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THE COMMONWEALTH OF MASSACHUSETTS

MASSACHUSETTS GAMING COMMISSION

OPEN MEETING

CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

Gayle Cameron

James F. McHugh

Bruce W. Stebbins

Enrique Zuniga

NOVEMBER 6, 2012, 1:00 p.m.

OFFICE OF THE DIVISION OF INSURANCE

First Floor, Hearing Room E

1000 Washington Street

Boston, Massachusetts

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PROCEEDINGS:

CHAIRMAN CROSBY: It's my pleasure to call to order the Massachusetts Gaming Commission meeting number 34 on November 6, 2012.

Thank you very much for those of you who are attending. There's a lot of other things going on today. We are pleased for you to be able to come visit us.

We will start out with approval of the minutes from the meeting on October 30.

COMMISSIONER MCHUGH: Yes, Mr. Chairman. I distributed yesterday a revision of the draft minutes that I distributed on Sunday. And the revision corrects the bountiful supply of typos and unintelligible sentences that were in the original draft. No change in substance. But I welcome any comments on the draft that was distributed yesterday, if there are any. Otherwise, I would move that the October 30 minutes as distributed and as part of today's meeting packet be approved.

CHAIRMAN CROSBY: Second?

COMMISSIONER STEBBINS: Second.

CHAIRMAN CROSBY: Any more discussion?

1 All in favor? Aye.

2 COMMISSIONER ZUNIGA: Aye.

3 COMMISSIONER STEBBINS: Aye.

4 COMMISSIONER MCHUGH: Aye.

5 COMMISSIONER CAMERON: Aye.

6 CHAIRMAN CROSBY: The aye's have it.

7 We're going to skip out of order here. I
8 neglected to put on the agenda that we had asked the
9 Director of the Mass. Environmental Protection Agency
10 to come in. We've talked about it several times here.
11 Everybody's heard us talk about it. We had it scheduled
12 for today. I forgot to put it on the agenda.

13 This is just going to be a learning
14 session for the Commission. We wanted to understand
15 more about how the MEPA process works, have an
16 opportunity to ask questions about it. So, we are going
17 to go ahead with that. There won't be any deliberations
18 having anything to do with MEPA issues. It's simply the
19 MEPA process for our own learning experience.

20 So, I am going to ask the Ombudsman to
21 bring our guest up and introduce her.

22 MR. ZIEMBA: Thank you, Mr. Chairman.
23 It's a privilege to introduce Maeve Vallely-Bartlett to
24 you. She's been the MEPA Director since August 2011.

1 I have worked with Maeve basically most
2 of my professional life at one point or another. She
3 worked in the Massachusetts State Senate for a number
4 different years, was an assistant Secretary of
5 Transportation. She was the assistant general manager
6 for environmental compliance at the MBTA. She served
7 in an oversight capacity for transportation at the
8 Executive Office of Energy and Environment prior to her
9 appointment as Acting MEPA Director and now her full
10 MEPA Director role. I look forward to working with
11 Maeve in the days coming up.

12 MS. VALLELY-BARTLETT: Thank you very
13 much. Thank you for having me. Chairman Crosby had
14 reached out to me maybe a month or so ago to just come
15 and give a very brief overview of what MEPA is and what
16 it does. I don't know if you've just sort of been
17 hearing it, MEPA, MEPA, MEPA. So, that was really the
18 idea behind me coming here today.

19 CHAIRMAN CROSBY: Just from my
20 standpoint, it's a big part of the community mitigation
21 issue, which is one of the biggest issues that we wrestle
22 with. As we're trying to figure out what we need to do
23 in community mitigation, we really need to understand
24 what part that's already been taken care of.

1 MS. VALLELY-BARTLETT: Right, because
2 MEPA does have certain limitations around that. But
3 why don't I give a very brief overview and then we can
4 discuss things like that if that is what you'd like to
5 do.

6 MEPA is an informal administrative
7 process that is designed to examine environmental
8 issues of, and I am going to use the term, large
9 projects, although that is not necessarily the case.
10 MEPA is -- Projects that receive state financial
11 support, they receive state money or they require one
12 or more state permits or approvals and exceed the MEPA
13 thresholds than those projects are required to come to
14 MEPA with the filing of what we call an environmental
15 notification form. Many projects --

16 CHAIRMAN CROSBY: From the project?

17 MS. VALLELY-BARTLETT: MEPA is project
18 proponent driven. We never go out and find anyone and
19 say you must come to MEPA.

20 The attorneys and consultants who come
21 before MEPA often are well aware of what the thresholds
22 are and will direct someone that they need to come to
23 MEPA. I will sort of lay out the typical process of what
24 happens and then obviously much like any regulatory

1 scheme, there are slight variations to how that can
2 work.

3 But in general, if someone is receiving
4 state assistance, they trip a MEPA threshold or they
5 require state permits and trip a MEPA threshold. They
6 come to MEPA with an environmental notification form
7 that lays out what are the permits, what are the issues,
8 how much land are they altering that's a broad overview
9 of the project.

10 The thresholds have mandatory
11 environmental impact report requirements or
12 discretionary, the Secretary's discretion to require an
13 environmental impact report. And that would be the
14 next step. Some projects just finish the ENF, have the
15 ENF reviewed and then we send them off to get their state
16 permits.

17 Other projects, the Secretary at his
18 discretion or because the regs. require it, will have
19 to do a draft environmental impact report. And that is
20 the first large overview of the project that comes to
21 MEPA. That is a more extensive description of the
22 project, the project alternatives, the permits
23 required, the potential mitigation. All of that goes
24 into the draft environmental impact report.

1 Then the proponent has as much time as
2 they like to decide when to bring that back to us. MEPA
3 never says you must do your draft environmental impact
4 report in a certain amount of time. It's totally on the
5 project to decide when to gather all of that
6 information, how quickly, how deliberative to be and
7 bring it back.

8 Again, generally what happens is the
9 Secretary then says yes, that's the preferred
10 alternative. Take that preferred alternative on your
11 project and answer these last remaining questions. And
12 look at this mitigation or that mitigation. And that
13 would then be done in a final environmental impact
14 report.

15 When the final environmental impact
16 report comes back to MEPA, the Secretary signs off on
17 it or can require supplemental information. That can
18 happen at the draft too. If the Secretary says yes, all
19 of the information is here and you have laid it out
20 appropriately for MEPA, you now can go and get your
21 permits.

22 Often, the permitting agencies will
23 refine that even more and there may be more mitigation
24 associated with that or the project may be tweaked

1 slightly. But for MEPA purposes, the broad-brush is
2 fine and the permitting agencies have said they have
3 enough information. So, that's a sort of a very general
4 overview of how it happens.

5 MEPA itself has strict timelines. Once
6 an ENF comes into us, there are 21 days for public
7 comment on that. And then the Secretary makes a
8 determination on it in seven to 10 days.

9 A draft EIR or a final EIR gets roughly
10 28 days of comment and then the Secretary again has seven
11 to 10 days to make a decision. MEPA is very diligent.
12 And as far as I know has never missed any of those
13 deadlines.

14 Extensions on the public comment period
15 can be made but must be made by the proponent. The
16 Secretary himself cannot say you have to ask for two more
17 weeks of comment period. It has to be proponent driven.

18 Again, I've never known the Secretary to
19 say no, you can't have any extra comment. And then that
20 would be added into the timelines. But MEPA meets its
21 timelines. It's up to the proponent how quickly to turn
22 around the requirements that the Secretary has asked
23 for.

24 Any questions on any of that?

1 COMMISSIONER MCHUGH: That's a very
2 helpful overview. What impact on the permit granting
3 agencies does the MEPA final opinion have? Is it
4 binding on them? Is it advisory?

5 MS. VALLELY-BARTLETT: No, no.
6 Absolutely not. There have been very few occasions,
7 the one that leaps to my mind is Weavers Cove, the LNG
8 project, where the Secretary certificate said in the
9 certificate we do not believe this can be permitted,
10 based on information that DEP had given to us on how they
11 were reading the permit requirements that that project
12 would need.

13 That still doesn't mean that they can't
14 continue to come to MEPA and get review, but MEPA would
15 never override permit requirements or the permitting
16 authority of an agency.

17 We are an informal administrative
18 process. We are not a permit. MEPA is not a permit.
19 It gathers the information. It assesses the
20 environmental impacts in a public manner for public
21 comment. And then the permitting agencies continue to
22 have their own permitting authority, their own
23 regulatory requirements that they need to act on.

24 COMMISSIONER MCHUGH: So, a favorable

1 report from MEPA does not bind the permit granting
2 authority either. The permitting granting authority
3 could say we disagree?

4 MS. VALLELY-BARTLETT: They could, yes.

5 COMMISSIONER MCHUGH: As a practical
6 matter?

7 MS. VALLELY-BARTLETT: You know, it
8 maybe it has happened. I've only been the MEPA Director
9 for about a year and half. But certainly in the
10 knowledge that I have, I've never heard of that
11 happening. John have you?

12 MR. ZIEMBA: No.

13 COMMISSIONER MCHUGH: What is the other
14 trigger? In the beginning, you said there is a trigger,
15 a large project meets a --

16 MS. VALLELY-BARTLETT: Well, it's state
17 financial assistance or one or more permits required.
18 You have to look at that. Then you have to see if a MEPA
19 threshold is tripped.

20 So, a project may need a permit, but if
21 it doesn't trip a MEPA threshold, you'd just go straight
22 to the permitting authority and get that taken care of.

23 COMMISSIONER MCHUGH: And then in a broad
24 sense, what are the MEPA thresholds?

1 MS. VALLELY-BARTLETT: There's traffic.
2 There's air. There's solid waste. There's wetlands
3 and waterways. There's historic. I am probably
4 missing something.

5 COMMISSIONER MCHUGH: I'm sure they're
6 all listed in the statute.

7 MS. VALLELY-BARTLETT: Right. I think
8 from when the gaming statute was first passed, many
9 people asked me what is this going to mean for MEPA?
10 Without poring over the gaming statute, my basic
11 reaction was that my understanding of what these major
12 resort projects are going to be, they are going to trip
13 a MEPA threshold.

14 It does not seem to me possible that the
15 type of resort and project that is envisioned by the
16 statute would not require MEPA review. And traffic
17 alone is probably going to -- even absent land
18 alterations or wetlands or wastewater permitting
19 requirements.

20 COMMISSIONER MCHUGH: Are there any
21 other thresholds that somebody seeking MEPA review has
22 to meet? In other words, can somebody who has a plan
23 for land but doesn't own the land, can they --

24 MS. VALLELY-BARTLETT: Yes. MEPA does

1 not require anyone to own the land. I mean certainly,
2 the project proponent would be at their own risk should
3 they decide to do that.

4 But we have had occasion where we reviewed
5 projects where the people were in negotiations or they
6 were relatively sure they were going to own land or they
7 were willing to take the risk to file with MEPA and go
8 through the MEPA process, which is not insignificant or
9 cheap.

10 COMMISSIONER ZUNIGA: On that note, what
11 is your opinion or how do you ascertain the level of
12 design that projects generally come to MEPA? What
13 amount of design, how detailed?

14 MS. VALLELY-BARTLETT: We don't put any
15 requirement on a design level. But certainly to the
16 extent -- this is again, we leave this up to the person
17 who has the project. Some projects say you are at 50
18 percent design -- And I just made that up -- you would
19 be able to give more information to MEPA and the
20 permitting authorities on what your project is and
21 exactly how many wetlands you are going to impact or
22 exactly how much wastewater you're going to generate.

23 Or the GHG impacts of your building,
24 depending on the size of your building. What MEPA does

1 in the absence of that type of specificity is to ask that
2 the proponents give the absolute outside envelope of
3 what it is that they could build. Or what is the zoning
4 cap on what you can build in this area and look to the
5 outside limit.

6 Because if a project proponent does not
7 do that, is at a level of design where they don't exactly
8 know and does not give us the outside limit, they're
9 going to be in the position later on of having to come
10 back to MEPA with what we call a notice of project
11 change. And that starts the whole -- Some people have
12 very small notices of project change on one sliver. And
13 other people will come back with a redesigned project.
14 And that just starts you over again on having to look,
15 do a draft environmental impact report and a final
16 environmental impact report depending on what the
17 magnitude of that project change is.

18 So generally, project proponents will
19 give us that large envelope. And that gives you, again,
20 the magnitude of what permits you are going to need and
21 what mitigations may be required.

22 CHAIRMAN CROSBY: Are the thresholds
23 some defined level of activity or is it if there is any
24 traffic?

1 MS. VALLELY-BARTLETT: No, no, no.

2 There's specific --

3 CHAIRMAN CROSBY: So, there's some
4 descriptions?

5 MS. VALLELY-BARTLETT: Right. And most
6 of them are linked or certainly when MEPA regulations
7 were crafted, they were linked up to permit requirements
8 as well. DEP told us what they would need, what the
9 wetlands alteration would be before they saw something,
10 what the Chapter 91 permit requirements may be before
11 they saw something. Traffic is 3000 and then 10,000.
12 There are limits in the MEPA regs. as to what they are.

13 CHAIRMAN CROSBY: What is the point of
14 this interim step? Why have MEPA do this as opposed to
15 just having DEP go ahead and do it themselves?

16 MS. VALLELY-BARTLETT: Because what you
17 end up having is a place where these projects can be
18 looked at in total. So, you don't have DOT looking at
19 a highway access permit and basically the public having
20 to go and track down DOT's highway access permit regs.
21 and process and follow that. And then wait a little
22 while or keep tabs on when DEP's wetlands permit is going
23 to issue and how they are going to make comment on that.

24 So, it brings everyone together more on

1 a greater level for the totality of the project to be
2 examined for environmental purposes before it spreads
3 out and goes to the agencies.

4 So, we look to the agencies to make
5 comments. So, DOT will see the entire project that's
6 come to MEPA and not just the traffic. And the same goes
7 for DEP or Natural Heritage their endangered species
8 threshold as well. They'll see it all. And I think
9 that's just good for the permitting agencies and for the
10 public.

11 CHAIRMAN CROSBY: The EIR describes the
12 impact and then the mitigation?

13 MS. VALLELY-BARTLETT: They could
14 certainly do that, yes.

15 CHAIRMAN CROSBY: But don't have to?

16 MS. VALLELY-BARTLETT: Well, it makes
17 sense that they would lay out what mitigations would be,
18 especially if what they're going to do is have -- At that
19 point, they may not have decided exactly what the
20 preferred alternative is.

21 So, if you come in, a project comes in and
22 has three alternatives, just say they have a 10-acre
23 site and they could put the building on the West five
24 acres or they could put the building on East five acres,

1 or they could go straight down the middle. And there
2 are various impacts depending on where they put it.

3 Once comment comes in, and say DOT says
4 you can't possibly put it on the West side of this 10
5 acres because the impact to route blah, blah, blah will
6 -- but the middle -- It allows both the proponent and
7 the permitting agencies to look at the various
8 alternatives before one preferred alternative is honed
9 in on and then that becomes what the final is about.

10 And that becomes where the permitting
11 agencies can really determine what they need. And the
12 public and the permitting agencies can request various
13 mitigation.

14 COMMISSIONER ZUNIGA: So, the comment is
15 only from the permitting agencies?

16 MS. VALLELY-BARTLETT: No. The
17 comments is for everyone. But we rely on comments from
18 the public and all people. But if it's DEP that's going
19 to give the permit in the end, clearly we give weight
20 to what they say about how they would look at a project.
21 But no, MEPA is everyone can comment on MEPA projects.

22 COMMISSIONER ZUNIGA: I'm sorry. So,
23 why would the proponent request more time for the
24 comment period?

1 MS. VALLELY-BARTLETT: Potentially you
2 could have -- There are lots of different reasons why
3 it happens. Often it's a controversial project. And
4 28 days may not be thought to be enough for people to
5 really examine. These documents are extremely large.

6 T projects, for instance, let me just
7 choose the green line extension. That's an incredibly
8 detailed project that went through a number of towns and
9 was politically charged. So, the T said let's make it
10 a 45-day comment period to give people more time to
11 examine this large document and comment to the Secretary
12 on it.

13 COMMISSIONER STEBBINS: What's the
14 public hearing process for --

15 MS. VALLELY-BARTLETT: We do not have a
16 public --

17 COMMISSIONER STEBBINS: I mean, you put
18 out the comment period for the ENF and the EIR. How does
19 the public -- Okay, they view this document. I've seen
20 a couple of ENF's and EIR's. They are pretty
21 substantial. Are there any requirements to do local
22 hearings or local comment periods?

23 MS. VALLELY-BARTLETT: No. We have
24 what's called the MEPA monitor, which many people are

1 very conversant with them. Certainly, people who deal
2 with the large projects and the larger advocacy groups
3 or even smaller advocacy groups are well aware and are
4 on the MEPA monitor list. And they will be alerted to
5 projects that come into the MEPA monitor.

6 People will look through it. And right
7 in the monitor it will tell you what the comment period
8 is and when the comment period closes.

9 We often, although we are not required to
10 do site visits when we first receive the environmental
11 notification form. But the site visit is not a public
12 hearing. And we are not required to take notes, keep
13 a public record. And at those site visits, we make it
14 extremely clear that it's written documents to MEPA that
15 puts you in the cue.

16 Proponents need to respond to public
17 comment. That doesn't mean they need to write to every
18 single person individually. They have to have a
19 section of their draft environmental impact report and
20 their final environmental impact report that answers
21 the issues that arose in the public comment period.

22 MEPA could have a public hearing. And
23 certainly MEPA has had public hearings in the past, but
24 it is not required. It's a written public comment

1 system.

2 COMMISSIONER STEBBINS: We've had
3 numbers of conversational with regional planning
4 agencies. And they have offered to help this body in
5 terms of assessing projects, giving thoughts and
6 feedback on projects, specifically to the mitigation
7 piece.

8 They shared the example of their
9 relationship with MEPA in terms of providing some local
10 comment, local feedback. Can you just give us an idea
11 of what the mechanics are of that relationship and what
12 they are required or not required to do?

13 MS. VALLELY-BARTLETT: They are
14 certainly not required to do anything if they don't wish
15 to. But again, the regional planning agencies are used
16 to the MEPA process and are savvy about the MEPA process.
17 So, they will receive the environmental notification
18 form. And just people hear things, the sort of buzz
19 would be -- And oftentimes, the proponent will tell
20 people we are going to file in this period of time.

21 And then they make comment to MEPA in
22 writing the same as anybody else does. We don't have
23 a formal agreement with the regional planning agencies.

24 CHAIRMAN CROSBY: And the ENF and the EIR

1 are multijurisdictional wherever there is an impact not
2 just, in our lingo, not just in a host community, but
3 it would be in any surrounding communities?

4 MS. VALLELY-BARTLETT: Anywhere that
5 there is an impact.

6 CHAIRMAN CROSBY: Are there significant
7 areas of impact on the community that are not included?
8 If you're a community and you want to make sure you
9 thought through the impacts of our big projects, are
10 there areas that are clearly not within the MEPA?

11 MS. VALLELY-BARTLETT: Yes. Thank you.
12 Certainly, we are not -- we have no jurisdiction over
13 public safety in the broad sense. And certainly, the
14 roadways are extremely important and waterways. But
15 police, fire, schools, we have no ability or
16 jurisdiction to say you must pay for police details that
17 type of thing.

18 The mitigations are related to the
19 environmental impacts that will then be translated into
20 a permit that would also require that mitigation.
21 There are some tweaks to that. If it's GHG related we
22 require --

23 CHAIRMAN CROSBY: GHG?

24 MS. VALLELY-BARTLETT: Greenhouse gas

1 emissions, if you're building a new building, we like
2 to see the energy efficiency of it. In transportation,
3 we like to see anything that can be done to reduce the
4 traffic, and the GHG emissions from that.

5 If it's traffic related, the mitigations
6 can be incorporated into the DOT access permit. If it's
7 building related, we will require the project proponent
8 to self certify to MEPA that they have met their
9 mitigation requirements. They do their own Section 61
10 findings under the building efficiency.

11 But we do hear often we are concerned
12 about -- We had the Taunton proposal in front of us as
13 an ENF. And we heard from many people that they were
14 worried about fire and safety and social services.
15 That is beyond the bounds of MEPA.

16 There are other issues that may be
17 municipal related that MEPA also has no ability to
18 require of a project proponent.

19 CHAIRMAN CROSBY: Municipal roads?

20 MS. VALLELY-BARTLETT: Municipal roads,
21 municipal services, sort of -- If a municipality has a
22 plan on how many trees they want in some area or what
23 their local parks requirements are, if there's no state
24 jurisdiction over the land then we really can't require

1 a municipality to do something.

2 CHAIRMAN CROSBY: The one in Taunton that
3 I heard about was the NEPA process, the National
4 Environmental Policy. How does NEPA and MEPA relate?

5 MS. VALLELY-BARTLETT: There are also
6 different ways that people can -- The Taunton proposal
7 needed NEPA review because they were seeking under the
8 Federal process, right, to have the lands placed in
9 trust. And there would be various issues there. So,
10 that brought them together.

11 They were not looking to link the
12 processes up. Some proponents will do that. The ones
13 that I am most familiar with aside from the Taunton
14 proposal are the large transportation projects such as
15 the green line or southcoast rail or major roadways
16 where federal funding is being sought and a federal
17 requirement sends you into NEPA.

18 And in those instances, DOT has often
19 tried to link them up, so had a joint filing. So, the
20 draft environmental impact report and the federal
21 environmental impact report, FEIR, they would be one
22 document just sent to both entities.

23 CHAIRMAN CROSBY: So typically, in our
24 projects, the NEPA would not be involved? It would only

1 be a MEPA process probably.

2 MS. VALLELY-BARTLETT: Yes.

3 COMMISSIONER MCHUGH: Just to come back
4 to Chairman Crosby's question a minute ago. There may
5 be not only interest, but permits that are required but
6 that are outside the MEPA sphere of influence, if you
7 will.

8 The building permit, for example, is not
9 within the MEPA's sphere of influence. If somebody
10 wanted to build a racetrack, they would have come to us
11 to get an operating permit. That would be outside.

12 MS. VALLELY-BARTLETT: We certainly
13 don't have any thresholds that deal with --

14 COMMISSIONER MCHUGH: -- with those
15 kinds of things, right. Do you have any feel for how
16 many local or how many permits outside the MEPA sphere
17 a typical large project requires? Does anybody get a
18 handle on that?

19 MS. VALLELY-BARTLETT: I don't.

20 COMMISSIONER MCHUGH: Okay.

21 COMMISSIONER ZUNIGA: Has there been any
22 of the current proposals about casinos come to MEPA?

23 MS. VALLELY-BARTLETT: No. Just the
24 Taunton proposal is the only one that we have seen. We

1 have Plainville. Plainville came in. And they have
2 been scoped for DEIR based on the traffic projections.
3 They stated in their filings with us that they were going
4 to seek, I think, it's the stage two or something, the
5 slots. That's why they proactively came to us on that
6 issue.

7 CHAIRMAN CROSBY: The Taunton MEPA
8 process is underway now?

9 MS. VALLELY-BARTLETT: They been scoped
10 for a draft environmental impact report, yes.

11 CHAIRMAN CROSBY: That's operating in
12 parallel with the NEPA process, which is also going on?

13 MS. VALLELY-BARTLETT: Yes.

14 CHAIRMAN CROSBY: Great.

15 COMMISSIONER ZUNIGA: Your question
16 initially, we should talk about either relative to the
17 mitigation piece. -- It occurs to me that the review,
18 and maybe it's incumbent upon this Commission to make
19 that our requirement. The MEPA review prior to
20 obtaining of the license would be a scheduled
21 requirement. -- I'm sorry, not the obtaining of
22 license, the mitigation agreement, the local mitigation
23 agreements.

24 CHAIRMAN CROSBY: The host community

1 agreements and the surrounding community agreements.

2 COMMISSIONER ZUNIGA: The host community
3 agreements, yes, and the surrounding community
4 agreements.

5 CHAIRMAN CROSBY: This is something that
6 we haven't really talked about and I don't know very much
7 about. There's a question, I think, in our policy
8 questions about where in the permitting process will we
9 require bidders to be before we will grant licenses. We
10 don't have to decide this right now, but to you two does
11 that sound reasonable, John, that we would say that you
12 would need a MEPA approval, not necessarily all of the
13 license approvals, before a project comes to us for
14 Phase II?

15 MR. ZIEMBA: I think we'd have to think
16 about that. In one of the -- When I give my ombudsman
17 report, one of the concerns that I hear out in the
18 community is that we give people enough time to comment
19 on some of our policy questions.

20 For project proponents, the ability to go
21 through the state environmental processes or other
22 permitting processes, there is a big interaction with
23 what happens at the local level, obviously. So, in
24 projects of this scope, you want to have enough

1 certainty that you are proceeding along the way with the
2 local community before you engage in a tremendous amount
3 of your very expensive permitting processes. So,
4 that is sort of a very long-winded way of saying I think
5 I need to think about that a little bit more.

6 MS. VALLELY-BARTLETT: One thing I
7 probably should have made clear very early is that
8 proponents are not allowed, they cannot get a state
9 permit until they have completed the MEPA process.

10 CHAIRMAN CROSBY: A state permit for
11 what?

12 MS. VALLELY-BARTLETT: For anything that
13 is required under MEPA. You need to complete the MEPA
14 process. Now that can be simply the filing of an ENF
15 before you can obtain your state permits.

16 You can apply for state permits while you
17 are in the MEPA process, but you cannot receive a state
18 permit until you have completed it.

19 CHAIRMAN CROSBY: This is just a thing we
20 are going to have to think about. There's a whole lot
21 of questions. Where they're going to be in the process,
22 every process, design process, permitting process.
23 And we're going to want to hear from the bidders too.

24 MR. ZIEMBA: And with our bifurcated

1 licensing process, some of the deadlines that we've been
2 talking about would apply to the first stage versus the
3 final license being issued. So, I think we need to
4 think about that.

5 CHAIRMAN CROSBY: Right.

6 COMMISSIONER ZUNIGA: Yes, but it occurs
7 to me that an important point of data for host
8 communities is going to be at a minimum the draft
9 environmental impact. But hopefully the final one
10 would be that much better more information. Better
11 source to mitigate the impact.

12 CHAIRMAN CROSBY: This is the thing we've
13 been talking -- What if you have a host community
14 agreement, which presumes some environmental permit and
15 then there is a referendum on that host community
16 agreement and the permit isn't granted?

17 COMMISSIONER MCHUGH: And then what?
18 I'm sorry.

19 CHAIRMAN CROSBY: And the permit isn't
20 granted. Then do they have to renegotiate, re-vote?
21 Will we award when there is a big permit that is pending?
22 Because if we do, they might not get it. And then what
23 happens?

24 Those are just rhetorical questions at

1 this point. I just don't know exactly.

2 There is also part of the issue the tie
3 to community mitigation -- This is something you'll have
4 to help us with. -- is some of the communities, I think,
5 are thinking about our bucket of money to be the source
6 of mitigating community impacts.

7 There are many other mitigation buckets
8 of money before you get ours. We really want ours to
9 be a court of last resort for things that really weren't
10 anticipated that are much worse than thought, etc.

11 And by being really thorough in, for
12 example, their MEPA process and making sure that the
13 developers have all of the appropriate mediating,
14 mitigation steps in the pipeline that will minimize them
15 coming to us and saying oh, geez, we forgot to ask the
16 developer to do such and such. The same with the host
17 community agreements.

18 So, it's important. We want to make sure
19 that the communities are really paying attention to all
20 of their other stages in the process to get things fixed
21 and paid for where necessary.

22 MR. ZIEMBA: Right. And communities
23 obviously should take into account project estimates
24 versus potential for overruns of project estimates and

1 how that is accommodated. If developer X has proposed
2 a mitigation package, what would happen in the event
3 that the project costs go beyond that anticipated
4 amount? And does that impact what would happen to the
5 overall project and its success?

6 CHAIRMAN CROSBY: Right. Any other
7 questions for the Commissioner?

8 COMMISSIONER MCHUGH: No. That was very
9 helpful. Thank you.

10 COMMISSIONER CAMERON: It was
11 informative.

12 CHAIRMAN CROSBY: Thanks very much. We
13 will be talking, no doubt.

14 MS. VALLELY-BARTLETT: My pleasure.
15 Thank you.

16 CHAIRMAN CROSBY: We are back to item
17 three, the project work plan. And we are going to go
18 to the consultant status reports.

19 COMMISSIONER CAMERON: Good afternoon.

20 MR. CARROLL: Good afternoon.

21 CHAIRMAN CROSBY: Do you want to
22 introduce yourselves?

23 MR. MICHAEL: Guy Michael, Michael &
24 Carroll.

1 MR. CARROLL: Bob Carroll, Michael &
2 Carroll.

3 CHAIRMAN CROSBY: I think we are starting
4 out by getting a report from you on the scope of
5 licensing meetings.

6 MR. MICHAEL: Right. We had scheduled
7 and we met with a series of interested parties today --
8 I will go into the identities of them. -- and yesterday.

9 The purpose of these meetings was to start
10 the process of identifying those persons and entities
11 whose qualification is a necessary condition to the
12 qualification of the applicant itself. All of these
13 licensing decisions are made on the basis of the persons
14 who give the entities its direction and its control and
15 who benefit from it.

16 So, the first stage in evaluating any
17 applicant is to identify who those persons are. The
18 statute and the regulations go in to some detail in
19 identifying officers -- the categories of people and
20 entities that need to be qualified, officers,
21 directors, owners. And in almost every instance, the
22 owner of the applicant will be another corporation.
23 So, you go through the process all over again of
24 identifying those officers, directors and owners of

1 that company up until you get to the ultimate owner.

2 In some cases that can be a simple process
3 if it's very clear who the people are who are giving the
4 direction and controlling the entity. But in some
5 cases, in many cases the corporate structures are quite
6 complicated. And so it becomes to some degree a matter
7 of discretion in evaluating who are the people that are
8 most important to the project who should go through
9 background investigation, and who are the persons who
10 really do not need to.

11 The statute and the regulations give this
12 Commission the authority to waive qualification for
13 certain people who might otherwise fall within a
14 category that required their qualification but who it
15 can be demonstrated by the applicant are not those who
16 are really involved in the project here in
17 Massachusetts.

18 For example, there can be corporate vice
19 presidents of development who are segregated by
20 sections of the country. And their area is not near
21 Massachusetts at all. They're working on developments
22 in other parts of the country or the world. Even though
23 they have articular facial obligation to qualify
24 because they are corporate officers, their involvement

1 here is negligible if it existed at all. So, they can
2 be waived if it's demonstrated that they meet those
3 criteria.

4 So, we had these meetings. And what I
5 sought to do was to identify each of those qualifiers
6 in each of the individual groups that we met with. And
7 to the extent that we could not agree on the people and
8 the entities who needed to file, we set up a system
9 whereby we identified those persons who are facially
10 qualifiers but who can be waived. And if the interested
11 parties, the applicants and other interested parties
12 wanted a waiver on those persons, they are required to
13 submit to you a written justification for those waivers
14 by no later than next Friday.

15 Then the consultants will meet and
16 evaluate those requests for waivers, provide you with
17 the recommendations and you will make a decision on
18 whether or not there is a sufficient basis for the
19 waivers to be granted.

20 Most of the parties -- all of them were
21 very cooperative. We will probably be receiving some
22 waiver requests. And almost all of them said to the
23 extent they were going to submit some that they would
24 do it as quickly as possible, it may be even before next

1 Friday.

2 So, we considered the meetings very
3 productive. A great deal of progress has been made as
4 a result of them. And we are looking forward to
5 continuing that process. Bob can let you know --

6 COMMISSIONER MCHUGH: By next Friday, do
7 you mean --

8 MR. MICHAEL: The 16th.

9 CHAIRMAN CROSBY: A week from this
10 Friday?

11 MR. MICHAEL: I'm sorry. Yes, a week
12 from this Friday.

13 MR. CARROLL: For the purposes of
14 identification, the consultants or the component groups
15 of the consultants and the Commission personnel met with
16 the following groups: the Plainridge Racecourse, the
17 Caesar Suffolk team, Mohegan, Ameristar, Massachusetts
18 Gaming and Entertainment, LLC and its affiliate Rush
19 Street Gaming, MGM Springfield and Penn National.

20 As Guy has indicated, we spent time with
21 them reviewing their submissions as well as reviewing
22 their questions. And we now have a schedule in place.
23 We expect very aggressive compliance with that. We'll
24 examine those submissions as soon as they come in and

1 then obviously recommend to the Commission our
2 viewpoints on it. And then expect that there will be
3 a timely scheduling of your review of those and then
4 ultimately a decision.

5 MR. MICHAEL: This determination even
6 when it's made by you as a determination on the waivers
7 themselves is a preliminary one. In the course of the
8 background investigation, it may become apparent that
9 there are other people who haven't otherwise earlier
10 been disclosed who we think need to be considered
11 qualifiers. And if that's the case, then you have to
12 make that determination as well.

13 Or we may find at this early stage we
14 overstated the participation of some of the people who
15 we now deem to be qualifiers and we may decide that they
16 don't have to. But this is at this stage, this allows
17 those applicants who choose to apply to prepare their
18 applications, know who they have to file for and get them
19 in as quickly as possible.

20 COMMISSIONER MCHUGH: For those who are
21 here and those who are watching, it's my understanding
22 that these meetings were entirely voluntary. Nobody
23 was required to attend them. And people, if they wish,
24 are perfectly free to file an application by January 15

1 without ever having had one of these meetings --

2 MR. MICHAEL: Absolutely.

3 COMMISSIONER MCHUGH: -- just proceeding
4 by themselves. So, this was a service done to help
5 those who wanted to avail themselves of it, nothing
6 more, nothing less.

7 MR. MICHAEL: And I would expect, correct
8 me if I'm wrong, if another party comes in later and
9 desires to have a similar meeting then we'd be available
10 to do that as well.

11 CHAIRMAN CROSBY: And the qualifier list
12 could expand later in the game. Like when financing
13 comes together there are parties then we would
14 automatically extend it to those.

15 MR. MICHAEL: That's right.

16 MR. CARROLL: We explained all of the
17 variations to the various participants. I would say we
18 had a strong pledge of transparency by every group that
19 we met with.

20 They understood the rigorous nature of
21 the statute and its application. Most of them are
22 industry veterans. And we were very satisfied with the
23 cooperation we received.

24 MR. MICHAEL: And nothing should be read

1 into the fact that some companies may be seeking waivers
2 on some people. It's not an intention on their part at
3 this point we would think to hide anything from the
4 Commission. It's an arduous process. And if there are
5 people who are really not going to be involved in it,
6 there's a legitimate reason for seeking the waiver.

7 CHAIRMAN CROSBY: We often hear of
8 stories where these are very contentious and get into
9 extended back and forth and litigation sometimes and so
10 forth. To the extent you can tell, you don't see that?
11 It looks like we are not likely to have -- So far, it
12 looks like we are not likely to have any serious hang-ups
13 in the definitions of qualifiers?

14 MR. MICHAEL: At this point, I would
15 think not. There are actually very few where we weren't
16 in agreement on almost everything. To the extent that
17 there was some disagreement, we weren't the only
18 jurisdiction that had that disagreement. And some of
19 it has been resolved in the past in a certain way and
20 may just be requesting that this Commission give it
21 another look.

22 COMMISSIONER ZUNIGA: Just also for
23 clarification, just expounding on Commissioner
24 McHugh's point, the deadline for waivers is this coming

1 Friday, but only for those who sought this initial
2 meeting.

3 MR. MICHAEL: That's correct.

4 COMMISSIONER ZUNIGA: Assuming that
5 somebody else seeks a meeting after that there would be
6 similarly this type of process, a meeting and a waiver
7 if so. Is that correct?

8 MR. MICHAEL: It's just for the people
9 who we met with in the past two days. It's the deadline
10 for the request for the waiver, not necessarily for the
11 waiver.

12 COMMISSIONER STEBBINS: From the
13 meetings that you've had, and obviously we have a number
14 of established institutions who are finding local
15 development partners, did you get a sense that the local
16 development partners are acutely aware of what their
17 requirements are going to be on their behalf?

18 MR. CARROLL: Yes. In fact, we were
19 pleased with their understanding, their level of
20 understanding, even at this early stage.

21 MR. MICHAEL: They all came with very
22 complete and thorough presentations to us,
23 understanding what the categories are and what the needs
24 are and made the job much easier.

1 COMMISSIONER CAMERON: Did you provide
2 some kind of a template to ask for a waiver or just
3 clearly articulate what they needed to include in that
4 request?

5 MR. CARROLL: We cited the statute and
6 the applicable regulations and so forth. In most
7 cases, they were aware of what would be required.

8 Part of the resubmission that will be
9 coming back to the Commission will be the different
10 categories, as Guy has indicated. And we have
11 substantial agreement on most. And the ones that we
12 don't, we actually discussed the specific reasons, at
13 least preliminarily, that we would expect them to
14 address in the letters. So, they were given specific
15 instructions.

16 COMMISSIONER CAMERON: Outside of the
17 waiver process, you also had discussions about the
18 application process and specific questions?

19 MR. CARROLL: Well, we advised them that
20 there is no delay in filing applications either. If
21 they would like to, the specimens have been out there.
22 The Phase I applications is what you're talking about?

23 COMMISSIONER CAMERON: Yes.

24 MR. CARROLL: We told them there is no

1 delay. They could file tomorrow, if they'd like. They
2 understood that.

3 Obviously, the qualifier phase is a
4 precursor in most cases to their putting together their
5 applications. They also indicated in several of the
6 cases at least that their applications are well underway
7 in terms of preparation.

8 So, I would expect submissions are not
9 going to be that far off.

10 MR. MICHAEL: Actually, one of the
11 purposes of these meetings was to identify people we
12 have no disagreement on. And as Bob said, we told them
13 you don't have to wait until you find out if others are
14 going to be waived or not. Those prequalifiers who have
15 already been clearly agreed upon, they can file
16 immediately and others will follow after that if
17 necessary. One of the goals of this meeting was to
18 allow the interested parties to get their applications
19 in as soon as they can.

20 COMMISSIONER CAMERON: Excellent.

21 COMMISSIONER STEBBINS: Part of what you
22 were going to explain -- part of the public presentation
23 we were going to have back on the 29th before Sandy
24 disrupted all of our plans, included your public

1 comments to not only the general public -- to the general
2 public as well as the potential applicants and
3 developers. Is there any information you would share
4 with us or you think that you've missed that would be
5 important for the public at-large to know since we had
6 to skip that public presentation?

7 MR. MICHAEL: I think it's important to
8 understand that what the goal of these initial meetings
9 was is to make sure that this Commission is fully
10 cognizant of all of the aspects of an applicant and an
11 applicant's organization that makes it go.

12 So, that the decisions that are made in
13 this Phase I process about who is suitable and who can
14 get into the Phase II process is thorough and is well
15 reasoned. To the extent any individuals need to be
16 excluded from or can be excluded from that process if
17 they otherwise might be qualifiers is only because they
18 do not have a role in this particular project that would
19 really would have a bearing on the suitability of the
20 applicant itself.

21 We also have to keep in mind when we go
22 through this determination process on who has to qualify
23 that we don't want to be over inclusive either. It's
24 a burden on these applicants to file all of this

1 information. And then it becomes an administrative
2 burden on the Commission to conduct very thorough
3 investigations into people who may not have any real
4 relevance to the Commonwealth.

5 So, it is a balance that has to be struck
6 as between what's necessary for a thorough
7 investigation and what's necessary so that the
8 administrative process can proceed efficiently.
9 That's what we are trying to accomplish.

10 MR. CARROLL: I think the only other
11 thing I'd add, Commissioner, was we would have explained
12 to the public probably in a little more detail that as
13 Commissioner McHugh has indicated, this was a service
14 that we wanted to extend to the applicants to cut down
15 some of the time with say a raw submission of an
16 application with no determination, no suggestions other
17 than what was in the cold statute, so to speak.

18 This way we believe we have cut off delay.
19 And we know that it's part of the mission. And we think
20 that getting some of the questions, some of the basic
21 questions answered that some of the applicants had did
22 facilitate that objective. And that was one of the
23 objectives that we would have announced to the public
24 of the purpose of the meetings.

1 CHAIRMAN CROSBY: You also distributed
2 the Ethics advice.

3 MR. CARROLL: We did, the Ethics advice,
4 actually copies of the portions of the statute and the
5 regs. that apply were also given to each applicant.

6 CHAIRMAN CROSBY: Can you, just to make
7 sure everybody is on the same page, just describe the
8 rest of the process. A package comes in. Then why
9 don't you walk through the rest of the process.

10 MR. MICHAEL: At this point, there would
11 be two paths, I guess. One would be that anyone who is
12 interested can, if they haven't already applied, apply
13 for their license and submit those forms that we are all
14 agreed are necessary to be filed, all those qualifiers
15 that have been identified.

16 To the extent that there are individuals
17 or entities that any of the proposed applicants or
18 applicants want waived that needs to be submitted to us
19 by the 16th. Then a determination will be made on
20 those.

21 With respect to the applications once
22 they are all filed, what would then happen is that they
23 would be referred to the IBE for investigation. And
24 then either staff or a third-party contracting

1 consultant who would be conducting the background
2 investigations would begin right away.

3 First reviewing the applications
4 themselves to see if there is anything that stands out
5 in the form application and determine that it has to be
6 looked into right away. And a financial evaluation of
7 each individual for a source of funds analysis and for
8 a financial stability analysis.

9 Then what often happens is the
10 investigators prepare a form list of additional
11 documentation that's necessary beyond what has been
12 submitted in the application. That is why we say this
13 is a fairly arduous process.

14 Requests go out for checking accounts and
15 other bank account information, stock ownership, real
16 estate ownership and deeds and mortgages and a very
17 thorough investigation into a person's background.

18 Those are then reviewed. And as
19 necessary, the individuals are called in for interviews
20 to go over any matters that create any problems or create
21 any issues.

22 If there are questions and issues that
23 need to be even further pinned down, it is not unusual
24 for the applicants to be asked to come in for a sworn

1 interview in the nature of a deposition in which those
2 individual questions will be addressed and the
3 applicants be required to swear to the truth of the
4 responses.

5 Then an overall evaluation of all of that
6 information is made by a supervising investigator who
7 actually has been overseeing the process all along, and
8 then an attorney who would evaluate the information in
9 relation to the standards in the Act and the
10 regulations. And the Deputy Director of IBE would then
11 make a determination on whether or not those individuals
12 are suitable.

13 If they are found not to be, there is an
14 appeal process by which those individuals can request
15 a hearing first before the Deputy Director of IBE, and
16 if unsatisfied with that result, before you.

17 CHAIRMAN CROSBY: When a package is
18 submitted, if somebody doesn't have any waiver requests
19 and the package is submitted, does that get reviewed by
20 you first or does it come straight to the IEB and we are
21 off to the races?

22 MR. MICHAEL: It goes to the IEB.

23 CHAIRMAN CROSBY: Unless there is a
24 negotiation over a waiver, you are out of the process

1 at this point? You have done your voluntary meetings.
2 You've done your service. And as soon as they come in,
3 we are ready to go. And if somebody has a waiver that
4 is being discussed, is there any reason why they can't
5 submit everything else and we get started on --

6 MR. CARROLL: No, no.

7 MR. MICHAEL: That was one of the points.
8 We want them to do that. They don't have to wait for
9 the entire package to be complete. They can submit in
10 piecemeal, if you will.

11 In terms of the role, one function we may
12 serve before it goes to IEB is just to review the
13 application, make sure it's complete that all the
14 information that they said they would submit, they have
15 submitted.

16 CHAIRMAN CROSBY: I think that makes
17 sense. So, there is an interim step where it goes to
18 the consultants.

19 CHAIRMAN CROSBY: There's a legal
20 significance in a finding of completeness of the
21 application too. That is an important milestone in the
22 process.

23 CHAIRMAN CROSBY: In the statutory
24 process?

1 MR. CARROLL: Yes.

2 CHAIRMAN CROSBY: So, that probably has
3 to be certified by the IEB not by the consultants?

4 MR. CARROLL: Well, it would be, yes,
5 exactly. The completeness of the package that
6 ultimately comes for your review is a finding that we
7 make.

8 CHAIRMAN CROSBY: We have talked about
9 this a little bit. In the last couple weeks, we've been
10 talking about standing up the IEB in a formal way so that
11 it can take whatever official steps it needs to take to
12 certify completeness of their packages and begin the
13 process.

14 We are still in the interviewing process
15 for directors of IEB. We are hoping to coordinate it
16 with the ED, which is also in the process of
17 interviewing. And I think that it would makes sense now
18 that she doesn't have anything to do -- She got rid of
19 Racing and dumped it on Dr. Durenberger. -- I would
20 suggest that we designate Commissioner Cameron as the
21 Director of the IEB and authorize her to take such steps
22 as are necessary to get it up and running, to collaborate
23 with the consultants, to get the personnel in place, to
24 make the right steps.

1 You're starting to have some staff. You
2 are going to have two staff coming aboard anyway. And
3 you've got some relationships with the State Police.
4 So, give Commissioner Cameron the authority to
5 structure the IEB under her in sort of a tentative way
6 so we can get this started as soon as the proposals --
7 as soon as the packages start to come in, which could
8 be any time now.

9 Does anybody have comments about that?

10 COMMISSIONER ZUNIGA: I would agree with
11 that notion. The IEB standing up and it is clearly on
12 our critical path. While I know there's been some
13 progress made on the search for that director, I think
14 it's incumbent upon us to have something in place for
15 the possibility of receiving some applications for some
16 qualifiers early, which is what we want them to do, so
17 that progress can be made as well.

18 CHAIRMAN CROSBY: Right. Anybody else
19 have thoughts about that?

20 COMMISSIONER MCHUGH: I haven't thought
21 about that until this minute. And I was trying to
22 quickly look at the statute and see whether there's
23 anything in the statute that would suggest that we can't
24 do that.

1 If we get something next week say, there's
2 nothing that says we have to start investigating it then
3 as opposed to putting it to one side until we get the
4 IEB stood up, right?

5 MR. CARROLL: No.

6 COMMISSIONER MCHUGH: I don't know if
7 it's a good idea. I'm just trying to probe. There's
8 also nothing that prohibits us from creating an acting
9 director of the IEB. We know, for example, who is going
10 to be the State Police liaison to the IEB. Do we know
11 that?

12 COMMISSIONER CAMERON: Well --

13 COMMISSIONER MCHUGH: Not liaison, but
14 the IEB is going to have a State Police component, right?

15 COMMISSIONER CAMERON: Correct, they
16 are. Our tentative, and I say tentative because
17 everything we do is subject to change according to if
18 we see a need to change it. But our tentative table of
19 organization calls for a director and then a State
20 Police Captain underneath that director along with a
21 chief investigator.

22 The State Police has named a Major to be
23 our overall contact. He is an individual who has helped
24 us in a number of areas already. But he will oversee

1 gaming in its totality, including the responsibilities
2 of the Attorney General's office.

3 He has spoken to me about -- He has given
4 me a preliminary name. I don't know that that is agreed
5 upon yet by the Colonel. We have yet to interview that
6 person and make sure we are all in agreement that person
7 would be acceptable to all.

8 So, to answer your question,
9 Commissioner, I don't think that is finalized who that
10 person would be. But we are moving -- If I were to take
11 this role on a temporary basis -- By the way, I am more
12 than willing to do it. I see the need to move this and
13 not sit on investigations. But I think we're very close
14 to being prepared to conduct investigations with a third
15 party. I think we are very close to identifying
16 finalists for an IEB position. And moving along with
17 the State Police as what their role will be and who those
18 individuals -- what we are you going to need
19 immediately. I see this as very temporary, but
20 certainly something I am prepared to and willing to do
21 under the circumstances.

22 COMMISSIONER MCHUGH: I have great
23 confidence in everything Commissioner Cameron does.
24 And I have no doubt as to her ability to do this.

1 My concern is that the director of the IEB
2 is going to have to make some decisions conceivably.
3 Once the IEB exists then the IEB head is going to make
4 some decisions. And those decisions then are going to
5 be appealed to us by unhappy folks.

6 And then we need to have a decision at this
7 level as to whether or not the appeal should be sustained
8 or not. Having made the decision, Commissioner Cameron
9 would be disqualified from participating, which would
10 leave among other things a four-person board to decide
11 these things. Secondly, we'd be deprived of
12 Commissioner Cameron's insights into the appellate
13 process.

14 So, I am reluctant to go down this path
15 unless we absolutely have to for those reasons.

16 MR. MICHAEL: In regards to those
17 concerns to the extent it might be relevant to you, it
18 is not unusual in a gaming regulatory process for
19 Commissioners to sit, for example, as hearing officers.
20 And then to have the matters that they sat on heard by
21 the Commission. Even to have those Commissioners who
22 sat on the matter vote on the matter as part of the
23 commission.

24 CHAIRMAN CROSBY: Including what we do

1 with the Racing Commission, right?

2 MR. MICHAEL: So, there is a precedent
3 for it not necessarily requiring the recusal of
4 Commissioner Cameron if she were to serve in that role.

5 COMMISSIONER CAMERON: The other piece
6 of this is these investigations are complex, timely. I
7 really don't anticipate serving in that role long enough
8 to have a challenge, to a suitability challenge at that
9 point.

10 COMMISSIONER MCHUGH: I am sure we
11 wouldn't get to the suitability challenge. But we are
12 going to get the waiver requests in a week, right?
13 Somebody is going to make a decision initially as to the
14 waiver. That would be the head of the IEB.

15 And somebody is going to be unhappy about
16 the waiver decision is going to come to us. That's
17 inevitable. It's going to happen. It's going to
18 happen within some period of time.

19 MR. MICHAEL: We had anticipated that the
20 waiver request would come to the Commission at this
21 point, not necessarily to the IEB. The Commission
22 really has to determine who are qualifiers and who
23 aren't. So, we had advised the parties that their
24 information would be supplied to the Commission and it

1 would be public and that you would make the judgments.

2 MR. CARROLL: Our timetable, if you will,
3 was that by the 16th any submissions they had we urged
4 them get it in right away. And we got, I think, a
5 commitment that it's going to be very quick.

6 We would respond -- We were going to
7 allocate two weeks for responses, research and
8 responses, but again we think that would also being
9 accelerated. And then immediately turn over the
10 recommendations to the Commission as a whole with a
11 target date being December 11 as the outside and perhaps
12 even as early as the fourth, depending on the timing of
13 this.

14 So, that there will be very little delay
15 here. So, from the point of view of commencing an
16 investigation, the qualification should be resolved by
17 then, if that makes any difference to your thinking.

18 MR. MICHAEL: You certainly could have
19 the IEB do it. Our view, and you can reject it or accept
20 it, is it would expedite things because ultimately it
21 would come to you anyway. They're not going to be if
22 they're not happy with the waiver determination, they
23 are not just going to rely on what the IEB says and will
24 take every opportunity to exhaust their remedy. So, it

1 will come to the Commission anyway, figured we'd just
2 skip the intermediate step.

3 CHAIRMAN CROSBY: My sense, I think this
4 is a very well taken point and worth thinking about.
5 These things are always trade-offs of imperfect
6 options. But in my mind this has been a very plausible
7 scenario for a long time.

8 If we didn't have the resources at hand
9 that would be a different story. If we are talking
10 about making me the IEB, that would be a different story.
11 But we happen to have somebody as Commissioner who is
12 as good as any of the people we are interviewing.

13 COMMISSIONER MCHUGH: There's no
14 question about that.

15 CHAIRMAN CROSBY: I understand. And we
16 have structured on purpose a relationship with
17 consultants who then work with this person ASAP whether
18 it was a Commissioner or the actual director even before
19 there are full-time staff. So, taken all together, it
20 seems to me that the opportunity to keep the ball rolling
21 quickly outweighs the somewhat -- it does to the points
22 that you make, Commissioner, which I think are good
23 ones.

24 But I think probably the waiver idea come

1 straight to us, that was your suggestion anyway. That
2 deals with Commissioner McHugh's concern. Chances are
3 pretty good that we will have the director on board
4 before the investigations are done. So, that would
5 moot the other point. And if not, we talk about it at
6 the time.

7 Other thoughts or comments?

8 COMMISSIONER ZUNIGA: I think I stated my
9 position, which just underscores by the comments made.

10 CHAIRMAN CROSBY: And it's an
11 opportunity for us to make up a big chunk of time in our
12 timeframe without I think serious sacrifice, which is
13 an important part of our goals here.

14 Does somebody want to move? Not me and
15 not Commissioner Cameron.

16 COMMISSIONER ZUNIGA: I will move that we
17 designate Commissioner Cameron to be the interim
18 director of the Investigations and Enforcement Bureau
19 until such time we designate a director.

20 CHAIRMAN CROSBY: And authorize her to
21 take such steps with the State Police, with the
22 consultants and others to move the investigations
23 process forward.

24 COMMISSIONER ZUNIGA: Well said.

1 CHAIRMAN CROSBY: And report to us
2 accordingly. Does that make sense? Second?

3 COMMISSIONER STEBBINS: Second.

4 CHAIRMAN CROSBY: Any more discussion?
5 All in favor? Aye.

6 COMMISSIONER ZUNIGA: Aye.

7 COMMISSIONER STEBBINS: Aye.

8 COMMISSIONER CAMERON: Aye.

9 CHAIRMAN CROSBY: Opposed?

10 COMMISSIONER MCHUGH: No.

11 CHAIRMAN CROSBY: Motion passes, four to
12 one.

13 We have the RFA-2, which we talked a
14 little bit about just to make sure we are up to speed
15 here. You're not planning on staying here while we talk
16 through the policy questions or are you?

17 MR. MICHAEL: We can if you would like us
18 to. We already voted so --

19 CHAIRMAN CROSBY: It might not hurt, but
20 what I'm thinking is our guests from Jackrabbit are here
21 to make a presentation. And I'd hate to have them have
22 to wait through what could be a quite long conversation.
23 There is 46 questions. If you wouldn't mind, let's stop
24 and ask Director Driscoll to bring her team forward and

1 we will bring you back.

2 MR. MICHAEL: Thank you.

3 MR. CARROLL: Thank you.

4 CHAIRMAN CROSBY: We will take a quick
5 five-minute break while they set up. Off the record.

6

7 (A recess was taken)

8

9 CHAIRMAN CROSBY: We are ready to
10 reconvene. Director Driscoll, do you want to introduce
11 yourself and your cast?

12 MS. DRISCOLL: I will. Today we have a
13 team from Jackrabbit here again with an addition which
14 is Creative Director, Dave Belyea. He's come along as
15 well to discuss some additional concepts with us. And
16 as you've already met Cara Ogar and Lynn Spooner who
17 joined us previously.

18 As you know, prior to -- I wasn't here last
19 week, but prior to that Jackrabbit has been providing
20 us with numerous different types of concepts to decide
21 upon the logo from which everything else will --
22 additional collateral will be created from that,
23 including the very important website, which we continue
24 to aggressively work on despite the fact that we are

1 still trying to make a determination on the logo.

2 We really got to a point now that I feel
3 like I would like to do one final round of concepts. But
4 we've gotten to a point where I would say we don't have
5 any more than a week to make a decision so that we stay
6 on track with the development of the website that we
7 really need to have up by the end of the year.

8 Particularly as we go into the policy discussion phase
9 of our process, it would be so nice to have the blog up
10 and running which will be a really center part of our
11 website, and I think will be critical to the
12 policymaking process, as well as Phase II regulations.
13 So, we really want to move that along.

14 Dave is here today. As you know, we all
15 seem to settle on this seal concept. Mass Gaming, the
16 five starts, also the complete Massachusetts Gaming
17 Commission name and also to have the ability to
18 highlight the various divisions, whether that be
19 Division of Racing, IEB, Licensing, etc.

20 As you know we were trying to go for a bit
21 of an abstract concept in that center area that would
22 represent fair, transparent, participatory.

23 I have felt that in our process everyone
24 has been a little too far apart on their personal

1 opinions on that for me to have felt comfortable to move
2 forward. And I will let Dave speak to this, but one of
3 the things that Jackrabbit has said and I think that I
4 agree with them, is although we were attempting to go
5 abstract there that may not work. Because I think that
6 ultimately everybody sort of wants to be able quickly
7 identify what in fact that symbol is.

8 So, Dave's going to lead a brief
9 conversation with all of you to help them with their
10 creative process a little bit more than what we have
11 already had and get a little bit deeper into it. Then
12 come back, present us with some final additional
13 concepts. And we will make a decision by next week so
14 that we can quickly move everything else along. So, I
15 will turn it over to Dave.

16 MR. BELYEA: And we felt badly having
17 Elaine somewhat put in the middle to try to interpret
18 your thoughts on the logo.

19 So, I felt it was important to bring our
20 team here to hear firsthand. We so far as Elaine
21 mentioned, we have the seal somewhat locked down, the
22 typography, the naming and the overall construction of
23 the identity. It's that icon at the top that we
24 struggle with.

1 I was just anxious to hear through the
2 designs -- I'll just go through them. Design one,
3 design two again with the same symbology at the top,
4 similar symbology representing the three sort of core
5 messages, number three and number four.

6 So, I was anxious to hear with a project
7 like this especially with a large group, making a
8 decision on it, getting everyone's decisions can be
9 difficult. So, I was anxious to get some feedback from
10 you all on if there was one you were leaning towards?
11 Is there anything salvageable about what we have or do
12 we look to totally eliminate that abstract icon and look
13 down another path?

14 COMMISSIONER CAMERON: I'd love to see
15 the difference between one and four. They looked close
16 to me.

17 MR. BELYEA: Let me put them all together
18 at the end.

19 MS. DRISCOLL: And the other thing too,
20 I am sorry to interrupt, but I do just want to say one
21 thing. Although at the beginning we were suggesting
22 that an actual something that represents gaming. We
23 were sort of artistically moving away from that. But
24 I'd like to revisit that as a possibility.

1 Again, to remove the abstract of it.
2 It's subtle. It's a small portion of it. But the fact
3 of the matter is we are in the gaming business. That
4 is what we do as regulators. So, I don't know that we
5 should be opposed to an actual image of something that's
6 gaming related.

7 COMMISSIONER CAMERON: Example?

8 COMMISSIONER MCHUGH: How about
9 abstraction but recognizably abstract of a casino.

10 CHAIRMAN CROSBY: Or dice.

11 DIRECTOR DRISCOLL: Right, exactly.

12 MR. BELYEA: The one thing that I think
13 we struggled with that is twofold. One is the nature
14 of the size of the area, especially when reduced to a
15 business card. And the other thing was when it comes
16 to racing and the other divisions, is that one symbol
17 broad reaching enough? Then all of a sudden, we enter
18 into let's pick three items from three different
19 components of gaming and try to mix those up. And we
20 end up with a mural or a collage that will never be able
21 to be noticeable or reproducible.

22 COMMISSIONER CAMERON: I don't see it at
23 all to try to do something gaming. I think it muddies
24 the symbol. We have come this far with some kind of a

1 logo that --- Elaine, how did you describe it, as a --

2 MS. DRISCOLL: -- a seal.

3 COMMISSIONER CAMERON: That is very
4 close to a seal. I can't personally visualize a casino
5 on there or anything else having to do with gaming. I
6 don't know that that's a necessary piece to what we are
7 doing.

8 COMMISSIONER ZUNIGA: I think I may have
9 told Elaine my preference in this. But I'll just
10 mention I was leaning towards one and four almost by
11 process of elimination. Going by on the second one it
12 seemed to me a little sort of institutional --
13 educational rather, like a higher institution type.
14 That was just my impression. Whereas also the third
15 one, until it was explained to me that it was the three
16 tenets of our mission statement did I sort of recognize
17 that. But I know that is the difficulty with abstract.

18 COMMISSIONER CAMERON: I agree with you.
19 I like one and four also. I think maybe four is a little
20 less busy. So, I am going to make a decision and go with
21 four personally.

22 CHAIRMAN CROSBY: I had gone with four
23 also, but I was sort of damping with being crazed, which
24 is I think what you picked up. That the abstraction

1 just doesn't move me at all. It's kind of like wasted
2 space. It doesn't seem to me that it does anything.

3 There is no way on earth anybody is going
4 to associate it with participatory, transparent and
5 fair. There's no chance. But I didn't remember seeing
6 number two. Number two, that kind of looks like an M
7 to me. It sort of looks like Massachusetts where it at
8 least gives it some relationship to what we are as
9 opposed to just to something completely abstract.

10 If had to pick again from these, I think
11 would go with four. I would say again that it just seems
12 like kind of a waste of space. There ought to be
13 something meaningful that can be done with the space.
14 But short of an alternative I would go with four.

15 MR. BELYEA: If you were to have a choice
16 between no icon within the seal, if we were actually to
17 remove the icon, because I think from our side we are
18 in agreement that no casinoesque type of symbology will
19 work. If the abstracts are not causing the more
20 positive reaction we are looking for, could you
21 visualize it without an icon and more of a traditional
22 seal still making it the five stars?

23 CHAIRMAN CROSBY: You could put the five
24 starts above it too, so it would look balanced. If you

1 just left a hole --

2 MR. BELYEA: We would readjust. The
3 Mass Gaming would be stacked as we call it.

4 COMMISSIONER STEBBINS: Number one looks
5 like strands of grain or strands of wheat coming off of
6 it?

7 MR. BELYEA: Yes. When we were looking
8 for something that is sort of authoritative and
9 professional and dignified type of state symbol.

10 CHAIRMAN CROSBY: It's the wheat that the
11 horses eat.

12 COMMISSIONER MCHUGH: No, it's the thing
13 that's the laurel wreath that the rulers used to wear.

14 COMMISSIONER STEBBINS: Iconic to a
15 penny.

16 COMMISSIONER ZUNIGA: I'll just put my
17 support behind an icon, an abstract, not removing it.
18 I think it tells people whatever it tells them, but it
19 is something that people recognize, for whatever it's
20 worth.

21 MR. BELYEA: To your point, I think we'll
22 have a lot of great opportunities to weave and tell that
23 story on the website and other materials that we do to
24 talk about what the symbol means to us and to bring it

1 out in other ways. For the logo to do that to have the
2 legs to tell that story in and of itself, yes, I agree
3 100 percent no one is going to pick that up right away.
4 But I think that gives us a great opportunity down the
5 road and through other marketing communications
6 vehicles to tell the story.

7 COMMISSIONER STEBBINS: Would you have
8 room on number four to add the laurel?

9 MR. BELYEA: It's going to get a touch
10 busy, but we can explore it.

11 COMMISSIONER STEBBINS: When we started
12 this, I kind of liked number one. But then I saw number
13 five again and it gave me an impression of a bat. And
14 then I looked at number one again and that looked like
15 a bat. So, I like the balance that number four has.

16 COMMISSIONER MCHUGH: I thought number
17 five looked like a bat.

18 COMMISSIONER STEBBINS: Yes. Well, I
19 thought five looked like a bat and then one looks a
20 little bit like a bat.

21 COMMISSIONER CAMERON: Or an owl, four?

22 COMMISSIONER STEBBINS: But it's missing
23 that dip in the ears. I do agree. I like having some
24 type of symbol that stresses the points of our mission.

1 If you can squeeze them in, I'd say then squeeze them
2 in. If not, I like number four.

3 MR. BELYEA: So, number four has some
4 consensus among the team that it has potential with some
5 modifications. I wonder if it is something that maybe
6 we go beyond just the seal and show the logo in another
7 use where we bring that icon to life. Maybe you will
8 be able to -- It will begin to tell its own story.

9 CHAIRMAN CROSBY: Sure. You can make
10 meaning, symbols have meaning. As we discussed, Nike
11 made the swoosh have meaning. It was just a swoosh. It
12 meant nothing. But I don't know that we are going to
13 have that kind of marketing muscle to turn that into
14 something. But sure that would be interesting. I
15 think you might try things we've been talking about and
16 maybe take a stab at one without an icon, one or two
17 without an icon.

18 MS. DRISCOLL: Like I said, I don't mean
19 to make it more difficult, but I know it's tough because
20 the space is small, but I just feel like the struggle
21 with abstract continues. So, I would be interested in
22 seeing something that's not, but I don't know what that
23 is. I wish I did, I don't. But we have to move closer
24 to this because it's time to move on.

1 CHAIRMAN CROSBY: Dollar symbols.

2 MS. DRISCOLL: But we don't have any more
3 than a week to decide. So, it's time to move forward.

4 COMMISSIONER STEBBINS: Could you move
5 the stars up above Mass Gaming?

6 CHAIRMAN CROSBY: That's what I was
7 suggesting.

8 COMMISSIONER CAMERON: You mean 10 stars
9 instead of five?

10 CHAIRMAN CROSBY: Yes.

11 COMMISSIONER STEBBINS: I think if you
12 take them off the bottom, it wouldn't look as -- you
13 wouldn't notice a big gap on the bottom if you just moved
14 them up on the top.

15 MR. BELYEA: I think based on today's
16 conversation, I think just hearing this first hand I
17 think is going to help us, Lynn, who is our senior art
18 director as well to be able to formulate some new ideas
19 and come back with something that I think we can all
20 agree upon.

21 MS. DRISCOLL: Maybe the last and final
22 round. if you could just maybe give us something that
23 -- see the logo in action a little bit so that we can
24 put some context to it. Maybe that's be helpful.

1 MR. BELYEA: That'd be huge.

2 COMMISSIONER CAMERON: And Elaine, you
3 want a decision by next week. I think I'm hearing that.

4 MS. DRISCOLL: Yes, has to.

5 COMMISSIONER MCHUGH: If you put the
6 stars up there, you play around with the formation, you
7 could have like McArthur's five stars, right?

8 MR. BELYEA: Say it one more time, move
9 it from the top to the bottom?

10 COMMISSIONER MCHUGH: Put the stars up on
11 top and rearrange the pattern so it was like a five-star
12 general. I'd feel good.

13 COMMISSIONER CAMERON: Do you want to be
14 the general?

15 CHAIRMAN CROSBY: The judge, a
16 Commissioner and a general?

17 COMMISSIONER MCHUGH: And a general, why
18 not?

19 COMMISSIONER CAMERON: I was happy to get
20 the colonel. I didn't have to be a general.

21 COMMISSIONER MCHUGH: Well, now is your
22 chance.

23 COMMISSIONER CAMERON: That's fine.

24 CHAIRMAN CROSBY: Great. Thank you very

1 much. Elaine, while you're here, do you have anything
2 else?

3 MS. DRISCOLL: No, I think that beyond,
4 I am going to start determining what the community
5 outreach strategy will be around soliciting feedback on
6 policy questions. Because I think that that's really
7 important.

8 In the meantime, the good news is too that
9 in addition the current website, we have facebook and
10 twitter and other elements to do that.

11 I'm just working on a draft press release
12 at this point that can go out this afternoon, but maybe
13 at this point it's best to hold it until tomorrow.
14 Also, just promoting upcoming speaking engagements that
15 we have because we have several coming up in the next
16 month.

17 CHAIRMAN CROSBY: We've got a lot, yes.
18 Thank you.

19 COMMISSIONER MCHUGH: Great, thank you.

20 CHAIRMAN CROSBY: Bob and Guy, do you
21 want to come back? We know you have a train to catch.
22 So, if we are still in the middle of stuff -- It's gravy
23 to have you guys here for this conversation. It wasn't
24 an absolute.

1 MR. CARROLL: There's not much left of
2 where we stayed anyway right now, so we have a little
3 extra time.

4 CHAIRMAN CROSBY: RFA-2, do we want to
5 talk about that before we get into policy questions,
6 just a status report?

7 MR. MICHAEL: Actually, a lot of our
8 RFA-2 is dependent on the policy questions because what
9 we've done -- you've laid it out here and what we've done
10 is prioritize those regulations in the second phase that
11 need to be done at certain times. Those that are needed
12 immediately, those a little later and those ultimately.
13 And a lot of those depends on what determinations the
14 Commission makes on these policy questions so we are
15 given guidance on how to proceed on them.

16 So, we would address the policy questions
17 that are prioritized as one and then draft regulations
18 in that regard and then proceed from there.

19 CHAIRMAN CROSBY: Right. Okay. Just
20 to reiterate, the policy questions were put together
21 from a host of places, including initially issues you
22 all raised to do two things. One is to inform the regs.
23 And two is to make sure that the bidders and the
24 municipalities have an early heads-up on a lot of

1 relevant matters that we will be talking about.

2 Maybe we should talk about the schedule
3 and the process. John, this is sort of out of your
4 sequence. What I think would make sense is to talk
5 about the process for these things as well as then to
6 run through them where we got some feedback already.

7 What we talked about doing up until now
8 is assigning these out to all of the Commissioners who
9 will then work on their set. Within a month of that
10 time, which would be the first week of December, we had
11 hoped that we would all be prepared to lead a discussion
12 to an answer on each of these -- to a decision on each
13 of these. And we have talked tentatively at least about
14 scheduling Monday through Thursday or Monday through
15 Friday mornings where we would have public meetings that
16 second week of December and simply run through all of
17 them and resolve them.

18 We also said, and it was kind of informal
19 that we thought it made sense to post these and let
20 people comment. I was initially thinking comment on
21 the questions themselves, but people have also raised
22 other questions that they think should be added to the
23 mix.

24 So, I think it makes sense to formalize

1 what our public comment time is going to be. And John
2 has gotten some feedback and has got some ideas on that.
3 So, do you want to fill us in a little bit?

4 MR. ZIEMBA: Sure. I've been in contact
5 with most of the contact persons at the municipalities
6 that are potential host communities over the last week.
7 And I have also been in touch with a number of the
8 potential applicants, at least those that have been
9 identified today.

10 I think these haven't been very extensive
11 conversations in many regards. But I did bring up the
12 issues of the policy questions and highlighted that
13 specifically for the municipalities.

14 My recommendation is that because these
15 policy questions and the answers that we come up with
16 will have pretty far-ranging impacts that we formalize
17 the process for input by municipalities and/or by the
18 development community. And part of that should be a
19 deadline that we set by which comments should be
20 submitted by these communities.

21 Given that conversations have gone on for
22 this past week about the fact that these questions are
23 out there, but I think anything before two weeks from
24 now would really be fairly too early for people to be

1 able to respond in an intelligent manner. If it's two
2 weeks from today that puts us right before the
3 Thanksgiving deadline. If indeed we can push it
4 forward one additional week that might be even better,
5 might give communities and the development community a
6 little bit more time to provide reasoned responses.
7 But again that does push it against our December
8 deadlines. And we will need some time to take into
9 account some of the input that we receive over that time.

10 We've also been highlighting the policy
11 questions to some of the regional planning agencies as
12 well. They will be important in helping us work through
13 some of these issues and particularly some of the issues
14 regarding surrounding communities and other ones that
15 are on the agenda.

16 COMMISSIONER ZUNIGA: The idea, I just
17 want to come back to the original notion, would be to
18 put these questions for comments about the questions or
19 to include additional questions? Because I think we
20 maybe need to think about what --

21 CHAIRMAN CROSBY: I don't see any harm in
22 getting both. I hadn't really thought about that, but
23 I'm already got some additional questions here for the
24 discussion today. I think that would be fine.

1 What about the timing? The pressure to
2 move quickly isn't coming from us. It's coming from the
3 outside world. But we had talked about being ready to
4 go by the first week in December. Two weeks from now
5 would be the 20th. Three weeks from now would be the
6 27th, which would be after Thanksgiving. We would need
7 at least two weeks. So, that would bump us a week later
8 into December by which time we could get these resolved.
9 I could go either way. Does anybody have --

10 COMMISSIONER MCHUGH: I think the
11 desirability of getting full community regional
12 planning association input ought to be the driver. And
13 if we take a week longer to insure we have gotten that,
14 I think we'd be better off doing that. And push the
15 discussion back a week, if necessary.

16 So, I think going through my own little
17 chunk of this thing in preparation for today's meeting,
18 just trying to figure out where we're going to go to get
19 the information. There was a lot of things that really
20 are dependent on what communities and regional planning
21 groups have to offer and I see that everybody else has
22 got that too. That's where I'm coming from.

23 COMMISSIONER ZUNIGA: I would also
24 mention that we be proactive in communicating that this

1 is not the only opportunity to make comments. Clearly,
2 there will be a formal process on our regulations. In
3 fact, many of these questions will require regulation
4 and that is a good public process by design. So, that
5 the deadline, if you will, is not interpreted as the only
6 opportunity for people.

7 CHAIRMAN CROSBY: I think that's really
8 important, but at the same time I think it's really
9 important, as we talked about before, to be as
10 comprehensive now as we can because the regulations are
11 going to take awhile to develop. And people are in the
12 middle of planning, communities and developers. And
13 have some idea, pretty good idea of what the regulations
14 are going to say and the tact they are going to take is
15 something I think we've been hearing a need for from the
16 beginning.

17 So, while that's absolutely right and
18 people ought to understand there will be another
19 opportunity, I'd take a look at that other opportunity
20 really as sort of a fine tuning kind of thing rather than
21 a global strategy kind of thing.

22 COMMISSIONER ZUNIGA: This is clearly
23 within our mission of being participatory, it's let's
24 be the most participatory at the beginning where it

1 really matters the most.

2 CHAIRMAN CROSBY: Right.

3 COMMISSIONER MCHUGH: And I don't
4 disagree.

5 MR. ZIEMBA: Mr. Chairman, a little more
6 detail regarding the exact process of review of the
7 policy decisions when they occur in December. When we
8 are ready to make that might be useful to both
9 communities and potential applicants as in are we going
10 to put forward a draft, a policy statement for
11 consideration by the full Commission prior to each of
12 those dates? Will it just be the general discussion
13 based on some of the additional research? Those are the
14 types of things that might be helpful to folks in the
15 audience and in the outside world.

16 CHAIRMAN CROSBY: What we had talked
17 about -- If we go with three weeks, that would mean from
18 now until the 27th. And you and Elaine could work
19 together to get this up with the right language around
20 it, if not today, tomorrow. And we would invite
21 comments on the questions and propose other questions,
22 but it's important to note that we are not talking about
23 small-bore questions here.

24 A lot of people have started to send in

1 I think that would be great. I have doubt about our
2 ability to do that. These are policy determinations.
3 And they can be revised and tempered as we move forward.
4 We'll probably revise and temper then in the discussion.

5 I think to try to post them and then take
6 comments about them and then decide them after the
7 comments come in is going to sacrifice our ability to
8 get things done in the interest of being fully -- in the
9 interest of being participatory in a way that's not
10 necessarily going to yield a lot at that stage, I think.

11 The initial stage for people to make
12 comments as to what we are going to do. Absorb, listen
13 to those comments, take them, try to weave them into the
14 policy. Discuss the policy, shape the policy, tailor
15 the policy. And then write regulations that we are then
16 going to put through the extensive public comment period
17 I think really will allow us to be both participatory,
18 transparent and efficient. That's what I would strive
19 to do.

20 COMMISSIONER CAMERON: Two
21 opportunities to comment is appropriate. I would agree
22 with that.

23 CHAIRMAN CROSBY: I think if it turns out
24 -- rather than say we will post written positions, I

1 think we might where we can, if we decide we can, maybe
2 we will.

3 I agree with Commissioner McHugh. Let's
4 not set that out as a firm commitment.

5 COMMISSIONER MCHUGH: The other place
6 where we may, Mr. Chairman, want to post something would
7 be after discussion if we run into a particularly thorny
8 problem as to which we think we need more community
9 input, then we could cull out those and put them up and
10 say here we are. We need some more help with these.

11 CHAIRMAN CROSBY: I thought about -- In
12 some of my sessions, I suggested that we need a public
13 hearing. I'd like to have an opportunity for people to
14 come in and talk us about it. So, that would be another
15 opportunity.

16 COMMISSIONER CAMERON: And many of them,
17 particularly the ones I have, are really not something
18 I think the public has any knowledge of. They really
19 are specific to gaming operations, which it's much more
20 valuable for us to consult with our gaming consultants
21 and/or other jurisdictions and what the best practices
22 are. So, it is really not something I think there would
23 be a lot of comment about.

24 CHAIRMAN CROSBY: Right.

1 COMMISSIONER ZUNIGA: Would it be
2 helpful for us to try to -- This certainly applies to
3 some questions more than others. -- would it be helpful
4 to try to put in the pros and cons on each of the policy
5 questions where this may apply? I am just reminded of
6 the questions that I voted in this morning. What a yes
7 vote would do or what a no vote would do. To facilitate
8 understanding of our --

9 COMMISSIONER CAMERON: Some of the
10 questions may require that, but others I think would
11 not.

12 COMMISSIONER ZUNIGA: I understand that.
13 I am just thinking of alternatives to at least some of
14 the questions.

15 CHAIRMAN CROSBY: I think as we get
16 closer to that period, I'll be talking with everybody
17 about theirs and where we feel like we really need a
18 little bit of a position paper, we can get one and work
19 on. So, I think we can set that out as a plan.

20 Jamie, did you get those dates? Did you
21 get those sequence of dates I was just talking about?
22 So that week, we ought to freeze the week of the 10th
23 through the 17th for all of us.

24 COMMISSIONER STEBBINS: We have a

1 potential conflict with AIA who came back to us, wanted
2 to do their presentation to us on the morning of the
3 12th.

4 COMMISSIONER ZUNIGA: December 12?

5 COMMISSIONER STEBBINS: Yes, it would be
6 a half day.

7 CHAIRMAN CROSBY: Maybe we can have them
8 be in the afternoon. We'll have to figure that out. We
9 can get Janice on that when she gets back, but just make
10 sure that those dates start to get locked down on
11 everybody's calendar. Anything else on the process
12 here?

13 MR. CARROLL: Just one other thing,
14 Chairman, we briefly discussed this with Commissioner
15 McHugh. There's a possibility that some of the policy
16 determinations here would not necessarily result in
17 regulations. There's the possibility of making
18 clarifying statements and general policy statements or
19 some format that might still be issued at an appropriate
20 time.

21 We'll also look at the list in that regard
22 if there are any identifiable in that regard. So, the
23 first step you talked about in terms of getting input
24 even covers that because you wouldn't necessarily have

1 the regulation public input, but you would have it in
2 terms of these questions. You'd be covered either way.

3 There are a lot of areas in here that we
4 see that may not be subject to a specific regulation but
5 would be something that the Commission's position
6 should be known so that applicants would have guidance
7 and the public would be made aware.

8 CHAIRMAN CROSBY: Right. You are saying
9 you were going to cull those out? Is that what you said?

10 MR. CARROLL: We will look through it,
11 yes, and see if there are any of those areas that we could
12 identify for you.

13 CHAIRMAN CROSBY: Okay.

14 COMMISSIONER CAMERON: Thank you. That
15 would be helpful.

16 CHAIRMAN CROSBY: Did anybody else have
17 -- Yes, there are some other reds. I had had one. I
18 had sent around a note saying that I was going to suggest
19 that we vote today on -- It's on the first page. It's
20 the same question pretty much, 16 and 31 -- no, sorry
21 16 and 45. Should the Commission confirm through a
22 formal policy that no host community agreement should
23 be executed or referenda held before the relevant
24 applicant has qualified through RFA-1. That was thrust

1 upon concern with Springfield.

2 I was originally thinking that we have
3 talked about that so much that it was pretty much a known
4 fact to everybody. But it might be good if we formalize
5 what has been an informal, I think, an informal
6 agreement on our parts. But John had some concerns
7 about that.

8 MR. ZIEMBA: I think my major concern is
9 that if we are putting these policy questions out to the
10 general world, people may have different determination
11 about each one of these policy questions. And that is
12 a pretty big one with the development community and with
13 the communities that are trying to move very quickly.

14 Even in the minds of the Commission that
15 a decision may be made that would be the same as the
16 decision today, I think that from a due process point
17 of view, it would make sense to get the input of the
18 communities and the development community. The
19 mitigation agreement, as I stated earlier, it is
20 something that sets a lot of things in process.

21 A lot of resources, at least on the
22 development level will be forthcoming after the
23 mitigation agreement. So, there's a level of certainty
24 that people want on that agreement. Giving folks

1 another three weeks to opine on that matter might not
2 interrupt anything at the local level especially if --
3 you make reference to Springfield question. They put
4 out an RFP process the other day. And it doesn't look
5 like they're going to be coming to any mitigation
6 agreement within the next three weeks. So, in that
7 regard, I don't know if there is any danger specifically
8 with that proposal moving forward in the absence of
9 something being issued today.

10 COMMISSIONER MCHUGH: I would agree with
11 that. In addition to that, I think as part of this
12 discussion, which we have had and we have obtained the
13 agreement of the Springfield authorities too that they
14 were going to abide by this. That we need to think
15 through as part of the policy what the consequences of
16 failing to follow the policy are.

17 This policy as it's directed here is no
18 community should do it. Are we content to leave it at
19 that and leave for the regulation issuing process the
20 consequences of doing it before the qualification? Or
21 should we make it part of the policy to articulate A -
22 the Commission won't consider a host community
23 agreement as a host community agreement if it's done
24 before the qualification process?

1 I just throw that out as a hypothetical.
2 But that's an important part of whatever policy that we
3 ultimately adopt. And I think we need to think that
4 through.

5 COMMISSIONER CAMERON: An enforcement
6 mechanism.

7 COMMISSIONER MCHUGH: Right.

8 MR. MICHAEL: Just ancillary to that, you
9 are much closer to this than we are. But in our meetings
10 today and yesterday with the applicants and the
11 interested parties, when you mentioned earlier whether
12 they had asked any questions about process. And for me
13 this was the question that came up most frequently was
14 how does this process, the state process interact with
15 any of the local processes? What happens to us if we
16 are not chosen locally and then we are in the middle of
17 an investigation from the state. Is our license fee
18 refundable? Those kinds of ancillary questions that
19 arise as an impact of this determination are subparts
20 of all of this.

21 CHAIRMAN CROSBY: I don't have a problem
22 with that. I said to John that my view is if people
23 don't know the answer to this question, they haven't
24 been listening to our meetings. I wouldn't want there

1 to be any misunderstanding on this. I think the words
2 are chosen carefully.

3 It says no host agreement executed nor
4 referenda voted on. You can negotiate to your hearts
5 content, but don't close the deal until we know whether
6 a party has been approved. And incidentally I would
7 think by now by looking at this people would also see
8 that there are any number of other issues that we will
9 be addressing which will no doubt be reflective in the
10 host community agreement.

11 Having said that, I agree with you. So,
12 I don't have a problem with holding that one also.

13 Should I just run through mine quickly
14 here and see whether there's anything really to talk
15 about? The surrounding community question we talked
16 about a lot. John is picking up that ball. We are
17 going to talk with the RPA's, our own law firms. It's
18 a level two priority. It doesn't have to be done
19 immediately. But it's a pretty important one.

20 COMMISSIONER MCHUGH: Could I just
21 interrupt for a second here then, because this is a
22 question that I had and I thought I understood what the
23 answer was, but I realize I don't. The process you just
24 described has us formulating policies during the early

1 week of December. That's what we talked about all
2 along.

3 What is the significance of one, two and
4 three on that timetable? Are we going to concentrate
5 on, for example during that week, on ones? And to the
6 extent we finish ones do twos and to the extent we finish
7 twos do threes? And if we come to the end of the week
8 and we haven't finished all of the twos or the threes
9 stop anyway? Or are we going to approach this in some
10 other fashion?

11 COMMISSIONER ZUNIGA: I'm glad you asked
12 that question, because when I first thought of the one,
13 two and three, I assumed, perhaps incorrectly, that we
14 would be deciding on a rolling basis starting as early
15 as today, let's say, if we were to decide on a policy
16 about the host community agreements, which we won't for
17 at least a couple of weeks, hence the one, two and three,
18 which concentrate on the ones and continue thereafter.

19 If all decisions or most decisions will
20 be made for some period of a week in -- for a week in
21 December, it becomes perhaps just two notions here, the
22 ones that are decided then and the ones that are decided
23 later by virtue of regulations Phase III. And I am just
24 picking something that -- speculating, if you will.

1 COMMISSIONER MCHUGH: We could easily
2 do, take that chunk of time in December, give it our best
3 shot. Finish the ones, we surely will, get into the
4 twos, start drafting regulations with respect to those
5 and then come back to the others in say January.

6 CHAIRMAN CROSBY: If we haven't gotten
7 through them?

8 COMMISSIONER MCHUGH: Yes, if we haven't
9 got through them. And that way, we have time to do an
10 orderly thoughtful consideration of things like what's
11 the important mechanisms for somebody who doesn't do
12 this. We don't have to - and concentrate on that and
13 don't have to sort of intersperse these things with
14 other ongoing business that we have every week. That
15 would be my preference.

16 CHAIRMAN CROSBY: I would pretty much
17 agree with that. I thought maybe red might have
18 something to do with significance. For example, I
19 thought up until a minute ago that we ought to move on
20 question 16 today. And maybe other people will see
21 reds. I don't know. Somebody might say we ought to
22 address something sooner than our process.

23 Other than that, I think what you said is
24 right that we should use the week of the 10th for the

1 ones and twos for sure and as many of the threes as we
2 can get to.

3 COMMISSIONER CAMERON: There is only one
4 other red.

5 COMMISSIONER ZUNIGA: Some of this
6 should be viewed as preliminary or potentially
7 changing.

8 CHAIRMAN CROSBY: Commissioner does that
9 answer --

10 COMMISSIONER MCHUGH: That's fine.

11 CHAIRMAN CROSBY: So, a green is a green.
12 Should the Commission prohibit gambling by local
13 officials in casinos located within their
14 jurisdictions?

15 We've got a long time to answer that
16 question. So, if we don't get around to that in
17 December that's fine.

18 COMMISSIONER MCHUGH: Right, right.

19 COMMISSIONER CAMERON: Do we need to go
20 through question by question since the only thing we did
21 is identify who needs to help us with this and what level
22 of priority and if there's a document. I'm just not
23 sure if going through question by question will --

24 CHAIRMAN CROSBY: I think you might be

1 right. The first question to me is there anything else
2 that anybody really wants to raise right now about this
3 particularly while we have the consultants here or
4 that's particularly pressing?

5 COMMISSIONER ZUNIGA: Yes. I thought of
6 something, which applies to a number of questions and
7 perhaps starts a little bit of a process. Some of these
8 questions, particularly the ones about scoring or the
9 minimum requirements, perhaps they could be thought of
10 as certain prerequisites that the Gaming Act requires.
11 Then additional criteria that either the Commission can
12 impose on those prerequisites.

13 Or an aspect that could qualify as a
14 stronger submission to the Commission. I can pick one
15 or a couple, but equity participation. There is this
16 question about debt-to-equity. Could we, should we
17 prescribe an equity of participation of an applicant?

18 That in my mind could be structured both
19 ways as a prerequisite above which the more equity
20 participation is the more favorable. Thus somebody
21 competing against somebody else may be viewed more
22 favorably by virtue of how much equity they have, if the
23 Commission decides that that is a value to the
24 Commonwealth, which I happen to believe.

1 In other words, this notion this thing
2 that could cut across some of these questions that I
3 think I just wanted to mention as we have our consultants
4 here to either comment on that notion what other
5 jurisdictions might have said. This distinction
6 between prerequisites, what should always be left as
7 prerequisite should perhaps be thought of as letting
8 people be creative and compete on the notions.

9 COMMISSIONER MCHUGH: That maybe part of
10 the policy decision. But would your thought in that
11 regard say, one of the alternatives is to set a minimum
12 threshold and then say beyond that minimum we consider
13 favorably? As opposed to just saying here is the
14 minimum?

15 COMMISSIONER ZUNIGA: It just occurred
16 to me that there were a number of questions that had this
17 theme. And this theme of we could be liberal in a sense
18 let respondents propose the best alternative, let's
19 say.

20 Or could we take a look at what the Gaming
21 Act prescribes as a prerequisite. Or we could even move
22 that prerequisite higher. The licensing fee is another
23 one where we are pondering whether we should up that,
24 which is a clear prerequisites of the Gaming Act.

1 MR. MICHAEL: If I could, the first kind
2 of hypothetical that you raised with regard to the
3 equity and debt ratios, it's not unusual for a
4 jurisdiction to -- Usually, a standard is financial
5 stability. And that is the general statutory standard.
6 Then a jurisdiction will establish regulations that
7 further define what constitutes a financially stable
8 corporation.

9 Then you get into the issue that runs
10 through all of the regulation and that is how specific
11 do you make the rule or how much discretion do you give
12 the applicant? That's an issue that is part of every
13 -- especially when we get into the gaming operations
14 stuff, do you impose specific internal controls on every
15 casino or do you let the casinos provide you with what
16 they consider to be sufficient and you tell them whether
17 you think it's sufficient.

18 That's a policy judgment that I think is
19 in here as well in terms of what the regulations, how
20 they are drafted generally or more specifically.

21 With regard to the second part about
22 raising the investment requirement, again, that is
23 purely a discretionary judgment. That's something
24 that is not -- The statute does mandate a specific

1 investment requirement and it says or such additional
2 requirement as the Commission may determine. So, you
3 have that authority right away.

4 There has to be a balance struck between
5 the Commission imposing its view on the applicants and
6 saying this is the way you must structure your
7 organization and giving too much leeway so that there's
8 really no efficient standard. I don't know if I'm not
9 helping any except to say that it's a difficult balance,
10 but it's a balance that you're going to be asked to
11 strike.

12 MR. CARROLL: I just wanted to add one
13 thing, and that would be -- I would suggest remaining
14 mindful of the fact that the industry today is so highly
15 competitive that the creativity of the individual
16 applicants is going to weigh heavily on a success for
17 the property.

18 The statute has floors for investment and
19 so forth. And just in our preliminary discussions and
20 so forth, we get the sense that obviously there's going
21 to be -- and you see from some of the media reports that
22 some of the applicants are going way beyond the minimums
23 in terms of their proposals. That's expected.

24 The quality of it and so forth is what you

1 will be getting into as the proposals roll out more and
2 more detail. In terms of establishing your regulatory
3 framework and shackling to a certain degree the
4 applicants from having the maximum creativity they can,
5 as long as you assure the fundamental soundness of what
6 they are proposing is something that in today's gaming
7 market, and particularly the fact that we are surrounded
8 by jurisdictions that have highly competitive
9 facilities, the balance that has to be struck has to
10 consider that.

11 That you're looking for good solid
12 investments, large investments, but getting into some
13 of the peculiar aspect of some statutes where there's
14 hotel room to gaming floor ratio and things of that sort.
15 Some of that stuff started out in original statutory
16 schemes and was later removed in other jurisdictions to
17 generate bigger and better and more creative
18 properties.

19 You have your floors established. And I
20 think it would be prudent to look at those as you see
21 the different applications coming in. How far you want
22 to go though in specifically requiring specifics is
23 something that has to be balanced through the overall
24 potential salability, if you will, of the property as

1 a whole. Because bottom line is it has to be attractive
2 and the revenue has to roll in and compete with some
3 pretty heavy properties that you're facing already.

4 MR. MICHAEL: One of the other problems
5 in being too specific is that you end up with a
6 cookie-cutter approach. Everybody is going to be
7 proposing the same thing because they are all meeting
8 these specific standards. And there is nothing really
9 to score. Everybody is going to look the same.

10 So, to the extent you can give leeway and
11 discretion on the part of the applicants to be creative
12 and provide you differences, it's helpful.

13 COMMISSIONER MCHUGH: One of the things
14 that I thought -- And that's really helpful. One of the
15 things that I thought I heard Commissioner Zuniga saying
16 though was something like to go to the debt-to-equity
17 thing, a debt-to-equity ratio of X to Y is a floor. The
18 Commission will consider a higher percentage of equity
19 to be a favorable component of an application.

20 Have you ever seen that kind of thing
21 done? So, it's sort of here's the floor. Do whatever
22 you want, but we would like you to think about more
23 equity. You don't have to --

24 MR. MICHAEL: More under the heading of

1 general project proposal size, amount of commitment and
2 so forth.

3 You can have a debt-to-equity ratio from
4 a big player, so to speak, that if a smaller player would
5 propose that it may be a little riskier. By the same
6 token, the quality of the project and so forth, and the
7 financial stability of the project, regulations -- the
8 statute already requires specificity that you'll be
9 able to get a pretty good feel for that already.

10 If you were to establish, go further than
11 the statute and require some additional specific ratio,
12 minimums so to speak, it might affect the applicants
13 differently depending on where they come into the
14 particular process. And it's something that will have
15 effect, it could have a real effect on it. I'm not sure
16 at this point whether that would be a factor that we
17 anticipate facing. But it's something we keep coming
18 back to looking at the opportunity here to be something
19 that these big players, if you will, the players that
20 are coming in are going to be putting a lot of money,
21 a lot of capital investment. And you want the most
22 attractive and most sellable property possible.

23 As long as you can prescribe all the
24 necessary minimums, put in whatever additional

1 safeguards you're comfortable with, you really have to
2 balance it situation by situation, because you are going
3 to get diverse presentations. Their applications are
4 going to certainly differ.

5 MR. MICHAEL: And diverse presenters,
6 yes. If one company has a billion dollars in cash flow
7 and another is barely surviving, the kind of
8 debt-to-equity ratio that they both propose has to be
9 viewed in the context of the company's ability to
10 survive that ratio.

11 If you set a specific standard that
12 everybody has to meet, even if it's a floor, it may not
13 be necessary for one company to still be very stable,
14 but yet it may be for another. And I'm not sure that
15 uniformity there is a value.

16 COMMISSIONER MCHUGH: That's a
17 fascinating observation because it raises for me the
18 question of how we get a handle around -- how we get our
19 hands around when a floor is appropriate and when it
20 isn't. If we move, for example to numbers of rooms in
21 a hotel, we've heard, for example, that a number of
22 casinos, perhaps all, have rooms reserved for their
23 patrons. So, 300, 400 rooms is somewhere in the
24 ballpark.

1 So, if we said that you had to have 20
2 percent of your rooms reserved for, available for
3 non-gaming patrons hypothetically and more rooms
4 reserved for -- That's the minimum, but the more the
5 better in terms of the way the Commission will look at
6 your application. That's another variant of the same
7 thing as we were talking about with the debt-to-equity
8 ratio.

9 How do we decide whether that kind of
10 approach is ever appropriate as opposed to saying give
11 us your best shot as to how many rooms you're going to
12 have for what?

13 MR. MICHAEL: Experience I think will be
14 a principal place to look. Typically, in areas such as
15 that where you are dealing with the marketing philosophy
16 of a particular company, the regulator has not really
17 in the best position always to make that kind of a
18 judgment.

19 There may be a certain public policy that
20 you want to enforce and say we encourage you to leave
21 rooms available for non-player guests, but you could run
22 into a serious problem if you, for example, mandate 20
23 percent be set aside and then 20 percent of the rooms
24 are empty on a consistent basis. That's not a good

1 situation to be in and the Commission will be blamed for
2 it.

3 MR. CARROLL: And that criteria could be
4 affected, obviously, by the size of the project. If
5 it's a 1000 room project versus a 300 room, 20 percent
6 can have a material difference on the bottom line.

7 COMMISSIONER MCHUGH: Right, right.
8 Okay.

9 CHAIRMAN CROSBY: I don't see any
10 solution but to think about these ones. Each one of
11 these almost -- because the debt-to- equity, if you have
12 a floor which you think guarantees a stable operation,
13 increasing the equity might drive more credit to the
14 deal, but they're doing that by taking away from things
15 you care more about.

16 So, there's a law of unintended
17 consequences on a lot of these things. I think what we
18 are seeing is, we are going to have to really think
19 carefully through each one of these variables.

20 COMMISSIONER ZUNIGA: I agree. But if
21 nothing else, adding specificity to any one of the
22 giving floors, for example, level of investment, we
23 already got a question as to what would count towards
24 that level of investment. Whether, for example,

1 capitalized interest would allowed to be count. I have
2 my own opinion about that. There's costs that are
3 clearly more investment related, whereas others may
4 not. And that's really what we ought to be thinking
5 about.

6 CHAIRMAN CROSBY: There are a couple of
7 more reds here. Let me just mention them. On my side,
8 one was will the Commission promulgate additional
9 ethics or reporting standards for applicants and/or
10 related municipalities?

11 I put that as need immediate attention.
12 But I don't see any reason not to have it fall in the
13 same window that we've now talked about, wait the three
14 weeks. Did anybody else have reds?

15 COMMISSIONER MCHUGH: I had a question.
16 There's a red on page two, Mr. Chairman, question 32 at
17 the bottom is a one and two. So, that's a possibility
18 as a one. And that one -- I am going to stop by just
19 flagging that for the minute.

20 CHAIRMAN CROSBY: Let me just jump on
21 that. I do think -- I don't know where this goes, but
22 I do think that I would not want to agree to wait the
23 three weeks before we do something or other. I think
24 this is something we are trying to figure out how to

1 think about. And I would want to be sure to reserve the
2 right to bring this one up any old time now.

3 COMMISSIONER MCHUGH: I join you there,
4 but I just don't have anything substantive to say.

5 CHAIRMAN CROSBY: I understand. But we
6 are not putting that one necessarily into the three-week
7 category necessarily.

8 COMMISSIONER MCHUGH: Right. And then
9 it struck me that on the next page, number four that
10 first one is a two, question number four the first one
11 is a two. It struck me that that we should think about
12 making a one. It goes with five. And five falls in my
13 bucket. And I've designated five as a one and I think
14 this one should be a one as well.

15 COMMISSIONER ZUNIGA: I agree.

16 COMMISSIONER MCHUGH: Because I think
17 that the planning process right now is focusing on these
18 kinds of things. People are trying to get their plans
19 together. So, I would upgrade that one to a one.

20 CHAIRMAN CROSBY: Okay.

21 COMMISSIONER MCHUGH: And then I have in
22 my bucket on page, I don't have any numbers on these
23 pages, but page five, section four, first question is
24 question five. I've got that as a one or a two. I think

1 I'd strike the two and put that as a one.

2 CHAIRMAN CROSBY: But fine within the
3 three-week timeframe?

4 COMMISSIONER MCHUGH: Yes. Yes.

5 CHAIRMAN CROSBY: Any other?

6 COMMISSIONER CAMERON: Mine aren't
7 listed on this sheet, but I did not have any reds. They
8 were all well down the road.

9 CHAIRMAN CROSBY: Yours are all whites.

10 COMMISSIONER CAMERON: I had greens and
11 yellows.

12 CHAIRMAN CROSBY: First of all, we've got
13 15 more minutes with the consultants. Did anything pop
14 out for you while you -- I know you didn't really have
15 a chance to really look at these. But was there
16 anything that popped out at you that you want to say to
17 us since we are jumping off and starting to work on
18 these?

19 MR. MICHAEL: Only that not that we don't
20 have enough work to do already, but some of the areas
21 here that we were not listed in as input, we would be
22 available, obviously, to do that. Some of them for
23 example the one that you just mentioned there number
24 five under Roman numeral four, anything involving the

1 regulation drafting we'd like to be involved in.

2 COMMISSIONER MCHUGH: Absolutely.

3 COMMISSIONER STEBBINS: It's kind of
4 assumed that you are under all of these.

5 MR. CARROLL: Be careful what you ask
6 for.

7 COMMISSIONER ZUNIGA: The clerical
8 correction was that sometimes we use consultants or
9 gaming consultants indistinctively.

10 MR. CARROLL: Strike that last remark
11 then.

12 CHAIRMAN CROSBY: We wanted to lock in
13 your weight before we got into this.

14 Did any Commissioners have any questions
15 or any issues?

16 COMMISSIONER STEBBINS: Just a quick
17 technicality. I think on the last page even though this
18 set of questions falls under Commissioner Cameron, I had
19 offered to take 33 and 34 relative to the community
20 college training process and the private training
21 schools.

22 COMMISSIONER CAMERON: I had given those
23 to you, Commissioner, so thank you for the offer.

24 COMMISSIONER STEBBINS: I vouch for them

1 and I'll take them.

2 CHAIRMAN CROSBY: I'll see you and raise
3 you five.

4 I think you're right, Commissioner
5 Cameron, there is no need to go through these. It's
6 pretty entertaining stuff.

7 COMMISSIONER CAMERON: The only question
8 I had is are we going to be on our own to just make phone
9 calls and gather information?

10 CHAIRMAN CROSBY: Good question, thank
11 you. How do you want us to handle this? As you see,
12 we have broken these out amongst all of us. And
13 increasingly we are putting our time in to starting to
14 work on these.

15 Do you want us to contact you willy-nilly
16 on our parts? Should we come through one of us? Should
17 we go through Kathy? What's the best way to --

18 MR. CARROLL: Why don't we work with
19 Janice on setting up a schedule where each
20 Commissioner -- we can arrange to be on a conference call
21 with each Commissioner individually. And that way we
22 can focus on that Commissioner's concerns. And then
23 kind of run through the whole body of Commissioners and
24 then otherwise be available of course. But in terms of

1 focus like run through, it might be a good idea.

2 COMMISSIONER CAMERON: Excellent idea.

3 MR. CARROLL: We'll contact Janice
4 Monday?

5 CHAIRMAN CROSBY: So, the next week or
6 two, Jamie, the next week or two. By that time we would
7 have teed up our questions.

8 COMMISSIONER MCHUGH: In the same vein,
9 Mr. Chairman, there is a number of us that are reaching
10 out to the same sources, the regional planning
11 commissions and the like. And we ought to coordinate
12 that I think through John so that we are not getting
13 calls disjointed perhaps from us on repetitive days and
14 so forth.

15 CHAIRMAN CROSBY: Yes. -- Go ahead,
16 excuse me.

17 COMMISSIONER MCHUGH: And I guess the
18 other thing is it might be worthwhile as we populate the
19 who we are going to contact, the whose input is needed
20 piece of this that we ought to find a way internally to
21 exchange who we're thinking about contacting, so that
22 if somebody else is going to contact them for a related
23 purpose, we can try and minimize the imposition on the
24 people that we are contacting and package our requests

1 so that we only hit them once. Otherwise, there are
2 some people we're going to wear out, potentially. And
3 I think we can do that, we can figure out a way to do
4 that as well.

5 CHAIRMAN CROSBY: Right now we've got
6 this document that's growing. And we can continue to
7 use this. It'll go back presumably to Eileen.

8 COMMISSIONER MCHUGH: And perhaps -- I
9 don't want to take our time to get too fine bored. Maybe
10 if we post it in a common place and add to it there and
11 then invite people, I'm about to contact somebody.

12 COMMISSIONER CAMERON: That makes sense,
13 ABCC for example.

14 COMMISSIONER ZUNIGA: Yes. We should
15 designate a place in the share drive too by to file
16 always the latest by some time, let's say, the latest
17 version where it's always there.

18 CHAIRMAN CROSBY: Right. This really
19 ought to probably be Janice to manage this since it's
20 our work rather than Eileen.

21 And I think that maybe by this time next
22 week, if not before, if we're going to see any special
23 needs like for example public hearings. Are we going
24 to want some public hearings? Do we want to schedule

1 people coming to one of our meetings or a separate event,
2 whatever. If you've got - if any Commissioner who's got
3 requests, you've got people you are going to want to
4 reach out to. You've got time with the consultants and
5 any other kinds of special logistical help,
6 particularly public meetings or anything, if you would
7 be ready to tell us. Maybe give us the lay of the land
8 on your research by next Tuesday.

9 Great. I did get some questions from the
10 UAW. They were recommending two additional questions.
11 But I think rather than deal with that now, we might as
12 well put them into the cue for three weeks from now.

13 COMMISSIONER ZUNIGA: They're already
14 included here. We had received them last week.

15 CHAIRMAN CROSBY: I don't know whether we
16 want to add them or not.

17 COMMISSIONER ZUNIGA: They can go in a
18 different bucket.

19 CHAIRMAN CROSBY: Where are --

20 COMMISSIONER ZUNIGA: 50 and 51.

21 CHAIRMAN CROSBY: On which page?

22 COMMISSIONER STEBBINS: The second to
23 last page.

24 COMMISSIONER ZUNIGA: The second last

1 page.

2 CHAIRMAN CROSBY: Okay. I think we
3 ought to hold-- These are all ones that we have agreed
4 on already that should go in here. I actually thought
5 some of these might be too granular to really fit this
6 category.

7 So, why don't we just hold these. Maybe
8 pull them off this list and put them into the three-week
9 category.

10 COMMISSIONER ZUNIGA: Okay.

11 CHAIRMAN CROSBY: So, we are going to get
12 by the end of three weeks -- we are going to get the
13 public feedback at that point.

14 COMMISSIONER ZUNIGA: Okay.

15 CHAIRMAN CROSBY: That's what did we say,
16 November 27. All right. Anything else with this? I
17 think we are all set. Great. Thank you very much.

18 COMMISSIONER CAMERON: Thank you very
19 much.

20 CHAIRMAN CROSBY: Hope you've got water
21 and heat.

22 MR. CARROLL: It's back.

23 MR. MICHAEL: Well, we are anyway.

24 MR. CARROLL: There's no power in our

1 offices.

2 CHAIRMAN CROSBY: You don't have power?

3 MR. CARROLL: In the office yet, no. We
4 have the luxury of being on the northern end of Point
5 Pleasant and the southern end of Atlantic City. So, we
6 got pincerred.

7 CHAIRMAN CROSBY: You are welcome to stay
8 here for another week.

9 MR. MICHAEL: I appreciate it but maybe
10 later.

11 CHAIRMAN CROSBY: Okay. Project
12 management chart, there's Eileen. Do you have anything
13 to talk about on the project management chart? It
14 sounds like not.

15 MS. GLOVSKY: No. I think we'll have an
16 update for you next week.

17 CHAIRMAN CROSBY: Next week, okay.
18 Because we had talked about where we want to go, but if
19 it can be by next week, okay.

20 Status of the new ethics standards,
21 anything to talk about there?

22 COMMISSIONER MCHUGH: There's nothing to
23 talk about there. That's a very high priority. We
24 know we've got to do that.

1 CHAIRMAN CROSBY: Right. Director
2 Driscoll, nothing else from you, right?

3 MS. DRISCOLL: No.

4 CHAIRMAN CROSBY: Personnel searches, I
5 think in general we've got a bunch going on. I think
6 we know what they are.

7 I had one question that I don't quite have
8 my arms around. When we get to the finalists for major,
9 not the final choice for major positions, but if we have
10 more than one for major positions, Executive Director,
11 IEB, General Counsel, etc., was it our plan to do the
12 full, complete background check on everybody before we
13 have them in for interviews and make the decisions?

14 I know we don't make the decision -- We
15 are not going to announce a choice until background
16 checks were done. That's for sure. But it wasn't
17 clear to me that we were going to do the complete
18 background checks before we interviewed finalists.

19 COMMISSIONER CAMERON: Well, I think
20 it's not clear until we get to that final phase if
21 there's more than one candidate to interview before the
22 full Commission, because we don't know if there will be
23 one candidate that clearly stands out. So I think --
24 as there has been in some of our other searches.

1 So, I think it's premature to answer that
2 question. I know with IEB I don't know yet. And then
3 we get into the same issues around folks with other jobs.
4 I certainly believe that we should complete the
5 background investigation as we've been doing before we
6 bring that person before the full Commission for a
7 signoff or a final interview.

8 CHAIRMAN CROSBY: If for Executive
9 Director, for example, if we are going to be
10 interviewing more than one person, which there is a
11 pretty good chance we will, do we -- have we agreed and
12 if so why did we agree that all of them would have to
13 have their background checks done before we would bring
14 them in for the interviews?

15 COMMISSIONER ZUNIGA: Mr. Chairman, I
16 remember talking about this in the context of the
17 employee manual, which I can go back to the minutes and
18 the latest draft. What I recall is to give ourselves
19 some flexibility to do either an approach. The two
20 being conduct one background check on one finalist if
21 we believe that was important, or to do it on more than
22 one person.

23 COMMISSIONER CAMERON: I think we
24 clearly made the decision not to bring anyone in the open

1 public, before the full Commission without a background
2 check complete.

3 COMMISSIONER MCHUGH: That's right.

4 COMMISSIONER CAMERON: And that serves
5 us well and it serves the individual well. If there's
6 an issue, there is no need for that to be public,
7 frankly.

8 COMMISSIONER MCHUGH: That was my
9 recollection as well. We did not want to interview a
10 finalist and select then a finalist who then failed the
11 background investigation. So that if we bring multiple
12 finalists to the Commission to interview, those people
13 all had passed the background check and were ready to
14 go.

15 CHAIRMAN CROSBY: Why is that? Why did
16 we decide that?

17 COMMISSIONER MCHUGH: Because we did not
18 want to have the public embarrassment for the finalist
19 and ourselves of selecting somebody, publicly selecting
20 somebody as our Executive Director say and then having
21 that person subjected to a background investigation
22 that they fail.

23 COMMISSIONER MCHUGH: We need to do our
24 due diligence.

1 CHAIRMAN CROSBY: Right. If we had
2 three people come in to interview for position X, we
3 wouldn't announce who we picked. If we picked
4 somebody, we would say okay, this is who we want. Now
5 we better do the background check and see if that --

6 COMMISSIONER ZUNIGA: Not for the ED.

7 COMMISSIONER MCHUGH: You have to do that
8 in a public meeting. If you have three finalists, you
9 can't pick somebody and then --

10 COMMISSIONER ZUNIGA: There's likely
11 going to be a vote.

12 COMMISSIONER MCHUGH: If we have the
13 single finalist and then many of these appointments, we
14 get the Executive Director, most of these appointments,
15 if not all of them are going to be ultimately selected
16 with a heavy input by the Executive Director. And that
17 changes the ballgame directly -- I mean dramatically.

18 CHAIRMAN CROSBY: Okay. Fine. Another
19 position that we talked about, we postponed it until we
20 had another meeting. But I think we need to talk about
21 and maybe resolve whether we want it or not.

22 We have two major initiatives going on
23 that are both dual faceted. One is we want to make sure
24 that we get the maximum participation of local vendors

1 and suppliers to the casinos. And we want to make sure
2 that those vendors and suppliers represent a diverse
3 group of suppliers.

4 Similarly, we want to make sure that we
5 employ as many of Massachusetts citizens as possible and
6 provide a qualified workforce for the gaming operators.
7 And we want that workforce to be as diverse a workforce
8 as possible.

9 We have some, particularly on the
10 workforce, we have some people working on it, the
11 community college. The effort at the supplier base is
12 more fractured. There's really nobody that is ready to
13 step up and say we'll take the lead on this, although
14 there are plenty of people who will help.

15 It seems to me that those are both really
16 desirable objectives. And if we really focus our
17 attention on it, we can do a good job on both of those.
18 But it would also be very easy to sort of do a half-assed
19 effort and not really get it buttoned up.

20 And I am wondering whether it would be a
21 good idea to search for and hire a director of local
22 business and workforce development whose job it would
23 be to spend the next two and a half years to make sure
24 that we really get our local workforce and our local

1 suppliers teed up to maximize their participation with
2 the gaming operators.

3 I'm afraid it's one of those things that
4 if doesn't have somebody whose job it is, it isn't going
5 to get done in the way want it to get done.

6 COMMISSIONER CAMERON: I think I'd like
7 to hear more, see a job description. I'm just hearing
8 about this for the first time. I'm not able to really
9 visualize all that that job would entail. So, I think
10 I'd like to kind of hear more about that.

11 CHAIRMAN CROSBY: I think it makes sense
12 to -- As I said, I just want to bring this up for
13 discussion. I think it makes sense to flesh it out.

14 On the supplier side, there's a lot of
15 work to be done to go around to the operators and say
16 what are you going to need? What's your outlay? What
17 are you going to procure? How many people, how many
18 pillowslips do you need, how many whatever? And to put
19 that down on a piece of paper and then go around to all
20 of the suppliers in Massachusetts and figure who's
21 available to meet those needs.

22 Find out what the standards are, what the
23 protocols are, what the financial checks are, whatever
24 the criteria are that the operators use. If we find

1 people that do carpeting but they're really not buttoned
2 up enough, we help them to learn how to do carpeting.
3 We put them in touch with the small-business
4 administration.

5 And working with minority suppliers,
6 going out of our way to identify minority suppliers and
7 preparing them to learn how to deal with these folks.
8 That's just going to be a big labor intensive job to
9 really line those -- to understand what the market is
10 long enough in advanced that we can get people ready to
11 respond to it when the market puts it out there.

12 If we do it really well, then we can put
13 strong criteria requirements on the operators. But I
14 don't think it's fair of us to put requirements out if
15 the small business people aren't there to meet the
16 supply.

17 I think we are in better shape because the
18 community college is working on it. But the community
19 college is the community college and they are looking
20 out for their own interests, which is fine. They
21 reflect that one particular interest. They are not
22 quite as aggressive as I would like see them about
23 involving other people maybe. And that may not be fair.
24 Maybe they are doing it. I don't really know.

1 But I think if we were there making sure
2 that the outreach to all of the other kinds of groups
3 were being done, etc. That's sort of my general sense.

4 COMMISSIONER MCHUGH: I would like to
5 hear more about it too, because as you talk about it,
6 one of the things that I think I've been concerned about
7 and I know we have all been concerned about is how do
8 you enforce some of the requirements that we are going
9 to put into the license and the criteria we use to award
10 the licenses with respect to not only workforce
11 development, but impact on preservation of small
12 businesses so that we don't have cannibalization of
13 small businesses.

14 There's going to be a lot of efforts made
15 by the developers and the towns and by us to ensure that
16 those statutory goals are met. But how do we enforce
17 that afterwards? And how do we keep ourselves in
18 information afterwards that's necessary to take
19 enforcement and not simply rely on episodic complaints
20 from time to time. And this kind of a person could play
21 that role as well.

22 CHAIRMAN CROSBY: That's a good point.

23 COMMISSIONER MCHUGH: So, I think it's
24 really worth pursuing.

1 I'd like to see it, just to finish that,
2 in the context of an overall organizational chart. I
3 know that our draft strategic plan is still in
4 incubation. And I'd like to move that process along and
5 consider this in context of the overall organization
6 chart.

7 COMMISSIONER ZUNIGA: I was going to make
8 a point to that. We should look at it in terms of the
9 strategic plan, which we should come back and approve.
10 Even though it will be a document that might evolve, we
11 need to look at it in the context of all the other
12 positions and the financial implications of that as
13 well.

14 CHAIRMAN CROSBY: Okay.

15 COMMISSIONER STEBBINS: In talking with
16 the community colleges, Bob who was at our last meeting,
17 I know they are going back and starting to lay out their
18 plan in a little bit more of a timetable. And I think
19 they are due in front of us later this month to kind of
20 give us that whole revision.

21 I think we've been pretty adamant about
22 encouraging them to reach out to their regional
23 alliances, particularly adding the community action
24 folks. I think from the training perspective, the

1 community colleges have kind of a stake in the action
2 and a stake for their own credibility and reputation and
3 seeing this through as a success.

4 The supplier and vendor piece and I
5 thought I had asked to have it added into the agenda,
6 but it didn't make it. We had a good meeting last week.
7 I had a follow-up with ICIC that has initiated some of
8 these vendor supplier programs with big institutions.
9 Only most recently working with casinos, but doing
10 hospitals, colleges and universities.

11 Again my point, and I may still be at this
12 point of if there's an organization that we can partner
13 with to share our financial resources to have a position
14 or a responsibility or an agreement with may be
15 preferable. It's kind of at an early stage I know.
16 What I was encouraged by the group we got together the
17 other day, Mr. Chairman, is that all of them have given
18 me feedback they want to be involved. They think it's
19 important. They all have a role to play whether it's
20 providing services or identifying the businesses.

21 The only thing ICIC wants to come back to
22 us with a proposal as to how they initiated getting a
23 lot of the information out of the Detroit casinos where
24 they have initiated a project. Not to necessarily say

1 we don't need a person, but I still would be interested
2 in kind of flushing out the relationships we can have
3 with that group that was there the other day.

4 CHAIRMAN CROSBY: If there was somebody
5 like the community colleges for this same role, I'd feel
6 differently about it. I think the community college is
7 a big step. And it probably wouldn't take a full-time
8 person to track. Maybe one of us does it or maybe
9 somebody else does it. But I didn't see anybody
10 stepping up to do what we wanted done. But if that
11 changes --

12 COMMISSIONER STEBBINS: I followed up
13 with Mary Kay from from ICIC. They're definitely
14 interested in giving us a proposal, a project proposal
15 related to that. A lot of that getting that initial
16 information out of the operators as to what the outside
17 spending categories are. What services do they
18 necessarily contract out for.

19 I think that alludes to the Judge's point.
20 That information may help us be able to evaluate license
21 applications in terms of somebody's committing to small
22 business -- supporting small business, we'll have an
23 idea of where we will expect the purchasing is going to
24 go. And what data can we gather that'll validate what

1 they're going to tell us in their license application.

2 CHAIRMAN CROSBY: Right. But that's
3 only one side of the coin. The other side is providing
4 a supplier that can do it. So, it's both.

5 COMMISSIONER STEBBINS: Right. In some
6 of the groups that we had at the table the other day,
7 are in that business capacity of building space. MSBDC
8 was in there, Small Business Development Center was in
9 there. You had two lending institutions. You had some
10 technical expertise that was in there as well.

11 So, I would be anxious to see if ICIC comes
12 back with something that we can kind of get our arms
13 around. I think that might be a good first step. But
14 certainly it's important, I think, we ought to look to
15 what Pennsylvania does. They annually collect
16 information on who their business suppliers are, who
17 their minority vendors are, minority employees. They
18 track all of that data. It's part of their annual
19 report.

20 CHAIRMAN CROSBY: Okay. So, we will see
21 how we go with Pennsylvania. I'll maybe try to draft
22 something up. I just think it's a matter of when you
23 set priorities, you've got to have somebody whose job
24 it is, who is accountable, who has got a metric, who has

1 got a performance standard. And if you don't, they
2 slide. And these are the kinds of things that you get
3 happy talk and not action. I just don't want us to do
4 that. So, whatever we have to do. Okay.

5 Employee manual chapter two.

6 COMMISSIONER ZUNIGA: In your packets is
7 the revised version of chapter two, which I believe is
8 a chapter that we should consider adopting soon. I can
9 walk through any one of the sections or take any
10 comments. Commissioner McHugh already gave me a number
11 of comments in the course of this last week. And those
12 are reflected here.

13 CHAIRMAN CROSBY: Comments, questions?

14 COMMISSIONER MCHUGH: I think this is a
15 ready to go, Mr. Chairman. We've been working on this
16 now, Commissioner Zuniga has for some period of time.
17 It's lengthy. It's extensive. But now it's in a
18 number of ways been boiled down. It's concise
19 notwithstanding it's comprehensiveness. And we are
20 beginning to hire people. We need to have a policy like
21 this in place.

22 And if it isn't perfect and nothing is,
23 we can always change it as we go along and encounter
24 issues that we need to address and change.

1 So, this is I think a very thoughtful,
2 thorough and comprehensive document as it stands. And
3 I would recommend our approval of it today and put it
4 into place and we have it.

5 COMMISSIONER CAMERON: I would agree
6 that it's important to have it in place. And as
7 Commissioner Zuniga just pointed out, it's a document
8 that will change as it should be.

9 So, I want to commend Commissioner Zuniga
10 for putting a lot of time and effort into this. It's
11 very well written, easy to understand, but yet lays out
12 exactly what the expectations are.

13 CHAIRMAN CROSBY: Commissioner
14 Stebbins?

15 COMMISSIONER STEBBINS: All I can think
16 of is I know Commissioner McHugh had questions about I
17 guess safeguarding sensitive information and managing
18 of that and you feel comfortable with it.

19 COMMISSIONER MCHUGH: It's been nicely
20 revised to deal with those concerns.

21 COMMISSIONER STEBBINS: Mr. Chairman, I
22 move that we adopt section two of the Massachusetts
23 Gaming Commission employee handbook.

24 CHAIRMAN CROSBY: Second?

1 COMMISSIONER CAMERON: Second.

2 CHAIRMAN CROSBY: I did have a couple of
3 quick -- I also agree it's a really good job of a hateful
4 project. It's great that you did it.

5 I wonder about jeans. I know we agree and
6 I agree that we don't want blue jeans. But there are
7 white jeans and black jeans and there are pretty dressy
8 jeans, which I sometimes wear. And I wonder whether we
9 really mean no jeans. This says no jeans material.
10 And for my money, I'd rather say no blue jeans. If
11 people agree, fine, if they don't --

12 COMMISSIONER ZUNIGA: I can speak to that
13 as to why it's there. Unfortunately, there are those
14 jeans, however color, that may be very tasteful --

15 CHAIRMAN CROSBY: Like Giselle's.

16 COMMISSIONER ZUNIGA: And those that may
17 not be. The idea of including something like that is
18 to err on the side of caution and issue a statement
19 relative to we would like this look. Because it could
20 be very difficult in my experience to try to determine
21 what may or may not be tasteful. That's the genesis of
22 something like that.

23 CHAIRMAN CROSBY: This is purely a matter
24 of style and taste and management philosophy. From my

1 standpoint, I would rather -- like we do, like we say
2 in here, if guests are coming that creates a different
3 standard. And leave it to our people to be responsible
4 enough that they're going to dress right. I hate
5 micromanaging it, but like I said, it's a matter of
6 personal style.

7 COMMISSIONER CAMERON: I actually think
8 we have guests every day to our office. And that will
9 continue to be the case.

10 My experience with this is it's such a
11 slippery slope. Professional attire is important.
12 And my experience with dress down Fridays was something
13 that people don't always get the message of what's
14 appropriate. We had pajamas. We just had all kinds of
15 clothing that I don't think people always get that
16 message.

17 So, Commissioner, I am going to agree
18 with you that we need to be somewhat firm in our
19 policies. Especially, we are new. We want to set a
20 tone. And I think that that's appropriate to set a tone
21 for no jeans in the workplace. Because I do believe
22 every day we have -- I don't think there's one day that
23 goes by that we don't have guests to our office.

24 CHAIRMAN CROSBY: Anybody else? We're

1 two to one so far. Commissioner Stebbins, do you got
2 a preference? I won't take it personally. And I won't
3 wear my jeans.

4 COMMISSIONER STEBBINS: I'm just happy
5 to say you added with a belt, because usually that's the
6 last thing I forget to put on when I leave the house and
7 leave an extra one in my desk drawer.

8 COMMISSIONER CAMERON: Lots of young
9 people forget that today too.

10 COMMISSIONER STEBBINS: I think it just
11 makes for a more even workplaces if there is kind of less
12 discretion left up to an individual. I see I've got to
13 rule out cargo pants, so I'm all set.

14 CHAIRMAN CROSBY: So, you don't have to
15 decide. It's three to one, so you're off the hook. You
16 don't have to make a decision on this.

17 COMMISSIONER MCHUGH: I was just going to
18 say if we have a threat of pajamas in the police station,
19 I don't want to go that route.

20 CHAIRMAN CROSBY: That was one. The
21 second one was on page four. It says no MGC employee
22 shall illegally manufacture, distribute, dispense but
23 you can legally apparently. Does that mean you can
24 bring wine but you can't bring heroin? What does that

1 mean?

2 COMMISSIONER MCHUGH: There may be
3 situations in which somebody -- Dispense as used in the
4 statute is a very broad word. It may be permissible to
5 dispense, distribute a controlled substance to a child,
6 for example. It maybe, who knows, we get somebody with
7 a pharmacist license and they are moonlighting on
8 weekends. We've got a part-time policy. It's a
9 possibility. It's not necessarily redundant, but we
10 can take it out.

11 CHAIRMAN CROSBY: I really didn't mean --
12 We could serve beer and wine if we wanted to Friday
13 afternoon, right? That's not precluded because that's
14 not illegal.

15 COMMISSIONER ZUNIGA: No.

16 CHAIRMAN CROSBY: No, it's not?

17 COMMISSIONER ZUNIGA: It's not illegal.

18 CHAIRMAN CROSBY: Right and it's not
19 precluded.

20 COMMISSIONER ZUNIGA: It's not
21 precluded.

22 CHAIRMAN CROSBY: You can't wear jeans
23 when you have your wine and beer, but you can have your
24 wine and beer. I can get half a loaf here.

1 COMMISSIONER MCHUGH: Revisit this jeans
2 for a while.

3 CHAIRMAN CROSBY: I'm trying not to
4 bridle. On page 10, this is I'm sure just a matter of
5 fact, but I didn't know this. Acting for others former
6 state employee at the top of page 10. It says a former
7 state employee may not ever represent or receive
8 compensation from anyone other than the state in
9 connection to a particular matter. That is in fact the
10 law?

11 COMMISSIONER MCHUGH: Right.

12 CHAIRMAN CROSBY: Wow. I had no idea.

13 COMMISSIONER ZUNIGA: I have good
14 example on that, because I think you raised that before.
15 I think we should be able to relate.

16 Let's assume that we as a Commission
17 awarded a conditional license to somebody and one of us
18 after-the-fact went in and worked for a law firm and
19 started to want to come back the Gaming Commission on
20 behalf of that client, the conditional licensee,
21 advocate to remove that condition. That would be a
22 clear example where anyone of us participation in that
23 matter, it's a particular matter that is very relevant
24 which would be precluded from ever doing.

1 Is that a good example in your opinion?

2 COMMISSIONER MCHUGH: Yes, it is a good
3 example. But another example is the unseemly nature of
4 somebody who works for a private -- having been an
5 employee of the Commission and then goes to work for a
6 private person, comes back to the Commission and says
7 as to some policy well, I was part of the creation of
8 that policy and we never meant it to apply the way you
9 are intending to apply it now. That's hugely unseemly.
10 And that's the kind of thing that is meant to avoid.

11 CHAIRMAN CROSBY: It's the word ever that
12 surprised me. I wasn't even thinking so much as a
13 Commissioner. I'm thinking when I was A and F Secretary
14 what did I work on 10 years ago that I never even thought
15 about before. I just wasn't sure that that was
16 literally the case.

17 COMMISSIONER ZUNIGA: But it's a
18 specific matter. It's not the work in general.

19 CHAIRMAN CROSBY: Yes, I understand.
20 And my last one is even more trivial than the others.
21 On page 16, the next to last paragraph where it starts
22 out while the Commission does not -- page 16.

23 COMMISSIONER MCHUGH: Do you have the
24 11/20 version of this?

1 CHAIRMAN CROSBY: No, I don't. Sorry.
2 Section 2.9, supplemental employment business
3 activities.

4 COMMISSIONER MCHUGH: Here it is 2.9,
5 yes.

6 COMMISSIONER CAMERON: What page?

7 COMMISSIONER ZUNIGA: Page 14.

8 CHAIRMAN CROSBY: It says general
9 statement and then it has general guidelines. Sorry if
10 I'm working on an old one. In that first paragraph
11 under general guidelines, it's just a very long
12 sentence. In the third line, my third line, it says
13 activities of the employee's choice. A comma would
14 help make that understandable. I told you it was more
15 trivial than even the jeans.

16 I thought it was really well written, the
17 whole document if misguided. Okay.

18 COMMISSIONER CAMERON: I would have
19 agreed with you before I had certain circumstances
20 occur.

21 CHAIRMAN CROSBY: Any further
22 discussion besides that last 15-minute waste of time?
23 All in favor of adopting chapter two as amended with the
24 comma, please say aye. Aye.

1 COMMISSIONER ZUNIGA: Aye.

2 COMMISSIONER STEBBINS: Aye.

3 COMMISSIONER MCHUGH: Aye.

4 COMMISSIONER CAMERON: Aye.

5 CHAIRMAN CROSBY: All opposed? It is
6 unanimous. Nice going, Commissioner Zuniga.

7 COMMISSIONER CAMERON: Excellent work.

8 CHAIRMAN CROSBY: Director Durenberger
9 and friends.

10 DR. DURENBERGER: Good evening,
11 Chairman, Commissioners. Director of Racing, Jennifer
12 Durenberger. And I have David Murray who is a project
13 consultant for us.

14 MR. MURRAY: Mr. Chairman.

15 DR. DURENBERGER: Briefly since we last
16 met, I've had some stakeholder meetings at Suffolk Downs
17 and at Plainridge Racecourse. And I just want to let
18 you know one, the difference in this meeting versus the
19 meetings we had earlier was instead of meeting operation
20 staff and racing staff, this was meeting with
21 participants in racing, so owners, trainers, breeders
22 and racetrack management as well.

23 And I am really happy to report to you all
24 that this is a great group. This is a great industry

1 in this Commonwealth. And they are really a very
2 dedicated bunch. I think they are going to be a
3 pleasure to work with.

4 CHAIRMAN CROSBY: More so than in other
5 jurisdictions or is that the normal mode?

6 DR. DURENBERGER: I think that's just
7 racing people. There's people who are very dedicated
8 and love what they do. And I'm finding that to be the
9 case here as well.

10 We do have a date and time for our first
11 working group meeting. The working group is the group
12 that's going to try and help implement any regulatory
13 reform in an efficient and expeditious manner while
14 being inclusive at the same time. That's going to be
15 on November 19. It will be held at Suffolk Downs. The
16 follow-up meeting will be on the 28th of November. And
17 that is going to be at Plainridge.

18 Dovetailing with that, we've been working
19 on the legislative review process. And that's why I
20 brought David Murray along. We are sort of at this
21 stage identifying big picture issues, which we just
22 wanted to put before you, not to deliberate about them
23 or to spend any time in detail with them, but just to
24 let you know some of the big issues that will be put

1 before you to think about in the near future

2 MR. MURRAY: Mr. Chairman, as you know
3 we're looking at, at least the first part of this review,
4 we're looking at the pari-mutuel and simulcast laws and
5 how they fit in, how they can be harmonized with the
6 Gaming Act.

7 We have pretty much completed that
8 particular portion of the assignment. And we will be
9 shortly finalizing in the sense of the whole team sign
10 off on that part so that we can submit it to the
11 Commission for consideration and deliberation on it.

12 We obviously will be putting in
13 recommendations and explaining those recommendations
14 in terms of what the statute says, some policy related
15 to the realities of the environment in which the
16 statutes are operating. It's going pretty smoothly, I
17 would say.

18 The challenges such as they are arise
19 really out of circumstances in which the racing
20 operation and the gaming operation in effect share
21 space. And there are some definitions in the gaming
22 statute that surface reading of the language of the
23 statute would suggest that all of the increased
24 heightened scrutiny for instance, as related to the

1 licensing of then employees of licensees would apply
2 beyond the gaming operation to or potentially to
3 employees of the racing operation that were not involved
4 in gaming.

5 But I think that we are coming to an
6 understanding of the context of that language in the
7 statute and we will be putting together some
8 recommendations as to interpretation of these
9 potentially challenging provisions.

10 CHAIRMAN CROSBY: Can you give us an idea
11 of an example of what you're talking about?

12 Mr. MURRAY: Yes. The definition of
13 gaming establishment, which is a phrase that is used
14 throughout the Gaming Act, includes non-gaming premises
15 that the statute says if they are related to the gaming
16 area. The statute does not say what related means,
17 whether it's a geographic construct that the statute is
18 trying implement or whether it's an operational concept
19 that ought to be used to look at whether one thing is
20 related to another.

21 But we feel that in the proper context
22 that is to be understood really to be a relationship that
23 is actually both geographic and operational in the same
24 way that now for racing certain employees, the people

1 behind the wagering windows, for example, have a
2 heightened threshold to surmount for licensing purposes
3 than those for instance who wait on tables in the
4 restaurant or are out in the back lot dealing with
5 handling the horses.

6 And then of course, in addition to that
7 kind of analysis and preparation of recommendations to
8 the Commission, we have to look at the question of
9 whether or not these things ought to be dealt with in
10 regulations rather than statutes. Or whether we really
11 do have to go back to the Legislature and say you need
12 to do this or that to solve these problems. And we are
13 sensitive to the flexibility that regulations provide
14 that would be absent if we needed to go back to the
15 Legislature for statutory change.

16 Of course, that is always a balancing
17 exercise. There is some risk that is always involved
18 that someone later will come and say you didn't have the
19 power to do this and there it's invalid. And we're
20 conscious of that, though the possibilities is that risk
21 analysis, but we'll be making some recommendations to
22 you in that regard.

23 COMMISSIONER CAMERON: Thank you.

24 CHAIRMAN CROSBY: And what is the

1 timeframe here?

2 MR. MURRAY: We are going to get the first
3 bit I think through the approval by our team certainly
4 by the beginning, the middle of next week. And at that
5 point, we will start working on drafting up something
6 related to improvements to the current racing
7 structure, which doesn't involve conflicts with the
8 Gaming Act. It's simply an operational matter. Here
9 is how we would like to improve things. And that we will
10 certainly get approval, I would think, from the working
11 group and to the Commission by Thanksgiving I would
12 hope.

13 DR. DURENBERGER: Or probably the week
14 after.

15 MR. MURRAY: Okay.

16 CHAIRMAN CROSBY: Is this the same
17 working group as that you set up?

18 COMMISSIONER CAMERON: No.

19 MR. MURRAY: This is the Director,
20 Danielle Holmes and I.

21 COMMISSIONER ZUNIGA: The internal
22 working group.

23 CHAIRMAN CROSBY: Got it.

24 DR. DURENBERGER: So many groups, so

1 little time.

2 COMMISSIONER ZUNIGA: Yes, the whole
3 racing division frankly. Well, it's larger.

4 COMMISSIONER MCHUGH: Sounds great.

5 DR. DURENBERGER: David, thank you. I
6 had just a couple of personnel issues that I wanted to
7 discuss. Whatever you'd like to do.

8 MR. MURRAY: I'll sit in the back. I have
9 jeans on.

10 CHAIRMAN CROSBY: You the man.

11 DR. DURENBERGER: The Racing Division is
12 in the process of finalizing what we see as our piece
13 of the table of organization. Obviously, at some point
14 there's going to be some shared staff, but just in terms
15 of key positions within Racing to keep Racing
16 operational at this point. So, we'll have that
17 finalized.

18 And I understand that that's going to need
19 to come before you next week. So, we'll put that on the
20 agenda for next week and discuss the needs as we've
21 discussed them and the plan, and the vision that we have
22 to fulfill those needs and make sure that racing
23 continues to operate in the Commonwealth.

24 The issue that I did want to discuss today

1 and this was a procedural gaff on my part of not getting
2 it specifically on the agenda, but regarding the State
3 Racing Lab, which is the laboratory that currently
4 conducts the equine drug testing for racing in the
5 Commonwealth.

6 I think earlier this year, you had the
7 consulting group that came in, Last Frontier, and made
8 some recommendations. Among those recommendations was
9 to put forth an RFP to secure some laboratory services
10 from a laboratory that is accredited to these model rule
11 standards that we were talking about, Racing
12 Commissioners International is the regulatory body that
13 Massachusetts is part of.

14 And they have a model rule regarding
15 laboratories that specifies an accreditation standard.
16 It sets requirements for instrumentation that the lab
17 has and for testing capabilities. So that RFP, we are
18 in the finalizing period for that. That will probably
19 go out next week.

20 Having said that, I think that I'm in
21 agreement with the report that the consultant put out
22 earlier this year that the current lab does not meet
23 those specifications. And I think that if the
24 Commission wants to align itself with the model rules

1 going forward and participating in this push for
2 national uniformity, then I guess I am in full
3 recommendation of that report. That we do look to
4 outsource the lab or we find another lab within
5 Massachusetts that would meet those requirements.

6 I think participants in racing want
7 uniformity of rules particularly as it regards to
8 medication. It's very difficult if you race in one
9 jurisdiction and then you have to play by a different
10 set of rules when you go to the next jurisdiction. It's
11 particularly true in New England and the mid-Atlantic
12 where there is quite a bit of movement. In California
13 you're on sort of an island and it doesn't come into play
14 as much. But it's a specific issue in this part of the
15 country.

16 Part of that uniformity is in your testing
17 program. And your labs have to be playing by the same
18 rules as well. So, this finding a lab that can do the
19 things that we need to be in conformity with these
20 national medication rules and model rules is a big part
21 of the regulatory picture.

22 CHAIRMAN CROSBY: You said outsource or
23 find another lab in Massachusetts. You mean outsource,
24 right, so it might to be in Massachusetts or some --

1 DR. DURENBERGER: Right. If we put out
2 an RFP, we'll look to see who meets the vendor
3 qualification and we'll look at the different proposals
4 and certainly if there is a lab within Massachusetts
5 that can meet the vendor requirements and meet the
6 specifications of the RFP, we would do that.

7 CHAIRMAN CROSBY: My clear sense is that
8 this was something that Annie Allman suggested months
9 ago. You were very much in favor of it. I've been
10 assuming this would be happening all along.

11 COMMISSIONER CAMERON: Yes, yes. I'll
12 let you continue. But you certainly will look to see
13 wherever the labs are, as we do with all of our RFPs,
14 we'll look to see what the proposals and we'll make a
15 decision based on the best interest, the best proposal
16 put forth.

17 I think we are all in agreement. We've
18 had these discussions before you were on board,
19 Director. And I know that I am in agreement. And I
20 think that the rest of the Commission is also as far as
21 going in this direction. It makes sense.

22 COMMISSIONER MCHUGH: I am just
23 fascinated. I better not ask that question.

24 COMMISSIONER CAMERON: I know what

1 you're going to ask.

2 COMMISSIONER MCHUGH: If it's not in
3 Massachusetts, then how do you do it?

4 COMMISSIONER CAMERON: Well, it's
5 shipments and it's all done with sterile containers that
6 are taped and sealed properly. I've learned an awful
7 lot about this, Commissioner.

8 COMMISSIONER CAMERON: I think I know
9 enough now.

10 DR. DURENBERGER: There's a lot more to
11 know and I am happy to share it with you at any point.

12 CHAIRMAN CROSBY: Are there some
13 national labs that do testing for a variety of states?

14 DR. DURENBERGER: There are. And a lot
15 of our national industry bodies have been pushing on
16 this accreditation issue. The Racing Medication and
17 Testing Consortium is an industry group that has a lot
18 of stakeholders both thoroughbred and standardbred,
19 which are the two breeds that race here.

20 They have been very vocal about reaching
21 these accreditation standards and working with labs to
22 become accredited to a specific standard within the
23 United States. And they are working towards that
24 process.

1 In the absence of that, the current
2 recommendation, the best practice is to find a lab that
3 is accredited to this international standard, 17025 if
4 you are keeping notes. So, that is the recommendation.

5 I believe there are four or five labs
6 currently in the United States that do conform to that.
7 They are doing testing. A lot of these labs will test.
8 They will have contracts with three or four
9 jurisdictions.

10 CHAIRMAN CROSBY: So, it's SOP to move
11 them back and forth across state lines?

12 DR. DURENBERGER: They use bonded
13 courier, yes. They actually maintain the chain of
14 custody in a way that is probably -- they're uniform.

15 COMMISSIONER CAMERON: It's done with
16 crime labs all the time too. Evidence is sent. DNA is
17 shipped. It's amazing the way security measures have
18 evolved. And it's not a hard thing to do today.

19 COMMISSIONER ZUNIGA: So, is that 17025
20 requirement going to be part of the RFP?

21 DR. DURENBERGER: It's in the RFP, yes.

22 COMMISSIONER ZUNIGA: So, is it fair to
23 say that the five labs, the five national labs may be
24 the best ones to position to answer, to respond.

1 COMMISSIONER STEBBINS: They may be. We
2 did write it that they be accredited to that standard
3 or in the process of, because it is a very lengthy
4 process. So, I didn't want to disqualify if somebody
5 was very close and perhaps even by the time the contract
6 is initiated. I didn't want to exclude anyone who was
7 trying to achieve that standard. So, that was how that
8 was written.

9 COMMISSIONER CAMERON: They're
10 accredited, but not to that same standard is what you're
11 saying.

12 DR. DURENBERGER: Correct, right and
13 then if they are in the process of being accredited to
14 that standard, they would have preference.

15 COMMISSIONER STEBBINS: Is there any
16 chance in the RFP process -- say there is nobody in
17 Massachusetts with the capacity of -- If you do find an
18 out of state bidder, is there enough of business
19 generated that it would make sense for somebody to site
20 expand their operations and actually develop a facility
21 in Massachusetts?

22 DR. DURENBERGER: I can't speak to the
23 exact numbers, but I do know that there are a large
24 number of commercial testing labs in the country. And

1 very few have chosen to accredit to the standard, which
2 would lead me to believe that the answer to your question
3 is probably that it's an expensive standard to meet.
4 So, there may not be ultimately enough to keep say eight,
5 nine, 10 labs to that level in this country. But I am
6 not an expert on the numbers there.

7 CHAIRMAN CROSBY: I think it's
8 appropriate to move on this. Do you want to have a
9 motion to implement this?

10 COMMISSIONER CAMERON: I would make the
11 motion that we at this time approve the process of
12 getting the RFP out. And that we vote that using an
13 accredited lab is in the best interest of racing in the
14 Commonwealth.

15 CHAIRMAN CROSBY: Second. Any further
16 discussion?

17 COMMISSIONER STEBBINS: Accredited lab
18 or at least a you've pointed out a lab moving toward
19 accreditation.

20 COMMISSIONER CAMERON: Any lab that we
21 would select would be an accredited lab. There is a
22 higher level of accreditation and only a couple of labs
23 in the country have met.

24 So, I think what the Director just pointed

1 out that you wouldn't want to rule out a lab that may
2 be on their way, very close to that next level of
3 accreditation.

4 DR. DURENBERGER: And I'm sorry. I
5 probably should have been clearer on that. There are,
6 as Commissioner Cameron pointed out, a number of
7 different levels of accreditation. So, this
8 particular standard is right now the industry best
9 practice.

10 COMMISSIONER STEBBINS: Okay.

11 CHAIRMAN CROSBY: Any further
12 discussion? All in favor? Aye.

13 COMMISSIONER ZUNIGA: Aye.

14 COMMISSIONER STEBBINS: Aye.

15 COMMISSIONER MCHUGH: Aye.

16 COMMISSIONER CAMERON: Aye.

17 CHAIRMAN CROSBY: Opposed? The aye's
18 have it. So far, you're one for one.

19 COMMISSIONER CAMERON: Do you want to
20 point to the second piece of that, the secondary
21 recommendation?

22 DR. DURENBERGER: Yes. So, then having
23 voted on that there is just the consideration the
24 laboratory is currently leasing space from UMass

1 Medical Center in Jamaica Plain. That lease expires on
2 December 31 as part of an ISA with DPL.

3 Our last racing samples would be arriving
4 at that laboratory on November 29, I believe. So, that
5 would mean testing through the first week of December.
6 Then if there were not any positives or overages or
7 suspicious samples in that last shipment, that would
8 basically give us about two business weeks to clear out
9 of that laboratory.

10 There's a number of considerations.
11 There's some hazardous materials. There's some
12 chemicals. It's not just cleaning out your desk with
13 your bankers box and walking out the hall.

14 So, I've been in contact with Aaron Levey.
15 He's the business manager. He's the landlord over
16 there. And he tells us that they do have an
17 environmental health and safety officer that can assist
18 us in that process. Obviously, I am going to have to
19 find out what additional paperwork is generated there,
20 but we really have about two business weeks to inventory
21 and either dispose or re-home of the equipment that we
22 have there right now.

23 COMMISSIONER CAMERON: Is that enough
24 time, Director, to complete the process?

1 DR. DURENBERGER: I would have a
2 comfortable answer for you next week, by the end of this
3 week.

4 COMMISSIONER CAMERON: Did you speak to
5 the -- What was his title? He is the business manager.
6 Would there be any flexibility in another week or two
7 that we could compensate them for if we needed that?

8 DR. DURENBERGER: My feeling was that he
9 was very flexible. The issue that we are going to run
10 in to and that we all are going to have to think about
11 is that this lease is part of the ISA. So, asking for
12 an extension now, we are getting into -- is our contract
13 with them then going to have to be rewritten for
14 Massachusetts Gaming or do we reimburse DPL for an
15 extension or is the ISA extended.

16 COMMISSIONER CAMERON: Well, we wouldn't
17 be doing any more testing in the lab.

18 DR. DURENBERGER: Correct.

19 COMMISSIONER CAMERON: It's just a
20 question of cleaning the lab out. So, I'm not sure that
21 would be necessary, but we could do some checking. I
22 think what you're saying is we are not ready to vote on
23 an official closing of the lab until you have some more
24 information.

1 DR. DURENBERGER: I think that's right.
2 I think we have a few more questions we need to answer.

3 COMMISSIONER CAMERON: That's fine.
4 Thank you.

5 COMMISSIONER STEBBINS: What
6 potentially do you do with all of the equipment?

7 DR. DURENBERGER: Some of it -- I don't
8 understand all of the disposal procedures for the
9 Commonwealth. But there are some things that may be
10 able to be re-homed. Quite a bit of the equipment over
11 there has either been shut down because there hasn't
12 been anyone trained to operate it or has not been updated
13 in awhile.

14 So, I would imagine that whichever office
15 we work with in the Commonwealth will -- I don't know
16 if it goes out to bid or can be parted out. There is
17 still an existing service contract. So, some of those
18 machines are still being serviced by the manufacturer.

19 COMMISSIONER CAMERON: We can check on
20 that also. We are in the process of doing that.

21 DR. DURENBERGER: Yes.

22 COMMISSIONER CAMERON: Great. Thank
23 you. Thank you for your update.

24 CHAIRMAN CROSBY: Anything else?

1 DR. DURENBERGER: I think that's plenty.

2 COMMISSIONER CAMERON: Thank you.

3 CHAIRMAN CROSBY: Thank you.

4 COMMISSIONER MCHUGH: Thank you very
5 much.

6 CHAIRMAN CROSBY: Item six public
7 education information, report from the Ombudsman. We
8 previewed some of your stuff, but you probably have some
9 more on your first week of work.

10 MR. ZIEMBA: As you mentioned, Mr.
11 Chairman, I have already mentioned some of my activities
12 from this past week. But to sum up, I've either spoken
13 to or met with all of the identified potential host
14 communities so far. I've spoken to some of the key
15 state agencies. I have a meeting this week with the
16 point person for DOT. I've been in contact with Maeve
17 on some of the environmental matters. I've reached out
18 to the regional planning agencies for each of the
19 affected areas.

20 Then I've met or spoke with
21 representatives from most of the identified potential
22 applicants. Also was participant in the proceedings
23 over the last day and a half with our consultant.

24 Generally, what I have to report to you

1 is that people are very welcoming of the outreach that
2 we are putting out to them. And they look forward to
3 the dialogue regarding whatever interests they have or
4 questions they have and whatever further information
5 that we can provide them.

6 The focus of my conversations to date have
7 been to try to scope out how we will all work together
8 What needs to go into them keeping up to date with their
9 local processes. How can I best help them and the like.
10 In the context, my conversations over the next week or
11 so will be very similar.

12 After these initial meetings with some of
13 the key representatives from each of the host
14 municipalities, I'll try to reach further into those
15 municipalities to the degree that makes sense. And
16 then at some point in the near future in the next days,
17 in the next couple of weeks then we also need to start
18 identifying and working with some of the surrounding
19 communities as well. Especially to the extent that
20 they have already made their selves known to the
21 Commission and have asked for assistance.

22 I have also been trying to work on a couple
23 of matters that have been identified to me in the context
24 of those conversations. As you can imagine, with the

1 different host communities of different sizes,
2 different issues will come into play. Boston is not
3 similar in its structure, government structure to a
4 Palmer or a Raynham or a Taunton.

5 For example, in working with Commissioner
6 Zuniga regarding an issue of municipal finance, we have
7 a meeting scheduled next week with the Department of Rev
8 Division of Local Services to explore what are some of
9 the municipal finance limitations regarding the funding
10 of consultants, either funding through us or funding
11 through -- directly through the private vendors working
12 with the municipalities.

13 There are different issues for smaller
14 municipalities who work their town meeting and
15 obviously with larger cities that can put an
16 appropriation on rather readily. We are working on
17 some of those issues.

18 We've also been working with Director
19 Durenberger regarding some of the racing funding issues
20 and the transition to gaming, but I'll leave that to a
21 future item, because I know that that is well in process.
22 And there's been meetings to this date.

23 Some of the other key points that I was
24 going to mention, the focus on these questions, these

1 policy questions, I think that is very welcome out
2 there. It's a real good opportunity for people to weigh
3 in at this point. I think the process that you have
4 established for soliciting comments will be a workable,
5 at least with the communities that I've spoken to. I
6 think the setting of a deadline really works for them
7 so that everybody is working on an equal playing field.
8 And comments and questions will be received all at the
9 same time so that they'll be received in that light.
10 Generally, that's what I have to report.

11 CHAIRMAN CROSBY: Sounds great. Any
12 developments on the gaming policy committee?

13 MR. ZIEMBA: I had been in touch to the
14 Governor's office prior to my arrival here. I've
15 reached out to them again and I've been looking over the
16 statute as well. I've had initial contacts with some
17 of the legislative leaders. I haven't really broached
18 the context of the advisory commission but that's
19 something I plan on doing.

20 CHAIRMAN CROSBY: Okay. Commissioner
21 Cameron and I mentioned it with Speaker DeLeo and a
22 person on his staff that will probably be Jim Kennedy.
23 That's some place you can follow up. They will get
24 moving on it.

1 There was a question about Springfield
2 and chapter 30b. Has that been resolved one way or the
3 other?

4 COMMISSIONER ZUNIGA: I have not been
5 able to speak with Barbara Hansberry on this matter.
6 I've left her a message since we last spoke.

7 CHAIRMAN CROSBY: We're not invested one
8 way or the other. We just need to make sure that we know
9 what the rule is and that it is being complied with. And
10 it apparently is, but we just want to make sure.

11 MR. ZIEMBA: I should have mentioned that
12 Springfield made their RFP available to us. They've
13 released an RFP this past Thursday. They also
14 established their own commission. Over the next few
15 days, we'll learn a little bit more about their
16 timelines and about their processes.

17 What we spoke to them about is was that
18 we are concerned -- concerned is the wrong word. Our
19 goals here is just to make sure that everybody
20 understands what is required of all of these different
21 processes including procurement to the extent that that
22 may or may not apply.

23 CHAIRMAN CROSBY: Right. Okay, good.
24 That's great. Anything else?

1 MR. ZIEMBA: Thank you.

2 COMMISSIONER CAMERON: Excellent.

3 CHAIRMAN CROSBY: Thank you. Request
4 from regional groups. I'm not sure what that is. Does
5 anybody know what that is? Okay. That was a senior
6 moment.

7 Item 7, the research agenda. We have
8 drafted the guts of an RFP. I've sent it out -- The RFP
9 is a lot of boilerplate. We haven't done that part yet
10 although it is being worked on. We've had drafted the
11 sort of scope of work. And Commissioner Zuniga is
12 making some comments on it.

13 It's then sent out to our informal
14 advisory group. And we get comments back. We are
15 going to try like the dickens to get it out this week.
16 But worse case, we'll get it out the first of next week.

17 COMMISSIONER CAMERON: Great.

18 COMMISSIONER MCHUGH: Great.

19 CHAIRMAN CROSBY: Internet gaming, there
20 is still the lingering question of this Reid-Kyl
21 legislation. And the Treasurer had originally asked
22 that we take a position in support of his position, which
23 is that we aren't in favor of the legislation as it
24 stands. We weren't really familiar with it last week.

1 We didn't really understand what was in it.

2 There was some racing issues we needed to
3 double-check. The racing issues are not a problem.
4 But we're still not quite clear whether we want to do
5 anything on Reid-Kyl or not as it stands.

6 I have not read the whole law. And even
7 if I did, I'm not sure I'd know what it was saying. Does
8 anybody else have other feedback or thoughts?
9 Commissioner McHugh?

10 COMMISSIONER MCHUGH: I haven't read the
11 entire statute either, Mr. Chairman. There were a
12 couple of thoughts that I had based on the parts that
13 I did read.

14 Number one, the statute does give a
15 preference initially to gaming regulators who have been
16 up, running and operational for some period of time.
17 But it does not limit the gaming regulators to Nevada.
18 It prescribes three initial gaming regulators for
19 approval as Internet gaming regulators.

20 And creates an umbrella federal agency
21 that will decide who those initial regulators are. And
22 they can be state regulators or tribal regulators. So,
23 it does spread that around.

24 It seems to me, for example, that Atlantic

1 City may fit in that role. Nevada certainly does. But
2 it does not strike me that it gives Nevada an exclusive.
3 In fact, the three state gaming regulators, Nevada won't
4 be alone.

5 It sets up an umbrella organization, a
6 federal umbrella organization. It seems to me as we
7 talked a little bit about last time, with a national
8 basically state regulated system, one has to have an
9 arbiter at the federal level to control things.
10 Otherwise, it simply becomes a competitive exercise
11 between and among the various states.

12 So, the logic of having a federal
13 regulator superimposed over state regulators, like many
14 other models, Medicaid for example, is a sound one it
15 seems to me.

16 Thirdly, the statute does give a
17 preference to large brick-and-mortar entities, whether
18 they be casinos, racetracks or other large gaming
19 facilities. And says that they initially, again, I
20 think it's for a two-year period, will be the only
21 entities that qualify for an Internet gaming license.

22 It seems to me, although I haven't read
23 this clearly enough and haven't looked at all of the
24 preamble, but it seems to me this is an effort at the

1 federal level to preserve the brick-and-mortar casino
2 institutions from the kind of competition that could
3 eradicate the huge investments that many of them have
4 made while at least allowing the Internet poker to
5 proceed, and make some judgments about the likely impact
6 on the substantial investments that have been made.

7 And it seems to me that's not an
8 unreasonable way of approaching this, at least at the
9 outset.

10 Finally, the legislation does prohibit
11 Internet lottery, Internet scratch tickets and Internet
12 keno. I think that one I just don't have a position on.
13 I don't know whether that's good or bad. But at least
14 nobody gets a competitive advantage because the ban is
15 universal. Nobody can do it. So, Massachusetts would
16 not be at a disadvantage competitively with other states
17 if that portion of the legislation passed.

18 So, I don't see a great deal there based
19 on my understanding thus far to be exercised about. I
20 would welcome an opportunity to talk further with others
21 more knowledgeable about this collectively to see if my
22 initial approach is right. But at the moment, I just
23 don't see a great deal to be exercised about.

24 COMMISSIONER CAMERON: I think what many

1 are unhappy with is these three states. Some were
2 interpreting it as Nevada only. But you're mentioning
3 three states why they got the competitive advantage over
4 all the others who have had gaming and plan to have
5 gaming.

6 COMMISSIONER MCHUGH: The legislation
7 doesn't mention which three states -- which three
8 jurisdictions they are. The federal agency will have
9 the responsibility for naming them, choosing from among
10 everybody who believes that they can qualify.

11 COMMISSIONER CAMERON: Long-time gaming
12 establishments.

13 COMMISSIONER MCHUGH: Yes, yes. They
14 had to be long-term gaming establishments.

15 COMMISSIONER CAMERON: Which does lend
16 to Nevada, New Jersey. So, I think many are
17 interpreting that to mean a preference to those and
18 that's what the objection is coming from is my
19 understanding.

20 COMMISSIONER MCHUGH: As gaming
21 regulators.

22 COMMISSIONER CAMERON: Yes, yes.

23 COMMISSIONER MCHUGH: Not as gaming
24 participants, as gaming regulators. And that too is

1 for a short time while this is worked in. In fact, I
2 think the legislation provides that no license for
3 anybody can be issued for the first 18 months after the
4 legislation is passed so that the federal agency has
5 enough time to set itself up and explore these things.

6 Now that maybe ultimately a legitimate
7 objection to this. Why should it just be those three
8 as opposed to opening it up? But at the moment
9 transitionally --

10 COMMISSIONER CAMERON: That wouldn't
11 affect us is your point. You don't see it adversely?

12 COMMISSIONER MCHUGH: Right, because by
13 the time we're ready that two-year period will be gone.

14 COMMISSIONER ZUNIGA: What I understood
15 once you overlay the potential preference to the
16 regulating entity, perhaps favoring a state like
17 Nevada, with the other preference to the land-based
18 operations, when you put those together, you could make
19 an assumption that only those operations with licenses
20 in Nevada will be in a good position, in a first mover
21 advantage, which in the Internet world, albeit two
22 years, could be significant.

23 The problem for the Commission, if you
24 will, as I see it is that the landscape of those bidding

1 out for licenses in Massachusetts includes operators
2 who are licensed in Nevada and operators that are not,
3 which could present a question for this Commission to
4 consider. It's my opinion that that uncertainty could
5 mean different things for different operators here.
6 That is I think the genesis of why we need to think about
7 this issue.

8 COMMISSIONER MCHUGH: I don't disagree
9 we should think about the issue. I just don't
10 understand how we are put in Massachusetts during this
11 initial period at a disadvantage. I just don't
12 understand that. And it obviously is designed, it
13 seems to me, to protect the big investment that these
14 people have made in hardware and bricks and buildings.

15 COMMISSIONER ZUNIGA: There's a
16 pragmatic side to this, which I think I articulated a
17 little bit last time. It's unclear where this bill
18 goes. There does not seem to be aversion in the House.
19 Who knows what happens with the next U.S. Congress and
20 so on.

21 But if nothing else, as these issues start
22 to come up, I think it is important for us to consider
23 the implications that they may have on our nascent
24 industry.

1 get a little more information here. There's also
2 somebody on Barney Frank's staff who I'm told is very
3 knowledgeable about the Internet poker stuff who might
4 be able to give a little more of a Massachusetts view
5 on how this legislation cuts.

6 I certainly feel like we have -- later on
7 this month, we have the next meeting and then will be
8 the final meeting of the Treasurer's task force on
9 online gaming, which hopefully will be laying out a set
10 of recommendations about where Massachusetts ought to
11 be going or at least has options where to go, which will
12 probably inform this. I think that will help us a lot
13 when we get that report.

14 COMMISSIONER MCHUGH: Right.

15 CHAIRMAN CROSBY: I think there is
16 nothing more to do on that one at this point.

17 Any other business that wasn't
18 anticipated? Do we have a motion to adjourn?

19 COMMISSIONER MCHUGH: So moved.

20 COMMISSIONER CAMERON: Second.

21 CHAIRMAN CROSBY: All in favor? Aye.

22 COMMISSIONER ZUNIGA: Aye.

23 COMMISSIONER STEBBINS: Aye.

24 COMMISSIONER MCHUGH: Aye.

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COMMISSIONER CAMERON: Aye.

CHAIRMAN CROSBY: Thank you.

(Meeting adjourned at 4:33 p.m.)

1 ATTACHMENTS:

2 Attachment 1, Agenda

3 Attachment 2, October 30, 2012 Massachusetts Gaming
4 Commission Meeting Minutes

5 Attachment 3, Massachusetts Gaming Commission
6 Framework for addressing Policy Questions.

7 Attachment 4, October 26, 2012 UAW Memorandum

8 Attachment 5, Massachusetts Gaming Commission Employee
9 Handbook, Section 2

10 Attachment 6, November 5, 2012 Memorandum Regarding
11 Recommendations Regarding the current Equine Drug
12 Testing Laboratory

13

14 SPEAKERS:

15 Maeve Vallely-Bartlett, Director MEPA

16 Guy Michael, Michael & Carroll

17 Robert Carroll, Michael & Carroll

18 David Belyea, Jackrabbit

19 Cara Ogar, Jackrabbit

20 Lynn Spooner, Jackrabbit

21 David Murray, Racing Division Consultant

22 Elaine Driscoll, Director Communications and Outreach

23 Dr. Jennifer Durenberger, Director of Racing

24 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.

//Laurie J. Jordan// Date: November 7, 2012

Court Reporter for Office Solutions Plus, LLC

My commission expires: May 11, 2018

//Elizabeth Tice// Date: November 7, 2012

Elizabeth Tice, President, Office Solutions Plus, LLC

My commission expires: August 26, 2016