started
6 to move into this particular topic as it
7 relates to a cash flow summary, it's important
8 for us to keep in mind that this update
9 continues to reflect the Commission's ongoing
10 assumption that we will need to build
11 regulatory costs that exceed the Commission's
12 available budget 30 days after the award of
13 license. I might also remind us that we do
14 have an administrative regulation that we
15 drafted to form the foundation. That's 205 CMR
16 121.01.

17 CHAIRMAN CROSBY: That's already in
18 places that says within 30 days after the
19 license award we will begin to assess?

20 MR. DAY: Yes.

21 CHAIRMAN CROSBY: When you and I
22 were talking about that, I don't think we knew
23 that. I'm sorry that everybody has left, but
24 I hope everybody is watching because we want to

1 make sure that the applicants that become
2 licensees are not surprised that into their
3 cash flow projections they're going to need to
4 see a pro-rata share of our operating expenses
5 within a month of the time that the license is
6 awarded. And I think somehow, John, somehow we
7 ought to make sure. Hopefully, they're
8 watching this meeting.

9 MR. DAY: Actually, it deals with
10 three areas within it. It deals with the
11 research project. It deals with the number of
12 slots, and it deals with additional cost of
13 regulations.

14 What it doesn't do is really have
15 the mechanics in it. So, Derek and I have
16 discussed and Commissioner Zuniga, we're going
17 to have a draft on the 21st I believe to
18 actually that will help explain the
19 implementation, how we would intend to do it.

20 CHAIRMAN CROSBY: On the 21st, let's
21 put that early in the meeting so everybody is
22 still here. Otherwise, I want to send a letter
23 to everybody. I don't want there to be any
24 misunderstanding. And as Commissioner Zuniga

1 has pointed out, it needs to be factored into
2 their cash flows. And it doesn't seem to be
3 factored into the slots parlor application cash
4 flows. If it's because we haven't conveyed the
5 point, then we've got a potential coming to
6 proper here. So, real important. I don't know
7 if there's anyway, Elaine, to do anything.
8 Let's just make sure we really loot that point
9 around on the 21st.

10 MR. DAY: Okay. I'll put myself
11 first this time instead of last.

12 CHAIRMAN CROSBY: Not to put too
13 fine a point on it, but our present cash flow
14 that we're using to operate that you're going
15 to walk through with us assumes that we're
16 going to be getting \$4 million from some number
17 of licensees before the end of this fiscal
18 year.

19 MR. DAY: You want Derek to briefly
20 walk through those?

21 CHAIRMAN CROSBY: In case anybody's
22 watching \$4 million this fiscal year.

23 MS. LENNON: Thank you,
24 Commissioners. I've prepared some documents.

1 I think the cash flows is the one you want to
2 walk through first. So, we'll move to page
3 five under section 6B and actually walk through
4 what the Commission's budget is. This does not
5 include the Racing Division. We are just
6 looking at casino operations.

7 What you're looking at is
8 anticipated revenues or what we've received for
9 actuals for the first quarter, what we
10 anticipate for the rest of the year and then
11 what our expenses are below that, actuals for
12 the quarter and projections for the rest of the
13 year.

14 And as you pointed out, Mr.
15 Chairman, under number six on this schedule for
16 revenues, you're in looking at \$4 million in
17 projected revenues from our licensing
18 activities. So, once we've actually licensed
19 and moving forward. We are looking at \$2
20 million hitting in March and then two
21 additional million dollars hitting in May and
22 June, which would leave us with a balance of
23 about \$400,000 going into the next year. This
24 would all be part of writing up the regulation

1 consistent with the statute that that would be
2 offset in the upcoming year.

3 But the main costs that we have
4 going right now are investigations, our
5 overhead, our rent and our salaries. We're
6 projecting to bring on 15 positions between now
7 and February. Those positions are included in
8 here. They are part of that cash flow basis.

9 In an aggregate, I think they are
10 about \$500,000 in straight costs for this year,
11 an additional \$130-some odd thousand in fringe
12 cost, which will annualize out to about \$1.4
13 million next year with the loaded salaries plus
14 fringe on top of it.

15 This is 14 days on the job, taking a
16 look at it and doing my best.

17 CHAIRMAN CROSBY: I was going say, I
18 can't tell you what a pleasure it is to begin
19 to have John and Derek bite into this stuff.
20 It's a tremendous relief. And you bring great
21 expertise and know-how. And it's really a
22 relief to have you here to help us out.

23 MR. LENNON: And we would like to
24 move towards developing a budget two ways, this

1 way and the conventional state way, which is to
2 the accounting system that we're using right
3 now. We are required to file annually with
4 Ways and Means and our spending plans. So, I
5 think if we report it this way, and I can show
6 you a crosswalk between this and the state
7 system.

8 CHAIRMAN CROSBY: I don't know that
9 we need to. Let you deal with the state
10 system.

11 COMMISSIONER ZUNIGA: Let me be a
12 little bit more emphatic than Derek. I think
13 we need to move into the state system. For
14 some time we will continue to use this
15 spreadsheet because it has been very useful.
16 But when we utilize the MMARS, the state system
17 at its full potential, we will get reports
18 literally at the drop of a button anytime we
19 want to.

20 We will be able to post a lot of our
21 expenses periodically, as often as we want to
22 monthly, biweekly, we can do it on a daily
23 basis. That is necessarily going to be a key
24 feature when we are accounting for the revenues

1 that come to the Commonwealth. But we start
2 with our own expenses and that's going to be
3 also very, very important.

4 CHAIRMAN CROSBY: I said that too
5 glibly. Believe it or not, I'm not really
6 familiar with the way an agency budget looks.
7 So, as long as the presentation format is a
8 functional one, I know when Marty Denison does
9 his two different annual reports, I can't
10 figure what's cash and what's accrual, it's
11 hard for me, at least, from a businessman's
12 standpoint to figure out how to read these
13 things.

14 But if the state system is something
15 that we can turn into operational language that
16 would be great.

17 The issue here is the qualifier
18 we've been talking about, which is if the
19 assumptions that we've been operating under
20 hold, that is slots license award in January
21 and two casino license awards in April, if
22 those assumptions hold, meaning we have these
23 licensees in place to assess our costs, we are
24 fine.

1 But we've seen the world change
2 pretty dramatically over the last few weeks,
3 including a couple of days ago. And we don't
4 know for sure how many applicants we are going
5 to have or eventual licensees. We've got the
6 surrounding community problem, which if it
7 happens with possible delay. If it happens in
8 Category 1, it could kick into the next fiscal
9 year. It could kick our decision-making into
10 the next fiscal year.

11 So, I know that what Commissioner
12 Zuniga has been talking about I think is very
13 important is that we keep our fingers crossed
14 and hope that these work. But that we do some
15 contingency planning to think through what
16 other strategies are there. What other cash
17 generation or cash reserving, cash saving
18 strategies can we have in place in the event
19 that there is big changes in some of these
20 schedules, any of which is possible.

21 I think this is great to have. And
22 we'll all keep our fingers crossed that
23 everything will be hunky-dory. But I think we
24 would be prudent to maybe deputize Commissioner

1 Zuniga and I with your all help to put some
2 contingency plans in place just in case some of
3 these suppositions don't hold.

4 COMMISSIONER ZUNIGA: I would
5 certainly be in favor of that. I am looking at
6 these a lot more frequently than I was,
7 especially since Derek has now come on board.

8 I think to state the obvious
9 perhaps, our budget is getting tight where we
10 continue to operate with the same assumptions.
11 There's a little bit of a cushion in a couple
12 of instances here. For example, I am
13 projecting the first assessment to come in
14 March, just in case surrounding community
15 discussions get a little bit more than January
16 9, for example.

17 But there's not a whole lot of
18 wiggle room. And that's why we need to
19 continue to look at it often and develop a --

20 CHAIRMAN CROSBY: We really need two
21 sets of contingencies. One is if there's big
22 trouble like we don't have any licensees.
23 That's a whole different kettle of fish. If we
24 just got bumps and bruises, then cash

1 management might do the job. So, we ought to
2 look at it from both perspectives.

3 Director Day has bitten the bullet
4 on the assumption of targeted start date,
5 partly at my insistence. And we have one
6 bidder who is saying that they could start in
7 July if we made the award in January. There is
8 some skepticism as to whether or not that's
9 doable. It's within our control to some extent
10 because it depends upon a phased rollout. We
11 haven't decide whether we will permit a phased
12 rollout.

13 And even if they do do a phased
14 rollout, there's some skepticism as to whether
15 those dates can be met. Maybe part of what you
16 and I should be looking at is do we need to
17 hold ourselves to the target date that you've
18 now got there? Or could we prudently make some
19 kind of an adjustment to that without running
20 the risk that we pick somebody who is actually
21 ready to go and we aren't. So, I guess it's
22 worth thinking about.

23 MR. DAY: I agree, Mr. Chairman,
24 that right now we're targeting around the 7/14

1 in my plans anyway for agency development. So,
2 if you're changing mind or think it might be
3 appropriate.

4 CHAIRMAN CROSBY: I heard the lawyer
5 from Raynham say October and I went yes, they
6 postponed their schedule by three months. Then
7 Carney corrected it, no, no, it's August 1.
8 More with this?

9 COMMISSIONER ZUNIGA: No, except did
10 you have any questions? Actually, I'll just
11 mention a couple of things. Embedded in these
12 costs are updated numbers, notably from the
13 licensing system. You will notice in here in
14 item 2.4 or just below in the projection. As
15 well as I've revised in order to fit that cost,
16 it was not anticipated as high. I've taken out
17 performance management effort that we had
18 budgeted for but thought that it would start in
19 the spring. Given the conditions now, I'm
20 suggesting we think about it for the start of
21 the next fiscal year, which is not too far off.
22 But at least it's not considered in this
23 projection. That's the main changes.

24 When this went to print, I had five

1 applicants for Category 1. That may or may not
2 be the case as of Tuesday. We'll see.

3 CHAIRMAN CROSBY: Right. Okay.
4 Great, thank you very much.

5 COMMISSIONER ZUNIGA: If there is
6 any questions, there is an update on the
7 expenditures that Derek prepared.

8 MR. LENNON: There is an update on
9 Category 1 and Category 2 licensures, the
10 status, total revenue collected to date and
11 total anticipated costs. It's not the actual
12 costs. And we want to recognize that what
13 we're recommending to collect in revenue
14 exceeds what our anticipated costs are, but
15 there's a reason for that. We have already
16 collected \$350,000 for Region C applicant that
17 is sitting in our account right now. So, I
18 just want to give you a total picture of
19 revenue collected.

20 Some of the Phase 2 -- Category 2
21 investigations came in under the cost of the
22 initial estimates of our consultants and we
23 collected revenue for that amount. At the end
24 of the process, we'll do a final reconciliation

1 and give back to the applicants the amounts
2 that they need to get.

3 As well as we're bringing in that
4 13.71 percent overhead. That's why you see us
5 recommending coming in with a new build amount
6 of \$1.1 million to the applicants. We weren't
7 paying ourselves initially. That's a
8 significant amount of money. If you look at
9 page two, it's about \$1.4 million that we
10 hadn't paid ourselves.

11 CHAIRMAN CROSBY: But you've taken
12 that into consideration in the other cash flow?

13 MR. LENNON: Correct, we have.

14 CHAIRMAN CROSBY: Okay, great. The
15 Phase 1 investigations these are still not --

16 MR. LENNON: They are not complete.
17 This is the best information we have as of
18 October 25.

19 CHAIRMAN CROSBY: Will it be north
20 of 12.5 do you think or just changed?

21 COMMISSIONER ZUNIGA: No, north of
22 11.8.

23 CHAIRMAN CROSBY: Got it.

24 COMMISSIONER ZUNIGA: The 10.4 is

1 the latest forecast. Some of those numbers
2 have not been expended in total. But the
3 forecast has been changing although many of
4 them are done or close to being done.

5 CHAIRMAN CROSBY: Tell them to use
6 their vendor investigation teams. That's
7 really great.

8 MR. DAY: Mr. Chairman there are two
9 evaluation issues and I'll just hit them real
10 quick, but we might want to move them to the
11 14th. The first one was a question and
12 Commissioner McHugh actually originated these
13 questions. What it was was how do we need to
14 handle instances where the evaluation teams
15 identify information that is not part of the
16 host community agreement that is included in
17 the application?

18 And then the second part of that
19 question is is information that was stated in
20 the applicant presentations or otherwise
21 publicly discussed but it's not in the
22 application? So, I'd summarize it as conflicts
23 really between the application and the public.

24 Also some clarification regarding

1 clarification for the teams may be requesting
2 to the applicants as opposed to the questions
3 the Commission itself will ask the applicants
4 during the host community. Commissioner McHugh
5 thought those are issues that deserves some
6 discussion. What I can do is I just wanted to
7 leave them with you and we can take them back
8 up.

9 CHAIRMAN CROSBY: Did you include
10 this list? Was that in those three things you
11 said?

12 MR. DAY: That is the list. What it
13 is is Pinck and Company have developed a list
14 of possible changes for Category 1 questions.
15 That's entirely up to you. If you wish, I
16 could work with Pinck and Company and Catherine
17 can take a look at this and kind of fine-tune
18 it and bring it back on the 14th.

19 CHAIRMAN CROSBY: Let's do that. I
20 think you're right that Jim's participation in
21 at least those first three is really important,
22 and actually, these two because a lot of these
23 came from him. I haven't read these and I
24 would like to.

1 If we are going to make revisions,
2 we need to do it quickly so that the applicants
3 have a chance to do it. But I think another
4 week isn't going to kill that.

5 MS. PINCK: Three categories one is
6 to get data in such a way as we can make
7 comparisons.

8 CHAIRMAN CROSBY: You don't need any
9 permission to do that. Just do it.

10 MS. PINCK: The second is to get
11 sufficient information so that we can
12 understand the applicant's response to the
13 questions. Our experience with the Category 2
14 is that some of the responses are very skimpy.

15 The third one is to get information
16 to clarify the intent of the questions. The
17 piece of paper that was in your packet today is
18 still evolving or it was still revolving. But
19 we put it as a placeholder, since then and we
20 have a more comprehensive. What I would have
21 to do if you need to send it out in advance so
22 you can look at it. That way we don't have to
23 spend a lot of time next time so that we can
24 send it out.

1 I will say the comments you made
2 about requesting data in a different kind of
3 way, we actually have already done that for
4 both the financial and accounting.

5 COMMISSIONER ZUNIGA: We found out
6 that our template was very helpful.

7 MR. DAY: We will plan to bring
8 those two items back to the Commission on the
9 14th.

10 COMMISSIONER STEBBINS: Just a
11 point, I found at least in my section we found
12 we may have been duplicative in asking for
13 information to much of the question based on
14 the statute, but we also asked for the same
15 information under a separate question.

16 It involves either some refining
17 and/or working with the applicant to help us
18 address where you put the information once and
19 where you can just refer to it a second time.

20 CHAIRMAN CROSBY: Those are things
21 you've already suggested?

22 COMMISSIONER STEBBINS: We did come
23 up with a spreadsheet but I'm going to go back
24 through and --

1 CHAIRMAN CROSBY: I think for the
2 Category 1's, we can do these changes. So,
3 let's go ahead and make those changes.

4 MS. PINCK: One of the questions
5 asked is we may be able to combined a little
6 differently. The other recommendation that
7 came up was to ask for list of questions and
8 all of the attachments that are applicable and
9 not get all of the attachments every time. It
10 makes going into the file, digital file more
11 complicated. So, we'll put together a
12 comprehensive set of recommendations,
13 consolidated questions and the structure this
14 that will facilitate the review of what will be
15 a much larger.

16 MR. DAY: I think what we want to be
17 sensitive of a little bit is if it is an
18 existing application, and Category 1 applicants
19 we hope have been working on it during this
20 time. When we get down, they'll only have
21 about two weeks to get the application in.

22 CHAIRMAN CROSBY: Right. Revisions
23 and clarifications. Consolidations are little
24 different. I'm not sure about that. Do I have

1 a motion?

2 COMMISSIONER ZUNIGA: So moved.

3 CHAIRMAN CROSBY: All in favor, aye.

4 COMMISSIONER ZUNIGA: Aye.

5 COMMISSIONER STEBBINS: Aye.

6 COMMISSIONER CAMERON: Aye.

7 CHAIRMAN CROSBY: Thank you.

8

9 (Meeting adjourned at 5:37 p.m.)

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1 GUEST SPEAKERS:

2 Sterling Suffolk Racetrack, LLC

3 Charles Baker, Sterling Suffolk Racecourse, LLC

4 Chip Tuttle, Sterling Suffolk Racecourse, LLC

5

6 Penn National Gaming

7 Chris McErlean, Penn National Gaming

8 Carl Sottosanti, Esq., Deputy General Counsel

9 Timothy Wilmott, President and CEO

10

11 Brockton Racing, LLC

12 George Carney, Brockton Racing, LLC

13 Grace Lee, Esq., Brockton Racing, LLC

14 Michael Morizio, Brockton Racing, LLC

15

16 Brian Lang, Unite Here

17

18 Massachusetts Gaming Diversity Coalition

19 Nader Acevedo, Hispanic-American Chamber of

20 Commerce

21 Warren Bacon, Boston Minority Business

22 Development Agency Center

23 Juan Cofield, New England Area Conference NAACP

24

1 Massachusetts Gaming Diversity Coalition (continued)
2 Greg Janey, Massachusetts Minority Contractors
3 Association
4 Andie Kim, Greater New England Minority
5 Supplier Development Council, Inc.
6 Neil Osborne, Mystic Valley Area Branch New
7 England Area Conference NAACP
8 Darnell Williams, Urban League of Eastern Mass.
9
10 MGM Springfield - Blue Tarp Redevelopment, LLC
11 Tim Brennan, Executive Director, Pioneer Valley
12 Planning Commission
13 Kevin Dandrade, Principal and Senior Project
14 Manager for TEC, Inc. (traffic engineer)
15 Chuck Irving, Davenport Properties (project
16 development partner)
17 Michael Mathis, Vice President of Global Gaming
18 Development for MGM
19 Marty Nastasia, Director of Government
20 Strategies, Brown Rudnick
21 Crossroads Massachusetts, LLC
22 Bob Allen, Law Office of Robert Allen
23 Jennifer Gilbert, Law Office of Robert Allen
24 Alan Kronberg

1 Wynn, MA, LLC
2 Steve Tocco, Consultant - President & CEO, ML
3 Strategies, LLC
4 Chris Gordon, Development Manager - President,
5 Dirigo Group
6
7 Jonathan Silverstein, Esq., Kopelman and Paige
8
9 Dr. Rachel Volberg, SEIGMA
10
11 Jennifer Pinck, Pinck and Company
12 MASSACHUSETTS GAMING COMMISSION STAFF:
13 David Acosta, Director of Licensing
14 Catherine Blue, General Counsel
15 Richard Day, Executive Director
16 Dr. Jennifer Durenberger, Director of Racing
17 John Glennon, CIO
18 Derek Lennon, CFAO
19 Todd Grossman, Deputy General Counsel
20 John Ziemba, Ombudsman
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C E R T I F I C A T E

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 13th day of November, 2013.



LAURIE J. JORDAN
Notary Public

My Commission expires:
May 11, 2018