

**Open Meeting
December 18, 2012**

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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

December 18, 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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P R O C E E D I N G S :

CHAIRMAN CROSBY: I will call to order the 43rd public meeting of the Massachusetts Gaming Commission, December 18, 2012. This will be our last meeting in 2012, hard to believe.

We will be switching our meetings to Thursdays rather than Tuesdays. Our regular weekly meetings will become Thursday at one o'clock rather than Tuesday at one o'clock starting on the first Thursday in January, which I think is January 3. So, Happy New Year to everybody.

We'll go straight to the approval of the minutes, Commissioner McHugh.

COMMISSIONER MCHUGH: The minutes for the December 4 and the December 11 meeting have been distributed to all of the Commissioners as part of the meeting packet for everybody who's in attendance. I think we'll deal with them seriatim.

So, first the December 4 minutes. If there are any comments, they can be made now. And if not, I'll move for their acceptances as written.

CHAIRMAN CROSBY: Second?

COMMISSIONER ZUNIGA: Yes, second.

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1 CHAIRMAN CROSBY: I had a couple of
2 minor edits, which I have already given to
3 Commissioner McHugh. All in favor, aye.

4 COMMISSIONER ZUNIGA: Aye.

5 COMMISSIONER STEBBINS: Aye.

6 COMMISSIONER MCHUGH: Aye.

7 COMMISSIONER CAMERON: Aye.

8 CHAIRMAN CROSBY: Opposed? Ayes have
9 it.

10 COMMISSIONER MCHUGH: All right, same
11 process for the December 11 minutes. If there any
12 corrections, modifications I'll hear them now.
13 Otherwise, I'll move that they be accepted as
14 written.

15 COMMISSIONER STEBBINS: Second.

16 CHAIRMAN CROSBY: All in favor, aye.

17 COMMISSIONER ZUNIGA: Aye.

18 COMMISSIONER STEBBINS: Aye.

19 COMMISSIONER MCHUGH: Aye.

20 COMMISSIONER CAMERON: Aye.

21 CHAIRMAN CROSBY: Opposed? Ayes have
22 it.

23 CHAIRMAN CROSBY: What is the plan for
24 the minutes from the key policy sessions?

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1 COMMISSIONER MCHUGH: Those are going
2 to be done in a similar fashion. They are going to
3 be more truncated so that we don't have this
4 discursive discussion but the motions and the
5 synopsis are going to be prepared and they will be
6 ready soon.

7 CHAIRMAN CROSBY: There's no rush. I
8 agree with you that they were so important making
9 decisions that people are going to need to rely on
10 them.

11 COMMISSIONER MCHUGH: Right. They
12 will have a complete set of all of the decisions that
13 we made.

14 CHAIRMAN CROSBY: Okay. Great.
15 Administration, report from the Director of
16 Administration, and while we are at it our updated,
17 Director Glovsky.

18 MS. GLOVSKY: I really don't have
19 anything to report. What I've been working on,
20 Direct Durenberger will be speaking about. So, if
21 we want to go over this.

22 CHAIRMAN CROSBY: Okay. Let's just
23 take a quick look and see if there are any issues.
24 The investigations, we talked about last week that

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1 they will be starting, I think, this week. We will
2 get an update from the investigations -- from
3 Commissioner Cameron.

4 I think we are going to get an update
5 also on the status of all of the requests for
6 waivers. We are completely on track for this. The
7 draft regulations process, I don't know what's
8 really happening. We are starting to iterate
9 back-and-forth with the consultants on them.

10 MS. GLOVSKY: Right. I think the
11 framework policy was really the foundation on which
12 the regulations will be built. So, I view us as
13 being in that process currently.

14 CHAIRMAN CROSBY: Right. Okay.
15 Good. We have the research. We will give an
16 update. We are on track with the research. We will
17 give an update on that in a minute.

18 Amended the report to the Legislature.
19 And we have told the Legislature we'll be a month
20 or so late on that. We are going to get an update
21 on that. Update on all the lab. I think we are all
22 set.

23 The Charitable Gaming, Commissioner
24 McHugh, we are finished with this one I guess, right?

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1 COMMISSIONER MCHUGH: No, we're not.
2 We are going to miss that deadline slightly.

3 CHAIRMAN CROSBY: The 12/31, okay,
4 right, okay. The MOUs Commissioner Cameron has
5 talked about. Those relationships are developing
6 pretty quickly, I think

7 MS. GLOVSKY: Sorry, in between pages
8 it jumps.

9 CHAIRMAN CROSBY: That's all right.

10 COMMISSIONER ZUNIGA: I might note,
11 Mr. Chairman, that the duration of those MOUs may
12 be larger than what's represented, but they do not
13 have an inference in the critical path. That's
14 really an ongoing.

15 CHAIRMAN CROSBY: What needs to be in
16 the critical path is the relationships, which are
17 moving along really well. They're not critical
18 path.

19 COMMISSIONER ZUNIGA: Correct.

20 CHAIRMAN CROSBY: All of the critical
21 hires, we are still aiming for the 31st. We may miss
22 it by a week or so, but I think we'll be very close.
23 And we're teeing up finalists for Investigations and
24 Enforcement Bureau and for General Counsel. Both

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1 of those should be ready to be decided as soon as
2 we make the decision on the ED or before it, for some
3 reason or another we get delayed on the ED.

4 I think that is about --

5 MS. GLOVSKY: I think the only thing
6 that is at the bottom is what Commissioner McHugh
7 had asked me to put in, which is sort of starting
8 to build out the administration tasks sort of
9 separately. And this is for the electronic
10 document management system.

11 CHAIRMAN CROSBY: You're hoping to
12 have that up --

13 MS. GLOVSKY: -- and implemented by --
14 We will implement it in phases, starting April 1
15 would be my hope. And that we would be close to
16 fully implemented -- fully integrated in to what we
17 are going by the beginning of the fiscal year.

18 CHAIRMAN CROSBY: Right. Okay. So,
19 now go back up to the top. So, in the big picture,
20 there's nothing in the way of our critical
21 variables, which are the licensing decision for
22 Category 2, I guess, -- Category 2 is the slots. --
23 this summer. The licensing decision for Category
24 -- at the end of the summer for Category 1 by late

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1 year or beginning of next year. Those are the key
2 things. Okay. Great. Thank you.

3 On the personnel searches, one as I
4 said we are trying like the dickens to make the end
5 of December deadline. But one thing occurred to me
6 that we have not talked about as a Commission, which
7 is kind of important.

8 In the Executive Director search,
9 there is a very small pool of people who can be
10 executive directors. And it is inevitable that
11 some of them, maybe close to half of them, will have
12 been in and out of the regulatory side and also been
13 on the private sector side.

14 So, some of the people that we have
15 talked to and that we may tee up as among our final
16 finalists either have had private sector experience
17 with some of the companies that we may be dealing
18 with or possibly are even currently.

19 Since we are now getting interest from
20 almost all of the big casino companies, almost all
21 the big casino companies have representation in
22 every state that has casino gambling. So, there's
23 a tremendous likelihood that there will be somebody
24 who comes to us as a candidate who either does then

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1 represent somebody or has represented somebody who
2 will be in front of us.

3 Commissioner Stebbins as the
4 coordinator of the process has been very aware of
5 this and has taken some steps. But we never really
6 talked about it as a Commission. So, before we go
7 any further in hopefully teeing up the final
8 finalists, I thought we ought to just make sure that
9 if we do in fact come up with one who either has or
10 does represent somebody who might be a competitor
11 for us, might be an applicant that we discuss amongst
12 ourselves what steps we would take if we are okay
13 with doing that and under what circumstances we
14 would be okay. Go ahead.

15 COMMISSIONER ZUNIGA: I am going to
16 forget the statute section, but I believe there's
17 a section that specifically talks about a period in
18 anticipation to being senior-level policymaker
19 employee. And some period within which a
20 prospective employee may not have worked directly
21 for an applicant. I can search it, but I believe
22 Commissioner McHugh, are you --

23 COMMISSIONER MCHUGH: It's 3N. And
24 it says that no individual can be employed by the

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1 Commission if during the period commencing three
2 years prior to employment that individual held any
3 direct or indirect interest in or was employed by
4 a licensee.

5 We don't have any licensees, but I
6 think that is fair to say that it extends to
7 applicants as well. But that's not what it says.

8 So, that three-year ban of direct or
9 indirect interest and employment is a statutory
10 criterion that at a minimum has to be met.

11 CHAIRMAN CROSBY: For licensees.

12 COMMISSIONER MCHUGH: For licensees,
13 that's right.

14 CHAIRMAN CROSBY: And we won't know
15 who the licensees are until --

16 COMMISSIONER MCHUGH: Right.

17 CHAIRMAN CROSBY: Right.

18 COMMISSIONER MCHUGH: That's right.

19 So, that's the statutory criterion. It seems to me
20 we need to think about whether the logic of that and
21 the logic of its sort of prophylaxis ought to be
22 extended to applicants as well. And I think we need
23 to think about that.

24 I also think that we certainly need to

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1 get an opinion from the State Ethics Commission with
2 respect to anybody who falls into that category.

3 And we are in the process of finalizing
4 our work and will present to the Commission soon an
5 enhanced ethics policy. We are going to meet
6 tomorrow with the stakeholders in that process.

7 And we need to make certain that anybody who is hired
8 would meet the criteria that are spelled out there.
9 I don't think there will be any difficulties there,
10 but I haven't thought about it. So, those things
11 at a minimum, I think, are things we need to do.

12 COMMISSIONER CAMERON: I know I was
13 looking at candidates for IEB and actually Racing.
14 Because so many states have gone with racing and
15 gaming together, and really shied away from
16 candidates who were working directly for some of our
17 applicants within the last three years.

18 I believe that was the appropriate
19 thing to do. And did not consider interviewing
20 those candidates because of that direct contact
21 within the last three years.

22 CHAIRMAN CROSBY: Yes. Well, I'm
23 glad I brought this up. Because I didn't remember
24 this thing and I'm glad you did. I guess maybe we

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1 have, because you have done it on IEB. We certainly
2 haven't been having that one in the forefront of our
3 minds with our ED candidates. And I don't know
4 about others. So, we need to think about that.

5 COMMISSIONER ZUNIGA: Is it fair to
6 say that we could or should make a distinction
7 between the relationship, whether that's a direct
8 working for within the last three years or working
9 on behalf of an applicant as opposed to regulating
10 an applicant, which may very well be an indirect,
11 in my view far removed relationship from what was
12 intended.

13 COMMISSIONER MCHUGH: I think that's
14 wholly outside the scope of the statute. It says
15 any individual held a direct or indirect interest
16 in or was employed by a licensee. A regulator
17 doesn't have an interest in the regulated entity.

18 COMMISSIONER ZUNIGA: Okay.

19 COMMISSIONER MCHUGH: And I think
20 that's pretty clear.

21 In addition to that, the purpose of the
22 statute to prevent unwarranted influences really
23 doesn't apply to somebody, I think, who is
24 regulating an entity that he or she is going to

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1 regulate now. So, I don't think we have worry about
2 that.

3 CHAIRMAN CROSBY: On the ethics issue
4 that you raise, I think we are clear on that. Any
5 time there has been an issue, we have vetted that
6 upfront before we spent any time pursuing a
7 candidate, right? So, we we've been clear on that
8 one.

9 That was our point with Springfield.
10 Our concern with Springfield was that there was the
11 potential for a conflict, which had not been
12 surfaced in advance and had not been vetted with the
13 Ethics Commission. And that was subsequently found
14 by a critic. So, I think we've covered that base.

15 Setting aside this issue, which is not
16 going to settle aside for very long, the only other
17 thing that I could think of that if we are not
18 prohibited by this, which is from the three-year
19 problem, we just need to make absolutely sure that
20 there is no possibility of sort of indirect, ongoing
21 -- The problem is mainly lawyers basically.

22 And lawyers who are in law firms who
23 represent people, who represent companies, and
24 their compensation packages are sometimes after the

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1 fact. So, we need to be really careful to
2 understand exactly so that there was zero
3 relationship in any way between a selection of ours
4 and any kind of compensation. And from a sniff test
5 standpoint as well as just the reality of it. But
6 I think we can work that out.

7 Try to put yourselves in the minds of
8 the Legislature. The statute clearly does not
9 qualify, does not prohibit people at the moment
10 technically because there aren't licensees. We
11 don't even know who is going to become an applicant
12 for sure, particularly in areas where there is a
13 contest. So, we would be guessing.

14 COMMISSIONER CAMERON: We pretty much
15 know, I think, we know who the applicants will be.
16 I know that we have received nine scope of licensing
17 briefs, rather letters requesting a decision. So,
18 nine out of the 11 of interested parties have
19 submitted a letter requesting that we consider their
20 request with regard to qualifiers. So, to me that's
21 a significant step toward becoming an applicant.

22 I know personally I'm very comfortable
23 with that three years. If we had a candidate who
24 was within that three-year period with a direct

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1 relationship with one of our applicants, personally
2 I would not be comfortable with that.

3 COMMISSIONER MCHUGH: I have thought
4 about this for since you raised the issue. So it's
5 -- But, I would be very leery of bringing somebody
6 on board in that position if they ran afoul of this
7 prohibition.

8 And I think that we really need to
9 engage somebody in this position who is not, does
10 not now have and has not within that period had a
11 relationship with one of the people who we know or
12 expect will be applicants. I think it would be very
13 difficult.

14 CHAIRMAN CROSBY: I totally get that.
15 I am thinking from two very practical standpoints.
16 One (INAUDIBLE) that's totally hypothetical. I am
17 just making this up. Wynn has indicated interest.
18 They are starting at least the background check
19 process.

20 If we had a good candidate who had
21 worked within the last three years for Wynn, and we
22 decided we could not consider them as a finalist.
23 And then Wynn does not become a candidate, A - that's
24 a problem. B - it's a particular problem because

1 our pool is so incredibly limited.

2 So, while I totally get your instinct
3 and I don't disagree with your instinct, and I'm
4 troubled, I'm wrestling with how we deal with this,
5 we are incredibly limited in our pool. And
6 eliminate, knocking people out of our pool without
7 even knowing whether or not there is an actual
8 conflict.

9 COMMISSIONER MCHUGH: It seems to me,
10 Mr. Chairman, we can talk about the hypothetical
11 problems from now until certainly the end of this
12 meeting. And I'm not sure we can do anything more
13 in this hypothetical setting than give sort of a
14 visceral reaction to areas that are problematic.

15 And the rest will have to depend on an
16 analysis of a particular person. I'm not sure we
17 can do anything better than that.

18 CHAIRMAN CROSBY: Well, the reason I
19 brought it up was because I was trying to get
20 guidance for the hiring manager who is working on
21 this, but I think that is guidance. And I think
22 that's the best we can do.

23 Unless we wanted to make a decision,
24 implement a policy right now in the abstract, then

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1 we can wait and see whether or not it becomes an
2 issue. And if it does become an issue, deal with
3 it in the particular.

4 COMMISSIONER MCHUGH: I would
5 certainly prefer the latter because I don't think
6 that an abstract policy is going to be of any more
7 help than this discussion.

8 CHAIRMAN CROSBY: Is everybody okay
9 with that?

10 COMMISSIONER ZUNIGA: Yes.

11 CHAIRMAN CROSBY: Okay So, the three
12 things that we talked about in the event that there
13 is such a candidate or candidates is the Ethics
14 Commission issue, which I think we are clear on, my
15 concern about making sure that we really dig into
16 the details of financial relationships so that there
17 is real clarity on there, and then this issue of the
18 statute and how we will apply the statute to these
19 searches. Okay. Great. Thank you.

20 I just mention this --

21 COMMISSIONER MCHUGH: Could I say
22 though that I think that covers the waterfront. But
23 again having thought about this for a few minutes,
24 a night's reflection may add some more.

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1 CHAIRMAN CROSBY: Absolutely. I
2 totally agree with that. That was not meant to be
3 limiting. We at least established those three
4 concerns and there may well be others.

5 I just wanted to remind Director
6 Glovsky and Commissioner Zuniga about labor of best
7 practices, because we have had inquiries from some
8 of the labor unions that are interested in talking.

9 They are not being pushy. They
10 understand we've got to get organized. But they'd
11 like to start talking to us about how we're going
12 to handle this by the beginning of next year, which
13 now isn't very far away.

14 So, if you can tee up whatever there is
15 to tee up that we need to think about. I've said
16 what we've all talked about that we understand that
17 we are susceptible to organizing like any other
18 State agency. We are not exempt. And that we are
19 prepared to collaborate with them to talk about
20 that.

21 But that this is a peculiar business
22 and we wanted not to make any commitments until we
23 had a chance to see how other agencies, how other
24 jurisdictions deal with it. And what if any

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1 exemptions or special circumstances or whatever we
2 might want to bring up. And they were fine with
3 that, but I think we've got to join the issue
4 sometime fairly soon.

5 COMMISSIONER ZUNIGA: I have a brief
6 update on that. Director Glovsky and I had two
7 conversations actually this morning with colleagues
8 at the State of Ohio Gaming Commission and the New
9 York New Jersey Gaming Control Board. At least one
10 of them is going to forward to us certain procedures
11 written procedures that they have implemented along
12 with good background in terms of historical context.

13 So, we're proceeding and we'll come
14 back very shortly to the Commission with
15 recommendations hopefully in the form of a written
16 memorandum for your understanding.

17 CHAIRMAN CROSBY: Great. Okay.
18 Employee manual, Commissioner Zuniga?

19 COMMISSIONER ZUNIGA: Like I have done
20 on previous occasions, I am submitting for
21 consideration, for review, not for vote the last
22 chapter of the employee manual. That is chapter six
23 that deals with communications and outreach. I
24 will be available between now and next meeting to

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1 -- if there are any edits if needed. And to submit
2 that at a subsequent meeting of the Commission.

3 CHAIRMAN CROSBY: Okay.

4 COMMISSIONER ZUNIGA: For background,
5 this version incorporates the policy discussions
6 that we had actually dating back to August 14. And
7 any additional comments or edits, I will be happy
8 to entertain them or make them.

9 COMMISSIONER MCHUGH: There is a
10 section in here dealing with public records and
11 Freedom of Information. I had asked now that we
12 have a burgeoning legal staff, our associate counsel
13 to think about a structure for dealing with Freedom
14 of Information Act requests.

15 And he has put together a draft process
16 that needs to be tweaked just a little bit. But I
17 will circulate that to you and to the other
18 Commissioners when it's ready. And that may well
19 be a substitute for the piece that exists there now.

20 COMMISSIONER ZUNIGA: All right.

21 COMMISSIONER MCHUGH: That would
22 apply to all Freedom of Information requests in a
23 standard fashion. So, that will be upcoming soon.

24 COMMISSIONER ZUNIGA: Very good.

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1 COMMISSIONER STEBBINS: I would only
2 suggest -- I read through this. -- as we do hire new
3 staff, bring new people on board that generally I
4 think we know how it all works. You get your
5 employee manual. And you're supposed to go home and
6 read it, and understand everything in it, and come
7 back the next day and check a box saying you read
8 it.

9 The section in there particular to
10 social media where we can fully expect employees,
11 future employees will have facebook page, any of the
12 things through social media that that section almost
13 could be extrapolated and highlighted first when we
14 bring somebody on board or make an offer of
15 employment.

16 Because first thing you're going to do
17 when you go home is let all of your friends know about
18 your new job, etc., etc. And I could see an employee
19 quickly kind of getting caught in a trap with respect
20 to the social media provisions, probably first and
21 foremost ahead of anything else in this chapter.

22 So, I would just suggest that HR staff,
23 anybody doing hiring kind of highlight that focus
24 and the importance of that section of the handbook

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1 almost as an upfront when we discuss salary or
2 anything else. And it's all well written. I would
3 just kind of place an internal focus on that with
4 our hiring managers and our HR department.

5 COMMISSIONER ZUNIGA: Okay.

6 CHAIRMAN CROSBY: I haven't read it
7 yet. So, we'll talk about it next time probably,
8 where did the social media clauses come from?

9 COMMISSIONER ZUNIGA: 6.3 it's a mix.
10 Some of this I extrapolated from a couple of other
11 examples. But given that this is very much a recent
12 topic, some of these I drafted with the help of input
13 afterwards of Commissioner McHugh, but then also
14 importantly Director Driscoll.

15 As I can summarize it, the control
16 mechanism, if you will, is that the Director of
17 Communications is the focus and conduit for
18 communications. That's a big part of it.

19 CHAIRMAN CROSBY: Related to the
20 Commission.

21 COMMISSIONER ZUNIGA: Yes.

22 CHAIRMAN CROSBY: Right. Not talking
23 about personal facebook.

24 COMMISSIONER ZUNIGA: Right.

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1 Personal use is only talked about in terms of people
2 should be careful, etc.

3 CHAIRMAN CROSBY: Okay. All right.
4 So, we will look at that more officially later on
5 or more formally later on. Anything else under
6 administration?

7 Item number four, the IEB report,
8 Commissioner Cameron?

9 COMMISSIONER CAMERON: Mr. Chair, I'd
10 like to report that we at this time this week we have
11 all toll 11 entities who have requested meetings
12 and/or conference calls regarding the scope of
13 licensing and who those qualifiers will be.

14 Of those 11, we were able to make
15 decisions on five and they have received their
16 determination letters from the IEB laying out who
17 the qualifiers will be.

18 And nine letters have been received all
19 toll with a request from the entities of who they
20 are requesting be exempt and whatnot, questions on
21 qualifiers.

22 CHAIRMAN CROSBY: Say that again.

23 COMMISSIONER CAMERON: So, five
24 letters have gone out. Of the 11 that have had scope

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1 of licensing meetings, five letters have gone out,
2 determinations have been made by the IEB in
3 consultation of course with our consultant.

4 There are four others in the process
5 now. We are reviewing those that they have asked
6 to be waived. What is their role in the company,
7 those determinations, those discussions are
8 ongoing. And we hope to have those four additional
9 letters out by the end of this week.

10 And then there are two others who are
11 just starting the process with us, just requesting
12 an initial meeting, just starting the process.

13 So, that is an update of where we are
14 with scope of licensing.

15 CHAIRMAN CROSBY: Just so everybody
16 knows, qualifiers are the determination by the
17 Commission of who and what individuals and what
18 entities will have to go through the background
19 check. It's a communication back and forth between
20 the potential developers and us as to who those would
21 be. So, that's fine-tuning those so-called
22 qualifiers right now.

23 COMMISSION CAMERON: And with regard
24 to investigations, one of the things we have worked

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1 on the last few days is really finalizing a
2 fingerprint process. We are not set up. The IEB
3 is brand-new. We are not set up currently for a live
4 scan as a law-enforcement agency.

5 So, we are working with our
6 law-enforcement partners around the country and in
7 some cases out of the country. We will be sending
8 out fingerprint cards, having those individual
9 qualifiers go to a local police department. And the
10 art of inking and rolling is not used as much as it
11 used to be. So, we are hoping that they remember
12 those skill sets and we get some clean prints back
13 to us.

14 We will be sending additional cards.
15 We in the IEB will be responsible for that process.
16 So, we have been fine-tuning that now. That is the
17 very first phase, the start of the investigations
18 getting those. All of those qualifiers, get the
19 prints so they can go to a local PD. Making it as
20 convenient as possible for them.

21 So, we had a call about that this
22 morning actually just making sure we are all on the
23 same page with the process. And there'll be a
24 letter. They'll have to show identification, a

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1 passport. There'll be a number of steps they'll
2 have to take to identify that it is the person --
3 they are who they say they are.

4 So, we're at the very first phase of the
5 investigations. We have two partial applications
6 submitted to date. And it's a new process for lots
7 of folks. So, we're working with everybody.

8 But we do encourage everybody to please
9 be as thoughtful when they submit to try to have all
10 of the information with that one initial application
11 submission. That way that makes it an awful lot
12 cleaner in the review process and just moves the
13 investigation along at a quicker pace, which I know
14 is important to all of us. That completes my
15 report.

16 CHAIRMAN CROSBY: Great. Anything
17 else an IEB?

18 COMMISSIONER CAMERON: I have one
19 additional piece, Mr. Chair. This week we will be
20 signing MOUs with the State of Ohio and the State
21 of Nevada. And we'll be signing others also but
22 that just allows for the transfer of information,
23 investigative information in a timely manner.

24 And it just lays out the information

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1 and the agreement between the Commonwealth and those
2 states as to how we'll have that information
3 transfer, which is an important piece. We will be
4 verifying all information, but it's nice to have the
5 ability to look at other investigations that have
6 been done with these applicants.

7 CHAIRMAN CROSBY: If an entity has
8 been investigated in Ohio say, recently, within the
9 last year or so, and that investigation is done by
10 an organization that we feel good about that we feel
11 that we feel has our standards, can we essentially
12 sort of pick up the investigation at the date that
13 one was over and move forward and not have to redo
14 the whole file?

15 COMMISSIONER CAMERON: It streamlines
16 the process, but we still need to individually
17 verify that information. I know I personally
18 wouldn't be comfortable just saying well, it was
19 already done in Ohio, so we're just going to take
20 it from two years on.

21 It will make the process easier,
22 smoother, quicker, but we are still going to if there
23 is derogatory information, we will independently
24 verify that information.

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1 COMMISSIONER ZUNIGA: Plus it's
2 likely that it will not be the same partnerships in
3 Ohio. There will be elements but not necessarily
4 everything.

5 COMMISSIONER CAMERON: It is very
6 common to have different --

7 COMMISSIONER ZUNIGA: -- different
8 partners.

9 COMMISSIONER CAMERON: Yes, the
10 investors may not all be the same.

11 COMMISSIONER ZUNIGA: Right.

12 CHAIRMAN CROSBY: Right. Okay.
13 Anything else IEB?

14 COMMISSIONER CAMERON: No.

15 CHAIRMAN CROSBY: Key policy
16 questions, picking up where we left off last week,
17 question number 18. Should the Commission approve
18 the wording of the summary required by general laws
19 such and such before it is submitted to the public?

20 This is the summary of the host
21 community agreement. It has to be approved by the
22 referendum there of the home ward or of the full
23 community. And as we talked about last time, this
24 was a three but we moved it up because it relates

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1 to so much of the other local control issues that
2 we have been talking about.

3 We got five comments. City of Revere
4 said no. We should not approve. That there was no
5 legislative intent to approve. And that the local
6 officials are qualified to accomplish this task.

7 Paul Vignoli said yes, we should
8 approve.

9 Sterling Suffolk said no, we should not
10 approve. The Commission should not approve and had
11 extended comments on the lack of legislative intent
12 and on the emphasis on the local control in the full
13 HCA, host community agreement process.

14 Shefsky and Froelich on behalf of
15 Springfield said no. That the local officials are
16 capable of accomplishing this and that it's similar
17 to other local guidance on other local initiative
18 petitions.

19 And citizen Martha Robinson said yes
20 that the process needs a corrective -- that yes, we
21 should approve it. The process needs a corrective
22 mechanism.

23 In general, we have come down on the
24 side of local control on all of these questions about

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1 the host community agreement. Should we set out
2 minimum standards? Should we approve the host
3 community agreement and so forth?

4 But since the referendum itself is so
5 critical to the whole process, this was the one place
6 that I originally thought maybe we should exercise
7 some control. Should have some kind of an approval
8 right because the referendum is so central to the
9 integrity of the process.

10 And I was particularly troubled by what
11 I understood to be the representative -- the
12 comments by the representative from Sterling
13 Suffolk who seemed to be interpreting the reference
14 to a concise summary, the criteria, the mandate for
15 these concise summary to accompany the referendum
16 as a summary merely of the ballot question rather
17 than of the host community agreement.

18 Now maybe I misunderstood what he was
19 saying, but I certainly would feel differently about
20 this if somebody tried to make that the
21 interpretation, that the definition of the concise
22 summary.

23 But I do think and I think I'm right
24 that the Commission believes this as well that

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1 legislative intent was that the concise summary to
2 be included with the ballot question refers to a
3 concise summary of the host community agreement.

4 Not only is that our interpretation and
5 the interpretation that our lawyers have given us,
6 it was also the interpretation of the City of Revere
7 that said in addition I respectfully submit that
8 local officials are highly qualified to effectively
9 inform voters on the contents of a host community
10 agreement.

11 And Shefsky and Froelich on the part of
12 Springfield said we believe that the city solicitor
13 or town councilor of a particular host community is
14 capable of drafting a summary of the host community
15 agreement for the ballot question as required by
16 general law.

17 So, assuming that that is indeed the
18 definition of the concise summary, I do end up
19 concluding that we should not assert a right -- not
20 assert a step in the process where we would approve
21 the summary.

22 I do believe that the legislative
23 intent was very strong. And we've said it before.
24 The Legislature in effect said to the communities

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1 you have the right to control this part of the
2 process to a very high degree of certainty. It's
3 not up to the Commission or anybody else to decide
4 whether you are making good decisions or bad
5 decisions.

6 We have established the principle that
7 we might override that local control in the event,
8 under the authority, the broad authority that we
9 have in the statute if we felt actions at the local
10 level might impede the critical processes
11 established by the Commission and/or reflect badly
12 on the integrity of the licensing process. On its
13 face, I don't see that this reaches that, level.

14 So, I recommend that we do not vote to
15 require our approval. I do however point out that
16 we reserve our right to intercede at any stage of
17 the process under our quite broad authority to get
18 this done properly in the event that we should happen
19 to see something in the referendum that we found
20 troubling.

21 Other comments?

22 COMMISSIONER ZUNIGA: For that last
23 piece, it would be helpful to request not for
24 approval, but request that the concise summary be

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1 submitted for our own information to only further
2 the goal that you stipulate to allow us to reserve
3 that authority.

4 CHAIRMAN CROSBY: I'm sure that's
5 fine. I'm sure Ombudsman Ziemba could, as the
6 communities are working on this -- I can't imagine
7 communities would have a problem with us talking
8 with them and work in a collaborative way to try to
9 advance the process here. But we will not have the
10 requirement. But I think the idea of asking to see
11 it is a good idea. Any other thoughts?

12 COMMISSIONER MCHUGH: I do think that
13 since the issue is raised and that since you raised
14 it again today, that it would be worthwhile pursuant
15 to our power to establish parameters for these local
16 elections. That we issue a very short regulation
17 that says that the summary in question is a summary
18 of the host community agreement not a summary of the
19 20-word vote question.

20 Perhaps that's not necessary, but I
21 heard the same thing that you did, Mr. Chairman, and
22 that certainly would eliminate all concerns. I
23 think that town council inevitably, particularly
24 given the towns that we are dealing with, the

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1 thoughtful, careful lawyers the summary will
2 adequately reflect the essential ingredients of the
3 host community agreement. But less there be any
4 doubt that kind of a regulation would be helpful.

5 CHAIRMAN CROSBY: Yes. I think
6 that's a good addition.

7 COMMISSIONER STEBBINS: Yes. I think
8 the fact that a community not only has to post the
9 summary of the host community agreement but a copy
10 of the detailed host community agreement itself will
11 certainly give residents and voters ample time to
12 look at both the summary if that's what they choose
13 to or the host community agreement, which I also
14 think needs to be published. And the statute states
15 that the full details of the host community
16 agreement have got to stay up to and I think beyond
17 the election.

18 CHAIRMAN CROSBY: And there's a
19 minimum 60-day window between the request for the
20 election after the HCA is signed and the election,
21 a minimum of 60 days, which is plenty of time for
22 the media and everybody else to be involved.

23 So, I agree there is plenty of
24 opportunity for discussion. But I still think the

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1 Commissioner's suggestion that just for the record
2 we should make sure that we are clear on what the
3 concise summary is of.

4 COMMISSIONER STEBBINS: Right.

5 CHAIRMAN CROSBY: I agree with that
6 suggestion. Mr. Ziemba, did you have any other
7 thoughts you wanted to add to this or you're
8 comfortable with this.

9 MR. ZIEMBA: The one thing I will add
10 is that in the summary, it may not be only the host
11 agreement. It could relate to the facility itself.
12 Such that the community may want to relate details
13 that are not in the host community agreement but what
14 is encompassed within the facility.

15 That's the potential that a community
16 in the summary may wish to do so. So, it may not
17 be specifically limited to the agreement, which may
18 only address mitigation issue and other types of
19 issues. It may relate to what facilities can put
20 forward.

21 COMMISSIONER ZUNIGA: Description of
22 the project not just the agreement.

23 COMMISSIONER STEBBINS: Right.

24 Because the question on the referendum is do you

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1 support a casino going in at this site. I would
2 certainly give a community the flexibility of
3 putting somewhere in the summary a description of
4 the project or what have you.

5 CHAIRMAN CROSBY: The summary
6 includes at least a summary of the host community
7 agreement, not just a summary of host community
8 agreement. Okay.

9 Does somebody want to move to accept my
10 recommendation with the amendment that Commissioner
11 McHugh suggested that we do issue a reg. clarifying
12 what the summary is of?

13 COMMISSIONER STEBBINS: So moved.

14 CHAIRMAN CROSBY: Second?

15 COMMISSIONER CAMERON: Second.

16 CHAIRMAN CROSBY: Any other
17 discussion? All in favor, aye.

18 COMMISSIONER ZUNIGA: Aye.

19 COMMISSIONER STEBBINS: Aye.

20 COMMISSIONER CAMERON: Aye.

21 COMMISSIONER MCHUGH: Aye.

22 CHAIRMAN CROSBY: Okay. Great. On
23 the future questions, there are a handful that I
24 wondered whether we should put on the agenda soon.

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1 I think we sort of talked about the end of next month.

2 There's a bunch of them that are really
3 procedural in nature and not time sensitive. But
4 I've had three or four suggestions. Should the
5 Commission prohibit gambling by local officials --
6 Did we decide the statute does this? Does the
7 statute prohibit gambling by local officials in the
8 one in their region?

9 COMMISSIONER MCHUGH: I can't tell you
10 right now.

11 CHAIRMAN CROSBY: I know we've had a
12 fair amount of feedback on this. And it seems to
13 be on people are kind of interested in. Should the
14 Commission prohibit gambling by local officials in
15 casinos located within their jurisdiction?

16 I think there's been some buzz about
17 that question, right? Do I remember this right,
18 John?

19 MR. ZIEMBA: I think so.

20 CHAIRMAN CROSBY: It's not really time
21 sensitive but apparently -- That's one we could
22 consider addressing soon. Number six, what
23 criteria should the Commission use to determine
24 whether a gaming license applicant should receive

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1 a gaming beverage license -- I don't know why I
2 marked that one. -- for the sale and distribution
3 of alcoholic beverages. And what application fee
4 should the Commission charge?

5 I don't see why that's --

6 COMMISSIONER STEBBINS: I know
7 Commissioner Cameron and I have questions that we
8 want to meet with the ABCC about. And the ABCC asked
9 if we could delay meeting with them until they get
10 through the end of the year and all of the license
11 renewals are going through.

12 CHAIRMAN CROSBY: So, I don't know why
13 I saw that one as coming forward. This one, what
14 kind of a team with the skills and competencies does
15 the Commission need to help it assess the Phase II
16 proposals?

17 That one I think is time sensitive just
18 because to procure those folks could take us a while.

19 COMMISSIONER ZUNIGA: Yes.

20 CHAIRMAN CROSBY: And so,
21 Commissioner McHugh has that one, question number
22 20. I would suggest that we get around to that. Do
23 you have a timeframe on that?

24 COMMISSIONER MCHUGH: Well, I think

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1 that that fits in, Mr. Chairman, to the project that
2 I'm embarked on, which is trying to figure out what
3 all these criteria. And then once we settle on that
4 at the same time. So, I would think the end of
5 January we could and should address that one.

6 CHAIRMAN CROSBY: Okay.

7 COMMISSIONER ZUNIGA: What is that
8 question number again, Mr. Chairman?

9 CHAIRMAN CROSBY: Twenty. What about
10 this one, does this say the same thing, Commissioner
11 McHugh, to expound -- This is number 35, to expound
12 on the point in question five, should the Commission
13 formulate and communicate a scoring system prior to
14 receipt of proposals with the relative weight of
15 different criteria? Should the Commission
16 establish a minimum scoring for applicants?

17 COMMISSIONER MCHUGH: That is really
18 bound up in this whole process. It was bound up in
19 an earlier question on the same page. I don't have
20 the chart with me. Those two, I think, 21 maybe.
21 There was another question on the same page that it
22 was bound up with.

23 CHAIRMAN CROSBY: Okay. Good. I
24 don't think we need to worry about that. Really I

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1 guess there is -- Does anybody have an opinion about
2 whether we want to move on the local officials --
3 Do we want to move that up sooner than the end --
4 I guess there is no really no reason to move it up.

5 COMMISSIONER CAMERON: Mr. Chair,
6 aren't we going to need responses to all of these
7 questions for the next phase of regulations?

8 CHAIRMAN CROSBY: Yes.

9 COMMISSIONER CAMERON: So, I am just
10 wondering why we don't just set one date and handle
11 all of the questions at that time?

12 CHAIRMAN CROSBY: Well, we had talked
13 about doing them at the end of January. I think
14 we'll set aside a week at the end of January like
15 we did this past week where we'll plow through the
16 rest of these. But originally I was thinking there
17 might be a few that were more time sensitive that
18 we ought to move up.

19 COMMISSIONER CAMERON: Move up before
20 the end of January?

21 CHAIRMAN CROSBY: Move up sooner, yes.
22 But I think now that we are talking about it, I think
23 there is really no particular need to do that.
24 Janice, let's think about scheduling a week at the

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1 end of January so we can go through the same process.

2 Then the last thing on this item 5B, we
3 did have -- several people have picked up
4 responsibilities for following through on the key
5 policy questions. Commissioner McHugh just
6 mentioned he's writing clarifying regs. for 18 that
7 relates to all of this other stuff, section 18.

8 COMMISSIONER MCHUGH: We're really
9 trying to marshal the criteria into a --

10 CHAIRMAN CROSBY: -- Pittsburgh-
11 like -

12 COMMISSIONER MCHUGH: -- Pittsburgh-
13 like chart for us to discuss, right.

14 CHAIRMAN CROSBY: And we are going to
15 be trying to get - If we have other criteria we will
16 be adding this into his criteria. That's one
17 project.

18 Commissioner Zuniga talking about
19 following up on the financial standards, number 44
20 and flesh out what's in the studies and reports.

21 COMMISSIONER ZUNIGA: That's correct.

22 CHAIRMAN CROSBY: Commissioner Zuniga
23 and Commissioner McHugh, I think, were going to do
24 some work on whether an HCA could override the law

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1 that says we can do phasing? Question 11 said
2 should we permit phasing. And then we realize that
3 the statute says we can and we were concerned about
4 whether if an HCA said it can't happen.

5 COMMISSIONER MCHUGH: Yes, but I think
6 I need to take another look at our discussion there.
7 But that is an issue that is on the table.

8 CHAIRMAN CROSBY: I think you had said
9 at some point that you would check into that. Then
10 Commissioner Stebbins, Michael Pollock from
11 Spectrum mentioned that he had -- I didn't quite
12 follow what he was saying. -- but he had some kind
13 of a model for incubating small businesses. Do you
14 remember when he was talking about that?

15 COMMISSIONER STEBBINS: Yes.

16 CHAIRMAN CROSBY: If you would follow
17 up with him and just to make sure we get whatever
18 that was. That might fit right into the project
19 you've been working on.

20 COMMISSIONER STEBBINS: Yes.

21 CHAIRMAN CROSBY: Anything else on key
22 policy questions? Yes, 5C, the Region C status
23 report. Okay. I took the lead on this.

24 Last week we had a proposal from

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1 Commissioner McHugh that we consider opening the
2 commercial process in a parallel track. And I think
3 we all had the sense that that was a good idea. We
4 decided that we would invite public comment before
5 we made a final decision. And then this week we
6 would try to make a final decision on that.

7 I will run through that just run
8 through my memo. This is me talking. This is my
9 suggestion. It's not been vetted in its totality
10 with anybody, but I do think it kind of represents
11 what a lot of us have been thinking.

12 There are four different interests
13 that we are trying to balance here. One is the
14 legitimate, historic and legal rights of federally
15 recognized tribes in Massachusetts. These are the
16 rights that we think the Legislature was trying to
17 balance and that we are trying to balance.

18 Secondly, assuring equal treatment for
19 the residents of Southeastern Mass. in terms of jobs
20 and economic development.

21 Third, limiting Southeastern Mass. to
22 a single Category 1 that is a casino license and
23 limiting Massachusetts to more than three.

24 And fourth, creating a stable

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1 predictable gaming environment in Southeastern
2 Mass.

3 The Legislature essentially offered
4 the Tribe a window of opportunity to get through a
5 series of hurdles, which would permit it to have the
6 single casino. I refer to it as the license. I'm
7 not sure it would be a license if the Tribe had it.
8 But as a practical matter, the Tribe would have the
9 single casino in Southeastern Mass.

10 They made this a limited window clearly
11 in certain respects. There was a very tight
12 timeframe for the initial signing and approval of
13 a compact.

14 We have been directed to -- told that
15 we must issue commercial application forms, must
16 start the commercial application process if we
17 determine the land in trust is not, will not be
18 awarded.

19 But most importantly, the law never
20 said that we were precluded from doing a commercial
21 license whenever we wanted to. The law only said
22 that we would be compelled to do the commercial
23 license under certain circumstances of lack of
24 success by the Tribe. It never said we can't do it

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1 whenever we feel like it.

2 I think it is generally speaking
3 correct that we have all along felt that pursuant
4 to the legislative intent, if the Tribe can get a
5 compact approved appropriately and get land in trust
6 in a reasonable period of time that that would be
7 the preferred route. And I think that is what the
8 Legislature preferred and I think we have been
9 acting in that same vein. The challenge obviously
10 being what is reasonable and how do we determine
11 that?

12 Then as Commissioner McHugh outlined
13 in some detail, with the disapproval of the compact
14 by the Department of the Interior and the Bureau of
15 Indian Affairs, it has made the assessment of is
16 there going to be progress here on a reasonable
17 basis, in a reasonable timeframe all the more
18 challenging. That is what caused us to open up the
19 parallel track idea.

20 But as I thought back about this, none
21 of the options that we have in front of us is
22 risk-free to the Commonwealth's interests. If we
23 simply wait for the Tribe for an extended period of
24 time to be successful in getting its land in trust

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1 and a compact, and ultimately that is not successful
2 and then we start the commercial process, that will
3 put Southeastern Mass. at a substantial
4 disadvantage in terms of job generation, economic
5 development. Probably put it at a competitive
6 disadvantage and I think not do what the Legislature
7 wanted it to do, which was to keep Southeastern Mass.
8 in the game.

9 On the other hand, if we go ahead and
10 proceed with the commercial process, just open it
11 up, just go ahead with the commercial process, which
12 we believe we have the right to do, and subsequently
13 a land in trust allocation is made by the Tribe, then
14 the commercial applicant has a competitor
15 potentially. And that Southeastern Mass. has a
16 potential, and the Tribe says substantial potential
17 of two casinos in Southeastern Mass., clearly not
18 desired.

19 But the parallel track that we were
20 talking about also has some problems. First of all,
21 it could imply that the Commission is coming to the
22 conclusion that the Tribe will be unsuccessful.
23 We're not coming to that conclusion. We don't have
24 any data to make that conclusion. But it could be

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1 easily imputed from opening up the commercial
2 process that we're beginning to say that the Tribe
3 is inevitably not going to be successful.

4 It also as one of the public comments
5 said to us, for the commercial operators it means
6 you can pay us your \$400,000. You can start the
7 background check process, make a lot of investment
8 trying to get a site set up, and we might never get
9 to stage two. So that you might lose out, not
10 because somebody else has a better proposal than you
11 do, but because we never get to your proposal because
12 it goes to the Tribe. And that we talked about at
13 our last meeting. That's an issue. That's a
14 legitimate problem. So, none of these solutions is
15 perfect. And none of them is without downside risk.

16 We asked for comment. We got a lot of
17 it from Legislators, from the mayor of Taunton and
18 his advisors, from the Mashpee and their advisors
19 and from KG Urban Enterprises. All of the written
20 comments are on our website.

21 I end up thinking that four things are
22 true. One is the government and the Tribe are in
23 renegotiations on a compact, which could be
24 considered by the Legislature early in its next

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1 session. Pursuing the commercial path does run the
2 risk of having to Tribe proceed with Class 2 gaming,
3 Indian gaming on its own, contrary to the interests
4 of -- the Legislature's interest in what should be
5 happening.

6 The parallel track creates uncertainty
7 for commercial bidders. And as I said before,
8 regardless of how we protest, the parallel path may
9 have the unintended consequence of creating a
10 disadvantageous environment for the Tribe in its
11 attempt to get the compact approved in the
12 Legislature.

13 So, in trying to weigh all of these out,
14 my recommendation is that we postpone for 90 days
15 our vote on the commercial -- on the next step. I'll
16 expand on that in a minute. That it is consistent
17 with what the Legislature was trying to do to give
18 the Tribe -- lean over backwards to give the Tribe
19 a shot within a reasonable timeframe of getting
20 going, let them try to get the compact done. Let
21 them continue to play out their string as they
22 understand their rights.

23 And if in 90 days -- Then in 90 days we
24 assess. If there's a compact in place, maybe we let

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1 the process continue. Maybe we decide to go ahead
2 and go the parallel track. Maybe we decide to
3 simply go with a commercial process because at that
4 point we said the Tribe has had lots of -- It has
5 had a year and a half since the law was passed. And
6 we can't wait any longer.

7 But we postpone that decision for 90
8 days fundamentally to give the Tribe a last shot at
9 getting its steps taken. And also because -- Let
10 me just leave it at that. Basically, to give them
11 a last shot and to make it clear that we will have
12 gone as far as we can possibly go to give the Tribe
13 a shot to be successful in its endeavors.

14 So, that's my recommendation. I am
15 wide open to comment.

16 COMMISSIONER MCHUGH: Well I, Mr.
17 Chairman, agree with the result. I take a slightly
18 different path to get there. Your recitation of the
19 factors and considerations is comprehensive and as
20 usual thoughtful.

21 But it seems to me that it is helpful
22 analytically to separate the land in trust issue
23 from the compact issue for purposes of analyzing the
24 risks. And we are involved now and have been since

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1 this discussion was open in a risk mitigation
2 analysis.

3 The risk in the land in trust component
4 of the problem standing alone is that if the Tribe
5 gets land in trust, with or without a compact, they
6 have an unlimited right to operate Class 2 gaming.
7 There is no state involvement in that. There's no
8 money due to do the state. The state can't prohibit
9 it or regulate it in any other way. And Class 2
10 gaming although limited in the federal statutes is
11 now as interpreted pretty broad and can be
12 significant competition for a casino.

13 I don't think there's anybody who
14 suggests that the question of whether the land in
15 trust application will be resolved in the Tribe's
16 favor or against the Tribe. That that question will
17 be answered within the next 90 days. That's going
18 to take a longer period of time.

19 But the fact that it's out there, the
20 fact that that question is out there is for me at
21 least a reason not to simply say we are going to go
22 the commercial route and open things up for
23 commercial license applications unequivocally,
24 because it seems to me we ought to try as hard as

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1 we can to figure out what the environment is going
2 to look like before we award the license in Region
3 C. Is this going to be an economically viable
4 proposition?

5 So, I think we need to figure out a way
6 to try to get as good a handle as we can on that.
7 And that's going to take some time.

8 The second track is the compact track.
9 And there is seems to me from the comments we've
10 received and the feedback we've gotten, there is an
11 almost uniform perception that the very fact of
12 opening up now this parallel track has sent a
13 subliminal signal that we believe the compact is not
14 likely to get executed. And thereby is having a
15 deleterious effect on the ability of the negotiating
16 team from the Tribe and from the City of Taunton to
17 succeed.

18 And try as we have been to be clear
19 about the fact that we've not made any decision on
20 that, as you just reiterated, we have not succeeded
21 somehow in making that point clear. That we were
22 simply engaged in risk reduction and have no
23 judgment on the likelihood that the Tribe was going
24 to get a compact negotiated. That is a short-term

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1 problem.

2 We will see I think within 90 days, we
3 should see within 90 days whether a compact
4 materializes. We understand that one is moving
5 forward and negotiations are ongoing. So, for me
6 at least, the 90-day window that we create today if
7 we adopt this recommendation, and I would favor that
8 recommendation, is a window designed to allow the
9 Tribe to move forward with the compact negotiations
10 with a clear signal that we have no view as to whether
11 or not that's likely to succeed. That we're not
12 sending any signals. That we are simply waiting for
13 the results of action over which we have no control
14 to occur and then we'll decide given what action
15 occurs or doesn't occur what the next course is.

16 And therefore, I support that
17 recommendation. But in doing so, I don't want to
18 leave the impression that we think that that 90-day
19 window that we would thereby be creating would help
20 us substantially assess the land in trust piece of
21 this complicated puzzle.

22 COMMISSIONER CAMERON: I have a little
23 bit of different view because I'm thinking back to
24 the legislation, which said if a compact was not

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1 signed by -- what was it August 31?

2 COMMISSIONER ZUNIGA: July 31.

3 COMMISSIONER CAMERON: -- July 31 then

4 we were to open in October for a commercial license.

5 So, if we're now to say in reevaluating, I don't know

6 why those same rules wouldn't apply, which means if

7 we think 90 days is the right timeframe to wait, and

8 maybe we should say it is 90 days, and if there is

9 no compact we open it up to a commercial license at

10 that time. And not have as the original legislation

11 before there was a denial of that compact.

12 I'm just not sure we should be -- To me,

13 we're not making a decision one way or the other if

14 we keep this going. Land in trust could take years,

15 which is fine. But it's just a question of what the

16 intent was.

17 And if I look at that July 31 to

18 October, that would be very similar to what we are

19 doing now. Giving it 90 days rather and then

20 opening up for commercial license. So, I would be

21 inclined to move along those lines as opposed to at

22 that time deciding about a parallel track. I think

23 there is much too much uncertainty there.

24 COMMISSIONER ZUNIGA: First, we have a

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1 period of 90 days from this point, there are, I
2 guess, three things that would have to happen only
3 on the compact side, putting aside the land in trust
4 question. That is that once it is successfully
5 negotiated is also approved by the Legislature and
6 it does consequently be approved by the Bureau of
7 Indian Affairs.

8 When we combine -- My question is
9 combining those three probabilities, however small,
10 they have a compounding effect. What would happen
11 if any one of those events by March 15 are not met?
12 We would find ourselves in the same position that
13 we are now. Do we want to give it another go, a third
14 negotiation, let's say or a third approval? Could
15 this be more than second shot?

16 I just wonder what happens if any one
17 of those three things has not happened by March 15?
18 Have we by virtue of preparing to that point pulling
19 an effective deadline into our ability to issue a
20 commercial license or not?

21 CHAIRMAN CROSBY: Certainly, in my
22 motion and I think what Commissioner McHugh is
23 saying, we are not saying that that is a final
24 deadline by which time a commercial process will

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1 happen unexpurgated.

2 Commissioner Cameron is kind of
3 leaning towards that. But I think what we are
4 saying is that fundamentally this is a deference to
5 the rights and opportunity of the Tribe, which was
6 clearly attended to in the legislation, period.
7 And at the end of that window, we will then have to
8 make another decision. And it's not clear which
9 way. I don't which way I would go at this point.

10 I do have -- I think Commissioner
11 McHugh and I -- I don't know that we are disagreeing.
12 I think I am talking about something that maybe he
13 is not. But there is an important sub-debate going
14 on.

15 The Tribe wrote to us that they have the
16 exclusive right to get a license in Southeastern
17 Mass. And that we are precluded, the implication
18 was that we are precluded from issuing it unless we
19 determine that land in trust will not happen.

20 And Shaunna O'Connell, State Rep. from
21 largely Taunton, I think, wrote a letter. All of
22 the letters are in the packet or on the website. And
23 she says -- And she was part of the drafting. -- the
24 statute clearly provides that the Gaming Commission

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1 can consider bids for a Category 1 license in Region
2 C only if the Commission first determines that the
3 Tribe will not have land in taken into trust by the
4 United States Secretary of the Interior. That's
5 not the way we read the law, but that's a pretty
6 big difference of opinion.

7 So, in my thinking if we do have the
8 right to issue this license whenever we want to,
9 which I think we do, then the passage of 90 days does
10 contribute towards whatever is a reasonable period,
11 which we will let go by before we exercise that
12 arbitrary right of going forward on commercial
13 license.

14 So, while yes, the 90 days mostly goes
15 to the issue of seeing whether or not the Tribe can
16 get a compact done, it also adds three more months
17 to what has already been a little over a year for
18 the Tribe to have its opportunity.

19 Because we will have to decide whether
20 or not we want to use to right that we think is in
21 the legislation for us to go forward on a commercial
22 entity independent of land in trust. And the only
23 way we can conclude that is if we think we have given
24 the Tribe a reasonable period of time.

1 So, I do consider this 90 days
2 contributing to that reasonable period of time
3 towards the question we are going to have to answer
4 at some subsequent point.

5 COMMISSIONER MCHUGH: I think we are
6 getting into a highly nuanced difference here. And
7 I just tried to articulate my view as clearly as I
8 can and I think the two are separate.

9 But I do think that with all due respect
10 to the thoughtful people who have taken a contrary
11 position, that the law is clear that we have the
12 right to issue a request for application for a
13 commercial license. And we are not cabined by the
14 two events that Section 91E contains.

15 I also think that what we are trying to
16 do here inevitably is to create a process that is
17 thoughtful and thoughtfully mitigates risk. And in
18 doing that it is very hard to draw bright lines or
19 establish cliffs and say that if the line is crossed
20 or not crossed or if the cliff occurs, such and such
21 a set of consequences is going to flow inevitably
22 and inexorably without knowing what the environment
23 is like when the date occurs.

24 So, I think this incremental approach

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1 is the most responsible thing to do. Yes, it is
2 conceivable that there will be another slight
3 adjustment of one kind or another in my view once
4 we get to March 15.

5 But I think that's in the nature of
6 being responsible and trying without letting this
7 go on forever, to balance the competing interests
8 that the statute and the circumstances have created
9 for Region C. I just don't know any other way to
10 do it other than to do it in a sensitive way.

11 COMMISSIONER CAMERON: Without the
12 date that had been imposed in the past, would the
13 first compact have moved along at the end so quickly
14 without that July 31 date in place? I am just saying
15 that without dates there is no urgency to move the
16 process along. And I don't know that that is fair
17 to everyone if we don't in some way attempt to be
18 fair to everyone and move that process along.

19 COMMISSIONER MCHUGH: I hear you and I
20 think the dates in the legislation clearly did have
21 a motivating effect on everybody to get it done.
22 And I'm not suggesting there's no value in dates.

23 And if we get to March 15 and nothing
24 has happened anyplace, that's one set of

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1 circumstances that I think we all have to take into
2 account very clearly.

3 On the other hand, if substantial
4 progress has been made and there's one last step to
5 be taken and another few weeks are needed, are we
6 now going to say we are not going to do that? I don't
7 want to say one way or the other. So, that's why
8 I take the position I'm taking simply as one
9 Commissioner.

10 COMMISSIONER ZUNIGA: If we read the
11 Section 91E narrowly, and I guess this is the dilemma
12 because it should not be read narrowly, the
13 requirement on the dates did not mention approval
14 of compact. It mentioned only the negotiation by
15 certain date and approval by the Legislature, not
16 approval by the Bureau. So, those conditions were
17 met. They don't have an approved compact by the
18 Bureau but that wasn't mentioned.

19 And the Commission kept the conditions
20 as per that section, did not issue a request for
21 application for that region prior to October 31.

22 So, as I view question 91 -- Section
23 91E, we are now left with the decision really to
24 determine whether land into trust is going to be

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1 obtained. So, I am having a hard time reconciling
2 the other Tribe had the approval of a compact within
3 that framework, the framework of 91E.

4 CHAIRMAN CROSBY: So, that makes you
5 come down where? I didn't quite get that.

6 COMMISSIONER ZUNIGA: I don't know
7 where we come up with 90 days but for the fact that
8 it is giving this process another go.

9 CHAIRMAN CROSBY: The Tribe requested
10 90 days. We didn't just make that up. In the
11 feedback from the Tribe, they requested a lot more
12 than that. But bottom line they felt like they
13 didn't feel it was fair to prejudice the legislative
14 attitude about their chances of getting a compact
15 done or getting the license. And that if they had
16 90 days they would have a shot, they'd have a fair
17 shot to get a compact done without us having implied
18 something negative about it. That's where the 90
19 days comes from.

20 And Commissioner McHugh says that end
21 of it. That's the end of it. A request was made
22 in the context of all of the other comments that were
23 given. We decided that that minimal request was
24 something that we would respect. And that's the end

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1 of it. At the end of that 90 days then we will go
2 forward and see what we come up with.

3 COMMISSIONER ZUNIGA: Which we don't
4 know yet and I appreciate that. Go forward with a
5 parallel track perhaps or more waiting or an
6 issuance of a license.

7 CHAIRMAN CROSBY: Right.

8 COMMISSIONER ZUNIGA: I guess I am
9 viewing those as just perhaps two separate issues,
10 but I know it's a lot more complex than that.

11 CHAIRMAN CROSBY: Well, they are.
12 And I think that's what Commissioner McHugh was
13 saying.

14 Ninety days may not give us any kind of
15 insight as to the land in trust issue, but maybe it
16 will, maybe it won't. We have no idea. But we will
17 have to make a decision, another decision in 90 days
18 based on whatever data we have at that point.

19 COMMISSIONER ZUNIGA: Well, any days
20 that we wait, needless to say, butts against our
21 other interest of not letting this region fall
22 behind. I guess I am coming from that angle.

23 What would be reasonable? Is 90 days
24 reasonable? Or will it be more after that? Or a

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1 parallel track after that? And when have they
2 effectively found themselves, Region C that is, at
3 a significant late -- And we could debate as to what
4 significant means -- disadvantage by virtue of all
5 of this. The question, perhaps a rhetorical
6 question but not an insignificant one.

7 COMMISSIONER MCHUGH: But I don't
8 think these are iron boxes. The 90 days that we
9 extend now is not necessarily 90 days lost if we
10 decide to say to proceed with a commercial RFA in
11 90 days. And somehow on the back-end compress the
12 time it takes to do the RFA-1 process.

13 It may be that we have the capacity to
14 do that. It may be that the RFA-1 process for the
15 others, which will have been proceeding at that
16 point, has been going smoothly, we've got excess
17 capacity. We can close down the amount of time and
18 not leave the 90 days behind at the end of the RFA-1
19 process.

20 CHAIRMAN CROSBY: And we'll have all
21 of our regs. will be written.

22 COMMISSIONER MCHUGH: And we'll have
23 regs. written. There are a whole host of other
24 contingencies that have to be taken into account,

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1 it seems to me. And the plastic nature of this plan
2 that we have is a testament to that.

3 So, I don't think we can think about the
4 90 days simply being 90 days lost and putting people
5 necessarily further behind.

6 In addition to that, if you recall we
7 made the announcement in August that we were going
8 to take applications for Region A and B in October.
9 So, those people had 90 days before the 90 days to
10 get ready.

11 This region has been closed up until
12 recently. And so it seems to me that even if we were
13 to start down the parallel track without waiting,
14 we would have to wait in fairness to other applicants
15 in Region C some period of time before we open the
16 RFA-1 process to give them the time to gear up and
17 put them essentially on a plow with others.

18 So, it seems to me that the 90 days is
19 less than meets the eye, potentially, in terms of
20 the overall extension of time that it portends.

21 COMMISSIONER ZUNIGA: I had another
22 thought. When we did issue the RFA Phase I and the
23 form, we had a discussion that applicants had to not
24 identify their site because this was a component of

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1 the application that was not site specific. But
2 they did have to identify that they would not be
3 seeking Region C. They didn't have to tell us that
4 it was Region A or B, but they had to tell us it was
5 not Region C.

6 Were we to remove that at this point
7 between now or 90 days from now, from our RFA-1
8 request, potential applicant interested in that
9 region could decide on their own to take that risk
10 of submitting to be investigated if they so wanted
11 without any guarantees from the Commission.
12 Because this would be an assertion that at this point
13 that these are all not site-specific requests for
14 application.

15 COMMISSIONER MCHUGH: That's a
16 question to be decided if we adopt what we are doing
17 today, we're not going to take any applications
18 until March 15.

19 COMMISSIONER ZUNIGA: For Region C.

20 COMMISSIONER MCHUGH: For Region C.

21 And it seems to me at that point, we have to limit
22 it to people who are interested in Region C.
23 Otherwise, we just open up late applicants for
24 Regions A and B.

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1 CHAIRMAN CROSBY: But we would let
2 people who had applied for A and B, we would lift
3 that barrier. And they could then look at C if they
4 wanted to.

5 If we do this, we're going to have to
6 correct a few other. We've got other things that
7 we've done that presumed a certain set of
8 circumstance. And we have to go back and undo those
9 just to line everything up if we do open up C to a
10 commercial. But I don't think that's a problem.

11 COMMISSIONER ZUNIGA: I guess I was
12 suggesting that whether we would want to consider
13 lifting that now and let anybody who wants to submit
14 for background checks regardless of where they may
15 one day end up.

16 CHAIRMAN CROSBY: That is the parallel
17 track.

18 COMMISSIONER ZUNIGA: Perhaps
19 effectively.

20 CHAIRMAN CROSBY: I think that's what
21 we're saying we're not going to do. That is I'm
22 proposing we not do for the reasons that we
23 discussed. Any more convoluted thinking?

24 COMMISSIONER MCHUGH: I don't think

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1 it's convoluted. It's complex.

2 CHAIRMAN CROSBY: Any more complex
3 thinking?

4 COMMISSIONER MCHUGH: Right. I can
5 do all of the convoluted thinking myself.

6 CHAIRMAN CROSBY: The thrust here is
7 trying to figure out what is the fairest way to
8 accommodate these conflicting interests and it's
9 not easy. And the Legislature is quick to tell us
10 they know that they didn't answer a lot of these
11 questions.

12 And they wrestled with the same
13 questions. There is no easy answer here. When I
14 said convoluted, I was being facetious. But I am
15 saying we are wrestling, trying to figure out what
16 is the fairest way to combine interests which are
17 antithetical to one another. And that's not an easy
18 thing to do.

19 COMMISSIONER ZUNIGA: I am persuaded
20 by the notion that Commissioner McHugh stipulates
21 which the effective 90-day period that did happen
22 between our first announcement of a request for
23 application and an eventual formal solicitation,
24 which in many ways could effectively take place from

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1 your recommendation starting today.

2 CHAIRMAN CROSBY: Right. Anything
3 else? Does somebody want to move to accept my
4 recommendation?

5 COMMISSIONER MCHUGH: Yes, I will move
6 to accept -- I would move that the Commission
7 continue the discussion of the course to take in
8 Region C for a 90-day period without condition or
9 pre-judgment as to what course the Commission will
10 take at the end of that period.

11 CHAIRMAN CROSBY: Second?

12 COMMISSIONER STEBBINS: Second.

13 CHAIRMAN CROSBY: More discussion?

14 All in favor, aye.

15 COMMISSIONER ZUNIGA: Aye.

16 COMMISSIONER STEBBINS: Aye.

17 COMMISSIONER MCHUGH: Aye.

18 COMMISSIONER CAMERON: Aye.

19 CHAIRMAN CROSBY: Opposed? I look
20 forward to our March 15 meeting. Thank you. Okay,
21 item six Racing Division report, Director
22 Durenberger.

23 DR. DURENBERGER: Good afternoon, Mr.
24 Chair, Commissioners.

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1 COMMISSIONER CAMERON: Good

2 afternoon.

3 COMMISSIONER MCHUGH: Good afternoon.

4 DR. DURENBERGER: Thank you. I just
5 want to make them note on the section of the Expanded
6 Gaming Act that we were talking earlier, provision
7 3N, the conflict of interest. No Commission
8 employee can have had a direct, indirect interest
9 in or employment by a licensee under this Chapter
10 within the preceding three years. There is nothing
11 to deliberate. Obviously, it's a statutory
12 requirement. But we just want to make the note that
13 Racing has been looking at that.

14 That's kind of an uncommon provision in
15 racing. It often works the other way. States will
16 have prohibition against moving from the regulator
17 to the licensee. But it does, it will narrow our
18 pool for Racing as well. So, I just wanted to make
19 a note of that. We are looking at that.

20 CHAIRMAN CROSBY: It doesn't just
21 apply to ED. It applies, which we were talking
22 about, it applies to everybody. So, you are talking
23 about the people you are now recruiting for might
24 very well have worked at a potential applicant

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1 within the last three years?

2 DR. DURENBERGER: Now or in the
3 future. There are a number of regulatory positions
4 that the tracks employ, racing officials of all
5 shapes and sizes. And it's not uncommon for racing
6 officials to pursue regulatory employment and move
7 over to the state.

8 There is one other almost identical
9 provision out there in one other jurisdiction but
10 really we haven't found a lot of other parallel
11 language as it applies to racing. So, I just wanted
12 to make a note of that. Nothing to deliberate, just
13 a note.

14 Quite a bit of work in the transition
15 update area. The laboratory is right on track, the
16 closing and cleaning out of the laboratory. In
17 fact, the hazardous-waste team is out there today
18 removing chemicals. And we're making arrangements
19 to do some cleaning next week. So, we're very happy
20 there. We are right on track.

21 In terms of personnel issues,
22 background checks are moving along with the former
23 SRC employees that have applied. We're ongoing
24 with interviews. We've posted a number of

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1 positions. So, it's just a matter of time. It
2 takes time to interview people, interview
3 candidates. But that's all ongoing.

4 As far as archiving the tremendous
5 number of documents that are in the possession of
6 DPL at the moment, we are working on space for those.
7 We've got some names from Simmons College and UMass
8 Boston for library science internship program with
9 some folks that might be willing to come in and help
10 us out on that inventory.

11 And the Racing staff, such as it is
12 right now, is certainly willing to roll up our
13 sleeves and get dirty on this. We will get that out
14 of our possession and into the appropriate place as
15 quickly as possible.

16 We are working very closely with DPL on
17 there is a lot of physical inventory of course to
18 transfer and there is electronic inventory as well.
19 So, there is electronic files and email boxes and
20 things like that. We're working on that this week
21 and next.

22 In other news, I just wanted to give you
23 all the heads-up that the Racing Commissioners
24 International, which Massachusetts is a member of

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1 had a very significant meeting in Tucson about two
2 weeks ago. I was supposed to attend. I couldn't,
3 but I was able to participate telephonically.

4 And basically what has happened is
5 there has been a recommendation for an entire
6 paradigm shift in how racing regulates medication.
7 This is something that you all have been aware of
8 since July, I think, since the consultant's report
9 came in that it was coming down the turnpike. It's
10 essentially 12 years in the making. So, this is not
11 something that just happened overnight.

12 We have been with our lab RFP and with
13 our going forward in the recommendations for
14 regulatory change that we've been creating, we've
15 been very mindful that this was coming down the pike.
16 So, Massachusetts will be a very good position I
17 think.

18 CHAIRMAN CROSBY: The way you said
19 that I thought you were talking there's a paradigm
20 shift from what they've been talking about doing.
21 But you're saying they are finally doing what you've
22 been expecting.

23 DR. DURENBERGER: Yes. And we knew it
24 was coming and it takes time. Like any regulatory

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1 process, there's a lot of deliberation. There's a
2 lot of stakeholders involved. And there's a lot of
3 practical and logistical issues to overcome. So,
4 that's actually moving along very well.

5 And our timing in terms of suggesting
6 rule changes after the first of the year is going
7 to dovetail very nicely with that. So, I am very
8 pleased. We are very fortunate with the timeline
9 on that.

10 COMMISSIONER CAMERON: Director,
11 question there. Does that mean that we could be one
12 of the first jurisdictions to implement these new
13 medication recommendations?

14 DR. DURENBERGER: So, the
15 mid-Atlantic states have indicated that they are
16 going to go all in on this or at least recommend that
17 they are going to go all in on this. In terms of
18 who's the first, it's just really a function of your
19 rulemaking process of the timeline for that. If we
20 will not be the first, we will be among the first.

21 CHAIRMAN CROSBY: Great.

22 COMMISSIONER CAMERON: Excellent.

23 Thanks.

24 DR. DURENBERGER: The other issue on

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1 the agenda is the local aid issue. As you all know,
2 the Commission has an ongoing obligation to make
3 local aid payments to racetrack host communities.
4 That is found in 128A(5)(h) in the pari-mutuel laws.

5 The money to do so does appear in the
6 FY'13 budget. And we do have two outstanding
7 payments for FY'13 to be made. One would have come
8 due on September 30. There's a second-quarter -
9 They're six months in arrears. The second quarter
10 payment will be due at the end of next week.

11 There is a secondary issue with that,
12 which is that there is still outstanding the
13 fourth-quarter FY'12 payment, which came and went
14 on June 30. That also has not been paid.

15 So, my recommendation such as it is to
16 Commission is that there is a line of item in the
17 FY'13 budget for these local aid payments. And I
18 believe that everything is ready to go with those.
19 So, I would request that you deliberate and take a
20 vote amongst yourselves for the FY'13 payments.
21 And then to decide on the fourth quarter of FY'12
22 as well.

23 CHAIRMAN CROSBY: So, your
24 recommendation is that we resolve this by making all

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1 of those payments, those three.

2 DR. DURENBERGER: My impression is
3 that the two FY'13 payments, the one from September
4 30 and the one that will be coming due next week I
5 think is very easy. There is a line item that's
6 right in the budget.

7 I think the fourth quarter of FY'12 is
8 something that needs to be deliberated.

9 COMMISSIONER MCHUGH: I support that
10 recommendation, Mr. Chairman. The FY'13 line
11 items is clear and the funds are there. And I
12 recommend that those be paid. The last payment for
13 FY'12 is a little bit more complicated for a variety
14 of reasons, but the legislative intent seems crystal
15 clear and subject to thoughts of the other
16 Commissioners, I would recommend that that be paid
17 as well.

18 Notwithstanding the technical issues
19 that are there, it's unquestioned what the
20 legislative intent was.

21 COMMISSIONER ZUNIGA: I would second
22 all that. There is a clear easier determination for
23 the fiscal year '13 payments but I'm also in
24 agreement that even the legislative intent with

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1 fiscal year '12 in my view is clear. It's a matter
2 of this Commission essentially to decide and execute
3 on that, on those payments.

4 COMMISSIONER CAMERON: I would agree
5 wholeheartedly. We've done our due diligence.
6 We've looked at the matter. And I know that I am
7 convinced that we have the authority and we should
8 go ahead and do that.

9 CHAIRMAN CROSBY: I don't know
10 anything about the details of it. But I am sort of
11 hearing a lot of voices from the Legislature that
12 this is what they intended. So, I am adding my two
13 cents worth.

14 COMMISSIONER MCHUGH: So, I would
15 move, Mr. Chairman and colleagues, that the
16 Commission approve the payments for FY'12 and FY'13
17 that are due and that will become due at the end of
18 this year and authorize the appropriate person to
19 make the distributions.

20 COMMISSIONER CAMERON: Second.

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

23 COMMISSIONER ZUNIGA: Aye.

24 COMMISSIONER STEBBINS: Aye.

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1 COMMISSIONER MCHUGH: Aye.

2 COMMISSIONER CAMERON: Aye.

3 CHAIRMAN CROSBY: Opposed? The ayes
4 have it. Congratulations, I guess, your first
5 motion.

6 DR. DURENBERGER: And that is it for my
7 report.

8 CHAIRMAN CROSBY: Coming at it from
9 the other way, any critical path item problems in
10 terms of hiring, space, getting ready for the next
11 year, the task force, any problems?

12 DR. DURENBERGER: The only critical
13 path item really it's more rate limiting than
14 critical path. It's just the background checks.
15 And there is still a little bit of unknown with the
16 holidays in terms of what delays might occur with
17 the background checks. But they're moving along as
18 expeditiously as they're able.

19 But we are prepared certainly to take
20 over the operational functions of the State Racing
21 Commission on January 2.

22 CHAIRMAN CROSBY: Great. Thank you.

23 COMMISSIONER CAMERON: Thank you.

24 COMMISSIONER MCHUGH: Thank you very

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1 much.

2 CHAIRMAN CROSBY: I think this is
3 obvious but all of the interested parties including
4 as recently as yesterday as Senator Rosenberg's
5 office, if you can tell them that we've decided on
6 the local aid payments, all of the other folks too.
7 I'm sure you wouldn't have forgotten that. But
8 Rosenberg I wanted to mention particularly. Do you
9 want to join us? Do you have -- do your report?

10 MR. ZIEMBA: Thank you, Mr. Chairman.
11 From my remarks you'll see that the theme of today's
12 presentation is regional planning agencies.

13 First, I want to say thank you to a
14 number of regional planning agencies that helped out
15 the Commission get out notice regarding the
16 categories C -- excuse me, the Region C conversation
17 that we had today. Thanks to Southeast Regional
18 Planning and Economic Development District, Old
19 Colony Planning Counsel, Cape Cod Commission and
20 Martha's Vineyard Commission. Within a short
21 period, they got out notice to all of their
22 interested communities and to impacted Legislators
23 as well. So, a big thank you to the RPAs on that
24 one.

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1 I continue to have discussions with
2 communities and applicants. As I reported last
3 week, I met with folks in the City of Everett. There
4 were approximately 300 people there that came out
5 to learn about our licensing process and details
6 about what is planned for Everett. I have more
7 meetings scheduled for the remainder of this week.

8 Today, Commissioner Zuniga and I had a
9 scoping meeting with three RPAs about potential
10 assistance that we could provide to surrounding
11 communities on technical advice or other
12 facilitation services to help alleviate concerns
13 about potential impacts, identify what are the
14 objective impacts and hopefully lead to a process
15 that would not lead to numerous appeals appearing
16 before the Commission of the definition of
17 surrounding communities and whether or not
18 agreements have been entered into properly with
19 applicants.

20 Finally, on Friday, Commissioner
21 Zuniga and I met with a number of other regional
22 planning agencies at the MARPA meeting. We
23 discussed, again, the timeline of the Commission's
24 licensing. And we also discussed some of the

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1 deliberations of the policy week.

2 They obviously were very interested in
3 what type of information will be made available to
4 both host and surrounding communities about what
5 they should do for agreements. What advice we would
6 give them. And they were very interested in some
7 of our discussions last week.

8 We asked them for further input
9 regarding our surrounding community initial
10 determination before it is publicly made and sent
11 out in the month of January.

12 We've also had further follow-through,
13 had conversation with Mass. Municipal Association
14 detailing some of the items that they had concerns
15 with during this past week. And outlined a little
16 bit of a process going forward regarding surrounding
17 communities. That's what I have to report.

18 CHAIRMAN CROSBY: So, no burgeoning
19 new problems? Nothing that anybody is
20 particularly --

21 MR. ZIEMBA: I think the most urgent
22 thing that we need to do is we have been working on
23 a grant agreement for assistance for communities to
24 get the \$50,000 portion of the \$400,000. And after

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1 our meeting with the Department of Revenue Division
2 of Local Services, we can avoid some of the
3 strictures of municipal finance through a grant
4 agreement, either through just the request to us for
5 the \$40,000 or potentially if you have something
6 outside the \$40,000 fee with communities.

7 COMMISSIONER ZUNIGA: It's \$50,000.

8 MR. ZIEMBA: Excuse, me \$50,000 out of
9 \$400,000. Excuse me. So, I think what we need to
10 do is we need to get that grant agreement before the
11 Commission. I know the Commissioner has been
12 working on it and Mr. Grossman and I have had
13 conversations about working on it. He's doing a
14 great job on that as well.

15 CHAIRMAN CROSBY: This Mr. Grossman?

16 MR. ZIEMBA: That Mr. Grossman.

17 CHAIRMAN CROSBY: Nice going, Mr.
18 Grossman. Okay. Great.

19 MR. ZIEMBA: Thank you.

20 CHAIRMAN CROSBY: Director Driscoll?

21 MS. DRISCOLL: Good afternoon. I
22 will actually be really quick today. Just to let
23 you know that I have asked the website people to
24 everything they can do to continue to expedite the

1 process.

2 They have come back to me with
3 approximately five to six interior pages of the
4 design for the website, all looks terrific. And on
5 Friday we are meeting to actually even put the plan
6 in place to start transferring contact from the
7 current site. And then also just making a plan in
8 terms of I am providing to them on Friday everything
9 that I've written so far, where any holes, if we need
10 to add any pages to make sure that the placement of
11 content is always consistent and that there's an
12 obvious home for everything, things like that so
13 that everything is easy to find, etc.

14 The designs that I've gotten from them
15 thus far for the interior pages are terrific. I am
16 making very minor graphic changes that you don't
17 have to be concerned with. We have also secured
18 mass.gaming.com as our new URL. So, that is also
19 being put on all of the rest of the designs for any
20 of the branding materials that we are working on.

21 So, I gave them a mid-January. As you
22 know, it was my goal to be able to coincide this with
23 the application due date of January 15. I am hoping
24 for the best. But like I said, there's a lot of work

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1 that needs to be done in between now and then, but
2 we'll be working to see if we can make that happen.

3 So, once it's done, we'll have a really
4 great content management site that will make
5 providing a lot of this information a lot easier for
6 us and more effective.

7 CHAIRMAN CROSBY: Great. The stuff
8 I've seen is just terrific. The thing they did with
9 the core values was terrific.

10 MS. DRISCOLL: Oh, good.

11 CHAIRMAN CROSBY: In fact, if you were
12 willing to ask them to do same thing with the mission
13 statement.

14 MS. DRISCOLL: Sure.

15 CHAIRMAN CROSBY: Give the same type
16 of treatment for that. I'm looking forward to it.

17 MS. DRISCOLL: Great. Thank you.

18 CHAIRMAN CROSBY: Anything else?
19 Thank you very much. Commissioner McHugh,
20 Charitable Gaming?

21 COMMISSIONER MCHUGH: Yes, Mr.
22 Chairman. This report too is brief. You will
23 recall that in the report we sent to the Legislature
24 in January -- in July, in response to the statutory

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1 direction to assess charitable gaming in the
2 Commonwealth and make a report as to
3 recommendations.

4 We said that we thought that the
5 Charitable Gaming that had been given to us by the
6 legislation more properly belonged to the Lottery.
7 And that the Lottery, the Treasury, the Attorney
8 General and we all agreed that it should be there.
9 It was a tiny little sliver of regulation of
10 charitable gaming. And it overlapped with other
11 regulatory efforts. And then we said that we would
12 prepare some legislation designed to do that.

13 Our own target was January 1 to have
14 that done. We have a draft that's been circulated.
15 Mr. Grossman has worked very hard on the draft
16 legislation. It's a good draft. It was generated
17 by another department and reformatted, reformulated
18 and dealt with by him.

19 It's out for comment among all of the
20 three who participated in the last discussions.
21 Everybody agrees in principle with it. And I fully
22 expect to have it presented to us for a vote at our
23 meeting on January 3. That's the effort. And then
24 we can send it off to the Legislature in time for

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1 appropriate bills to be filed before the deadline.

2 CHAIRMAN CROSBY: Great. Missing by
3 two days I don't think is going to be a big problem.

4 COMMISSIONER MCHUGH: Well, let's
5 hope not because we are going to. No, it won't be.
6 We are there. And it's been a cooperative effort
7 with the Attorney General's office, the folks at the
8 Treasury, the folks at the Lottery and ourselves.
9 Everybody has worked very hard and very
10 collaboratively to get us to this position. It's
11 been a fully collegial relationship.

12 COMMISSIONER CAMERON: Thank you.

13 CHAIRMAN CROSBY: Thank you. Number
14 nine, enhanced ethics, Commissioner McHugh.

15 COMMISSIONER MCHUGH: That too is
16 almost ready for distribution to us for a vote.
17 Commissioner Cameron has been working on that. Mr.
18 Grossman again has been working on that. The ABCC
19 has been working on that. The State Police have
20 been working on that. Again, collaboratively
21 everybody has been very helpful, and very
22 thoughtful.

23 And a draft is now out and has been
24 circulated. We are having a meeting tomorrow of all

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1 of the stakeholders to look at the draft, which we
2 anticipate will be but for minor changes the final
3 draft.

4 And I anticipate that that too will be
5 ready for consideration on January 3 and will comply
6 with the statutory requirement that we have such an
7 enhanced ethics standard applicable to the three
8 entities I've just described.

9 CHAIRMAN CROSBY: Great. Questions?
10 Number 10, the research RFP. I think it closes the
11 fifth, January 5.

12 COMMISSIONER ZUNIGA: Yes, responses
13 are due January 5.

14 CHAIRMAN CROSBY: Right. We have
15 selected the procurement management team who will
16 review the RFPs and make the decision. That is made
17 up of a Commissioner, Commissioner Zuniga and with
18 Marlene Warner who is the Director of the Mass.
19 Council on Compulsive Gambling. And from the
20 Department of Public Health representing Secretary
21 Bigby or whoever the Secretary of Health and Human
22 Services will be at the time is I believe Ms. Hermik
23 Babakhanlou-Chase. I'll tell you later.

24 This person, I think it's a woman is the

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1 Director of the Office of Statistics and Evaluation
2 at the Bureau of Substance Abuse. And it's
3 important to have the Secretary involved in this RFP
4 because the Secretary is the trustee of the public
5 health trust fund, which will be paying for this
6 research.

7 And I have been in constant contact
8 with them even as all of the changes that happened
9 at DPH and Health and Human Services. So, that
10 should be underway pretty soon too. I think that's
11 it. Anything else? Any other business?

12 COMMISSIONER ZUNIGA: Mr. Chair, this
13 came up after our meeting. We received this working
14 draft relative to -- from the Department of Revenue
15 relative to the withholding of wagering winnings,
16 and their view of how the Gaming Act overlays over
17 statutes that pertain to withholding of taxes.

18 So, the DOR has put out this draft for
19 comments. They are not expecting that we have any
20 comments, but I wanted to include them as an
21 information as part of our packet and as it may be
22 relevant to some of the people who follow us really.
23 Public comments are requested no later than January
24 11, 2013.

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1 CHAIRMAN CROSBY: Have we posted this
2 on our website?

3 COMMISSIONER ZUNIGA: I guess we could
4 post it as a link I suppose, yes. We could do that.

5 CHAIRMAN CROSBY: Good. Because a
6 lot of people that are interested in this will be
7 looking at our website more than they would DOR.

8 COMMISSIONER ZUNIGA: Yes. So, it
9 was just submitted for your information.

10 CHAIRMAN CROSBY: Thank you.

11 COMMISSIONER MCHUGH: That doesn't --
12 I haven't had a chance to read it yet. But that
13 doesn't affect us, any regulations that we have to
14 promulgate for collections or other?

15 COMMISSIONER ZUNIGA: No. What I
16 anticipated it could affect and I am still also
17 looking at it, is relative to processes and
18 procedures of applicants, of licensees really at
19 that time for collecting and withholding taxes of
20 winners. But it's really DOR's regulation.

21 COMMISSIONER MCHUGH: Okay.

22 CHAIRMAN CROSBY: Motion to adjourn?

23 COMMISSIONER MCHUGH: So moved.

24 COMMISSIONER CAMERON: Second.

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CHAIRMAN CROSBY: All in favor, aye.

COMMISSIONER ZUNIGA: Aye.

COMMISSIONER STEBBINS: Aye.

COMMISSIONER MCHUGH: Aye.

COMMISSIONER CAMERON: Aye.

CHAIRMAN CROSBY: All right. Thank
you. Happy Holidays.

(Meeting adjourned at 2:47 p.m.)

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- 1 ATTACHMENTS :
- 2 1. Agenda
- 3 2. Massachusetts Gaming Commission December 4,
- 4 2012 meeting minutes
- 5 3. Massachusetts Gaming Commission
- 6 December 11, 2012 meeting minutes
- 7 4. Massachusetts Gaming Commission Section 6
- 8 of Employee Handbook
- 9 5. Key Policy Question #18
- 10 6. December 17, 2012 Memorandum Regarding
- 11 Considerations for Licensing Status of
- 12 Region C
- 13 7. December 17, 2012 letter from State
- 14 Representative Shaunna O'Connell
- 15 8. December 7, 2012 letter from State
- 16 Representative Antonio Cabral
- 17 9. December 17, 2012 letter from K.G. Urban
- 18 Enterprises
- 19 10. December 14, 2012 letter from K.G. Urban
- 20 Enterprises
- 21 11. December 11, 2012 letter from Smith, Segel
- 22 & Ruddock
- 23 12. December 18, 2012 letter from The Town of
- 24 Barnstable

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ATTACHMENTS:

- 13. December 14, 2012 email from Representative Robert Koczera
- 14. December 17, 2012 email from Dominic Tigano
- 15. December 16, 2012 email from Carolyn Crowell
- 16. Working Draft for Practitioner Comment
12/17/2012 - Withholding on Wagering Winnings

SPEAKERS:

- Elaine Driscoll, Director of Communications and Outreach
- Dr. Durenberger, Director of Racing
- Eileen Glovsky, Director of Administration
- John Ziemba, Ombudsman

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C E R T I F I C A T E

I, Laurie J. Jordan, an Approved Court Reporter, do hereby certify that the foregoing is a true and accurate transcript from the record of the proceedings.

I, Laurie J. Jordan, further certify that the foregoing is in compliance with the Administrative Office of the Trial Court Directive on Transcript Format.

I, Laurie J. Jordan, further certify I neither am counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken and further that I am not financially nor otherwise interested in the outcome of this action.

Proceedings recorded by Verbatim means, and transcript produced from computer.

WITNESS MY HAND this 19th day of December 2012



A handwritten signature in black ink that reads "Laurie J. Jordan".

LAURIE J. JORDAN My Commission expires:
Notary Public May 11, 2018