

THE COMMONWEALTH OF MASSACHUSETTS  
MASSACHUSETTS GAMING COMMISSION  
PUBLIC MEETING #108

CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

Gayle Cameron

James F. McHugh

Bruce W. Stebbins

Enrique Zuniga

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February 20, 2014 9:30 a.m.

BOSTON CONVENTION AND EXHIBITION CENTER

415 Summer Street, Room 102

Boston, Massachusetts

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

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4                   CHAIRMAN CROSBY: I am happy to call  
5 to order the 108th public meeting of the  
6 Massachusetts Gaming Commission again at the  
7 BCEC on February 20th. We will start out with  
8 agenda item number two, the approval of  
9 minutes. But I think we do not have any,  
10 right?

11                   COMMISSIONER MCHUGH: That's right.  
12 So, it's a very quick item.

13                   CHAIRMAN CROSBY: Okay, good. We'll  
14 move right onto item number three. This is  
15 going to be a short day. And we will go to  
16 Rick Day, our Executive Director.

17                   MR. DAY: Thank you, Chairman Crosby  
18 and fellow Commissioners and good morning. I  
19 do have a few general update items that I'd  
20 like to share with the Commissioners.

21                   We are in final preparations to  
22 begin licensing. At this point, we've  
23 developed 10 applications and are in the  
24 process of final proof to match the forms to

1 the regulations. We have set up each applicant  
2 as a fillable PDF that will be available  
3 online.

4           We're developing instructions for  
5 each form, the checklist for each type of  
6 license to guide the completeness review.  
7 We're completing the acquisition of an  
8 automated fingerprint equipment to help process  
9 our fingerprints and to take fingerprints.  
10 We're setting up the related revenue accounts,  
11 preparing to accept credit cards and wire  
12 transfers and complete check verifications  
13 online. Developing an interim process for  
14 applications received prior to the completion  
15 of our new license management system.

16           So, our licensing and our accounting  
17 and financial crew have been very busy setting  
18 up the licensing process and getting ready to  
19 go following the Commission's award of a  
20 license.

21           Also, we are in the process, and I  
22 say this is we because a lot of it is  
23 Commissioner McHugh as well, final preparations  
24 for our March 11 Internet Gaming forum at the

1 Convention Center to begin at 8:30 and end at  
2 approximately 4:30. At this point, we've  
3 confirmed 15 speakers. So, we are confident of  
4 our agenda and we believe it will be very  
5 interesting to everybody.

6 Technology side, we've completed  
7 installation of our hardware at One Summer  
8 Street to host our data for the document and  
9 licensing management system. So, as we move  
10 forward, you'll hear the term, abbreviation LMS  
11 quite frequently. So, if somebody fails to  
12 explain it that is the licensing management  
13 system.

14 And of course we're waiting on One  
15 Summer for connectivity and configuration that  
16 is in process. Our LMS project development is  
17 continuing. We've interviewed and selected a  
18 desktop support candidate to help support our  
19 terminals in the office.

20 CHAIRMAN CROSBY: So, we're about to  
21 hire that person?

22 MR. DAY: Yes, we are. We have  
23 selected. So, they're in background phase and  
24 acceptance phase at this point.

1           That should help as well to make  
2   sure we can get around and deal with any  
3   questions we have on the technical side in the  
4   office. We are also working to improve the  
5   wireless service at our central office, and an  
6   additional upgrade that should speed our system  
7   as well. I think we're going to double the  
8   speed of the system. So, that will be helpful,  
9   particularly as we try to live stream events.

10           We are also in the process, our  
11   technology crew is in the process of acquiring  
12   tablets for the Commissioners and working to  
13   actually slowly convert everybody from the  
14   manual notebooks to the electronic version.

15           CHAIRMAN CROSBY: Wait a minute.  
16   Nobody talked to me about this.

17           COMMISSIONER ZUNIGA: I still have  
18   the statute here with me.

19           COMMISSIONER STEBBINS: I want to be  
20   like Jim.

21           MR. DAY: We do have a lucky  
22   volunteer to experiment with how that might  
23   work. But we think in the end, hard copy will  
24   still be available, but we are convinced in the

1 end that we'll convince everybody the benefits  
2 of moving to the tablets.

3 CHAIRMAN CROSBY: Extensive  
4 tutorials and handholding.

5 COMMISSIONER MCHUGH: Show you how  
6 to get good sports events and things.

7 MR. DAY: There's no movie watching  
8 while you're at a Commission meeting. And of  
9 course as the Commissioners are well aware of,  
10 we are completing final preparations for the  
11 report and issuance for the Category 2  
12 licenses, process to begin on Tuesday, February  
13 25.

14 CHAIRMAN CROSBY: Other hires,  
15 you've got a bunch of other relatively senior  
16 positions kind of in the pipeline. What's the  
17 status of those?

18 MR. DAY: We are. I think we're  
19 talking a total of about 10 positions.  
20 Probably the most senior are two assistant  
21 directors for our IEB. And we're in the  
22 process, we've got final candidates for both of  
23 those.

24 CHAIRMAN CROSBY: You've got final

1 candidates for those?

2 MR. DAY: Yes. We're stronger on  
3 the candidates for our gaming agent. We have a  
4 bigger variety. Less of a variety for our  
5 financial assistant director. We'll see how  
6 those go.

7 CHAIRMAN CROSBY: Good.

8 MR. DAY: Now, if I could get the  
9 Commission to refer to item 3b titled licensing  
10 fee distribution plan. We have been discussing  
11 assessments, a funding plan and distribution of  
12 license fee payments from, and I was looking  
13 back, from the successful slots and casino  
14 applications, I believe, since late last year.  
15 And we have continued to review comments  
16 received and the options available to the  
17 Commission.

18 We have been focusing on  
19 stabilization funds. And as a result, a  
20 further review of those proposals and that  
21 discussion, we've identified a proposed plan  
22 that we believe deals with the Commission's  
23 funding needs while minimizing any impact to  
24 the nine funds expecting to receive dollars

1 from licensing fees.

2           As you all know, Derek Lennon, our  
3 CFAO here has included a memorandum describing  
4 the proposed approach and will review it with  
5 the Commission. So, with that I will turn it  
6 over to Derek. Derek, it's all yours.

7           MR. LENNON: Thank you. Thank you  
8 for having me. I am not going to bore you by  
9 reading all six pages of the memo. So, I'll  
10 try to just hit on the highlights.

11           The purpose of the memo is twofold.  
12 It's first to lay out the authority, included  
13 both in the Expanded Gaming Act as well as  
14 Chapter 23K, our enabling legislation.

15           CHAIRMAN CROSBY: Derek, excuse me.  
16 I just wanted to mention one thing. I think  
17 this will be clear, but the issue is that we  
18 have been operating on a loan from the Rainy  
19 Day fund, which the Legislature included for  
20 \$15 million which was at that stage of the game  
21 the Legislature's educated guess as to how much  
22 money would be required for us to use for  
23 operating expenses before we begin to assess  
24 our operating expenses on our bidders.



1 MR. LENNON: Correct.

2 CHAIRMAN CROSBY: That \$15 million  
3 is about to run out. So, we're talking here  
4 about how we bridge the period between the use  
5 of the Rainy Day fund loan and our ability to  
6 assess our operating expenses on our licensees.

7 MR. LENNON: Correct.

8 CHAIRMAN CROSBY: So, we're talking  
9 now about a mechanism for bridging that gap.

10 MR. LENNON: So, on January 23, I  
11 reported that we had about a \$5 million gap,  
12 anywhere between \$4.25 million and \$5 million  
13 gap for our funds for expenses in FY'14 from  
14 what the anticipated revenues will be bringing  
15 in.

16 So, what we're looking at is an  
17 option of using some licensing fees to bridge  
18 that gap. Possibly use them into FY'15 even  
19 though our intention is to have the cost  
20 assessment up and running by the time period,  
21 which I think is the next item on the agenda.  
22 And then repay the licensing fees to what will  
23 eventually be the community mitigation fund,  
24 the fund that we are in control of and we don't

1 see a need --

2 CHAIRMAN CROSBY: I just wanted to  
3 remind everybody -- anybody that watching of  
4 the context of what's going on here. Great

5 MR. LENNON: So, the purpose of the  
6 memo is twofold. One it's to lay out the  
7 authority included in the Expanded Gaming Act  
8 as well as Chapter 23K, our enabling  
9 legislation, to retain licensing fees. The  
10 second is to update, which is bringing us back  
11 in the ballgame theory, of the plan that we  
12 presented on the 23rd of how we will use  
13 licensing fees to fund our operations.

14 And the update is to drop it from  
15 \$20 million down to \$17.5 million so that the  
16 only fund that would be impacted is the  
17 community mitigation fund, which we have are  
18 the trustee of. And we don't see a need to use  
19 any of those funds until casinos are up and  
20 fully operational. And we'd pay back that fund  
21 within an 18-month period prior to the  
22 licensing fund expiring.

23 CHAIRMAN CROSBY: Right.

24 MR. LENNON: So, Chapter 194 of the

1 Acts of 2011 is the Expanded Gaming Act.  
2 Section 93 of that Act creates a gaming  
3 licensing fund, and receives -- and authorizes  
4 the fund to receive all Category 1 or Category  
5 2 licensing fees.

6           The fund is used as a clearinghouse  
7 to distribute those dollars based on a  
8 percentage to nine separate and distinct funds  
9 with a 10th transfer coming to the  
10 stabilization fund to repay the initial \$20  
11 million, \$15 million to the Gaming Commission  
12 and five to the Governor's office to stand up  
13 gaming, expanded gaming in Massachusetts.

14           The word or is used in section 93,  
15 which or is used to link two or more  
16 alternatives. It's never used as an and  
17 clause. So, the main piece I want to bring  
18 across, and that's on the bottom of page one of  
19 your memo. It's highlighted. It gives the  
20 Commission the discretion in which one of the  
21 fees to deposit into the licensing fund, either  
22 Category 1 or Category 2. So, either the \$170  
23 million we're projecting for this year or the  
24 \$25 million for the Category 2.

1           On top of that Chapter 23K section  
2 57A creates a gaming control fund. The gaming  
3 control fund is where we fund our operational  
4 costs from. There's a number of sources of  
5 dollars, types of funds that can go into their  
6 appropriation from the Legislature cost  
7 assessments.

8           Then there's a rather broad catchall  
9 clause that's highlighted in the bottom of your  
10 second page of the memo, and such additional  
11 funds as are subject to the direction and  
12 control of the Commission. This authority  
13 allows us to deposit any funds that don't have  
14 a predetermined destination into that fund.

15           And then section 4 of Mass. General  
16 Law Chapter 23K grants a commission all powers  
17 necessary and convenient to carry out and  
18 effectuate to the purposes. The  
19 extraordinarily broad power of section 4  
20 combined with section 57 having the ability to  
21 take any funds that don't have a predetermined  
22 place as well as section 93, which gives us an  
23 or clause basically is the justification we've  
24 come up to for the reason as how we can deposit

1 some licensing fees into our gaming control  
2 fund and use for operations.

3 So, I'll take a pause there and if  
4 anyone wants to ask questions on that part,  
5 because then I'll go into a plan as to how we  
6 will utilize licensing fees.

7 COMMISSIONER ZUNIGA: I'll be happy  
8 just to emphasize the context here, which is  
9 very important. The discretion that we have in  
10 this section of depositing funds either from  
11 Category 1 or Category 2 is crucial to our  
12 ability to fund the gap that we are projecting  
13 for this year. But also very importantly to  
14 not rely on only our licensees at the time,  
15 which are projected to be only the Category 2  
16 licensee.

17 If we didn't have the alternative to  
18 temporarily take use, not take, use some of  
19 those licensing funds, we would have no choice,  
20 no other choice but to rely on our only  
21 licensee at the time which would be a  
22 disproportionate reliance on to cover costs  
23 under one licensee that would be available at  
24 the time.

1           Further, the context here is that we  
2 cannot carry over a deficit from one fiscal  
3 year to the next, which goes to the back  
4 original point of either having to rely on only  
5 one licensee or temporarily use these monies.

6           MR. LENNON: That was I think the  
7 plan I presented to you in November that had  
8 resounding comments coming back saying we don't  
9 like that plan from the public. So, if we've  
10 looked at this in other manners. That was the  
11 one where we were going to assess our full  
12 difference on the Category 2 and then make it  
13 up afterwards through the cost assessment  
14 process. So, we have looked at this item  
15 inside and out, I think, from every different  
16 angle possible.

17           COMMISSIONER ZUNIGA: That's right.

18           COMMISSIONER MCHUGH: I think this  
19 is an entirely thoughtful reading of the  
20 statute. But I in saying that don't rely on  
21 any one clause. It seems to me that the three  
22 pieces that are put together, particularly our  
23 broad discretion under section 4 of this  
24 statute when combined with the other features

1 you described give us the power to do this.

2           There's a number of ways you can  
3 read this, but I think this is a fair and  
4 appropriate reading of the statute. The one-  
5 time startup costs that we incurred are not  
6 going to recur. We'll be able to pay us back  
7 before we need it. It seems to me that this is  
8 an appropriate way to proceed. But I rely on  
9 all three prongs of your stool, legs of your  
10 stool.

11           MR. LENNON: So, the next section of  
12 the memo deals with the current plan for  
13 distribution of licensing fees. And we're  
14 going to go to some of the same sections that I  
15 referenced before.

16           Section 93A of the Expanded Gaming  
17 Act lists nine separate and distinct funds as  
18 well as a separate percentage here that they  
19 should receive from Category 1 or 2 licensing  
20 fees.

21           Section 93B of the same Act requires  
22 that of those nine funds, two, the  
23 transportation infrastructure and development  
24 fund administered by Mass DOT and the community

1 mitigation fund administered by the Commission  
2 cannot receive their proportional share of the  
3 funds until the stabilization fund is first  
4 repaid \$20 million.

5           Section 94C of the Act requires the  
6 Commission to execute the transfer to the  
7 stabilization fund once the Commission has  
8 received sufficient licensing funds. There's  
9 nothing in there that says first transfer, it  
10 just says sufficient.

11           So, based on those two parts of  
12 section 93 as well as section 94, the only  
13 timing requirements that the Commission has for  
14 when they have to pay back -- distribute money  
15 to each fund is that the two funds, the  
16 community mitigation fund and the  
17 transportation infrastructure development fund  
18 cannot receive their share until the  
19 stabilization fund is paid back first. So,  
20 that's the only timing requirements.

21           So, the plan that I presented on the  
22 23rd had us taking \$20 million then holding the  
23 seven funds harmless from what -- Let me go  
24 backwards a little bit.



1           So, what we're trying to get to, the  
2 state budget was built assuming \$175 million in  
3 licensing fees would be available to be spread  
4 out to these different funds. We are trying to  
5 hold all of those funds that are budgeted  
6 harmless through timing of our placement.

7           COMMISSIONER MCHUGH: By hold  
8 harmless, you mean actually distribute the  
9 funds to them.

10           MR. LENNON: Actually distribute the  
11 funds to them so that there isn't a gap in the  
12 state's budget. So, by using timing mechanisms  
13 I think we can get to that with only hurting  
14 one fund.

15           The plan I brought to you on the  
16 23rd hurt two funds because what I was going to  
17 do was take \$20 million off the top to fund the  
18 Gaming Commission. Then transfer \$175 million  
19 to the licensing fund, which would give the top  
20 seven funds their 74.5 percent share of it or  
21 75.5 percent share of those funds.

22           And then take \$20 million transfer  
23 to the stabilization fund, which would leave  
24 the community mitigation fund and the

1 transportation infrastructure development fund  
2 short about 47 percent of the \$42 million they  
3 were supposed to get and distribute those  
4 equally.

5 Under the revised plan, which is  
6 laid out in a chart format on the last page,  
7 what I am proposing is to bring in the \$195  
8 million in licensing fees, transfer \$17.5  
9 million to the gaming control, transfer \$175  
10 million over to the licensing fund, leaving  
11 \$2.5 million in our bank account of where the  
12 money came in.

13 It would give the full \$132 million  
14 to the budgeted funds that the budget was built  
15 on. Then I would drop \$20 million over the  
16 stabilization fund, taking the other \$2.5  
17 million that was still sitting in our bank  
18 account put it back into the licensing fund.  
19 Then I would transfer the full \$25 million that  
20 the transportation infrastructure development  
21 fund is expecting from these fees.

22 And the only fund that wouldn't get  
23 paid is the community mitigation fund, which  
24 we're the trustee of and we don't see a need

1 for for at least a year until casinos are fully  
2 operational and any unanticipated consequences  
3 of gaming, the impacts of gaming on the local  
4 infrastructure take place.

5           Now we would have built into our  
6 cost assessment a payback process to the  
7 community mitigation fund. And any monies that  
8 we didn't spend in FY'14 or the beginning of  
9 FY'15, depending on when our cost assessment  
10 regulation comes into play, we transfer  
11 immediately into the community mitigation fund.

12           So, I see this really as a very  
13 short-term plan just to fill that gap of FY'14  
14 until we can get our cost assessments up and  
15 running and get our payback mechanism in place.

16           COMMISSIONER MCHUGH: So, this  
17 basically comes down to a short-term borrowing  
18 plan from a fund over which we have control of  
19 and the money in which we simply would sit  
20 there for a year and half doing nothing --

21           MR. LENNON: Doing nothing.

22           COMMISSIONER MCHUGH: -- until the  
23 casinos were up and running. And potentially --

24           CHAIRMAN CROSBY: At the earliest.

1           COMMISSIONER MCHUGH: At the  
2 earliest. And potentially some communities  
3 would ask us for disbursements from the fund.  
4 And by the time they ask us, the fund will be  
5 fully funded and ready to go.

6           MR. LENNON: Fully funded and it  
7 will have gaming revenue coming into it too.

8           CHAIRMAN CROSBY: Right.

9           MR. LENNON: So, thank you for  
10 summarizing that in a much more succinct way.

11           COMMISSIONER MCHUGH: No, no. Your  
12 description was thoughtful. I just sometimes  
13 say things out loud to make sure I understand  
14 them.

15           CHAIRMAN CROSBY: That was good.  
16 That was helpful. Nobody watching us could  
17 have followed that, but your synthesis helps.

18           COMMISSIONER MCHUGH: This memo is  
19 thoughtful and thorough as well. The only  
20 question I had is to the memo on the chart on  
21 page six is how we get to 177.5 as opposed to  
22 175 at the bottom line.

23           MR. LENNON: The 177.5 is because we  
24 transferred out \$17.5 million versus \$20

1 million to the gaming control fund. So, if you  
2 look, there's still -- At the top, we are  
3 transferring \$175 million to the licensing  
4 fund, which leaves \$2.5 million sitting in  
5 licensing fees. So, I distribute the 175.

6 Then if you look down in the middle,  
7 remaining move balance of licensing fees to  
8 licensing fund, there's another \$2.5 million  
9 transfer there.

10 COMMISSIONER MCHUGH: I see that. I  
11 just found it a little hard to follow. It just  
12 seemed to me if that is meant to be a time  
13 sequence then you have to factor in a time and  
14 we're not somehow metaphysically getting  
15 another \$2.5 million.

16 MR. LENNON: No. It's just timing,  
17 because you've got the 17.5 plus the 177.5 that  
18 adds up to the 195. And this is where I said  
19 we can -- through timing we can make this work.

20 COMMISSIONER MCHUGH: Right, right.  
21 I understand. But the reader of this then,  
22 like me, has to understand that the 177.5 is to  
23 account for a time spread and is not additional  
24 monies --

1 MR. LENNON: No additional monies.

2 COMMISSIONER MCHUGH: -- over the  
3 monies that we are getting from the licensees.

4 CHAIRMAN CROSBY: When Derek can  
5 figure out how to metaphysically get us \$2.5  
6 million.

7 COMMISSIONER MCHUGH: I was hoping.  
8 This is one of the reasons we got him.

9 COMMISSIONER ZUNIGA: If I may, I  
10 think this is a very solid plan. And I think  
11 we should proceed with this. I would just also  
12 put other context into this, because initially  
13 I was of the opinion that we should take a  
14 plain reading of the legislation and try to  
15 comply with as many of the specific sections  
16 that coalesce around all of this -- around this  
17 plan.

18 You mentioned them in your  
19 introduction. As Commissioner McHugh pointed  
20 out, there are a lot of sections here that  
21 converge. And by doing this, I believe we do  
22 the least harm to what's already been accounted  
23 for over at the state level and plan for for  
24 this fiscal year. So, I think it's really

1 solid.

2 I might also add that it's evident  
3 through my discussions with you that you've  
4 looked at it every possible way, which I think  
5 it's good to mention for the record. I thought  
6 about what would happen if we short one fund,  
7 the Rainy Day fund, and there's this other  
8 restriction relative to deposit into the  
9 community mitigation fund as well as the  
10 transportation infrastructure fund for which  
11 projects may have already been committed over  
12 at the Commonwealth.

13 So, I am happy to endorse this. And  
14 I think there's been a lot of thought has been  
15 put into analyzing every possible option that  
16 we had at our disposable. So, thank you for  
17 this.

18 CHAIRMAN CROSBY: I agree with that.  
19 Do we need a vote on this?

20 MR. DAY: We didn't note that on the  
21 agenda, but I do believe it's appropriate. We  
22 had a lot of discussion. We've not got a plan  
23 here that essentially provides for the  
24 distribution of all of the funds but

1 mitigation, which is under our control. And  
2 that will be repaid back by the time the  
3 licensing fund expires.

4 CHAIRMAN CROSBY: Is that yes?

5 MR. DAY: Yes.

6 CHAIRMAN CROSBY: Treasurer?

7 COMMISSIONER ZUNIGA: Sure. I was  
8 also going to mention that the one thing that  
9 you highlighted here that we may not  
10 technically be compliant with is the  
11 distribution on a pro rata basis to the second  
12 set of funds. But as I said before, I think  
13 that everything else trumps that one  
14 requirement.

15 MR. LENNON: So, they will receive  
16 their full proportional share. It's just  
17 whether we time those at the exact same time,  
18 but the fund will receive its full proportional  
19 share. And that's our intention to always pay  
20 it back. And we'll pay it back before the  
21 licensing fees fund expires. And we can bring  
22 those into the cost assessment process into the  
23 fees. The 25 and 85 are just a bare minimum  
24 fee. We can build that in so that -- And



1 we've looked at it to make sure it complies  
2 with the letter of the law.

3           COMMISSIONER ZUNIGA: Precisely.  
4 Thank you for that. On that note, I would move  
5 that the Commission endorse and approve the  
6 plan as presented by staff relative to a  
7 temporary use of the licensing fees to fund the  
8 Commission with an understanding of repayment  
9 as originally intended and described in this  
10 memo as soon as possible.

11           CHAIRMAN CROSBY: Second?

12           COMMISSIONER CAMERON: Second.

13           CHAIRMAN CROSBY: Any further  
14 discussion? All in favor of the motion signify  
15 by saying aye, aye.

16           COMMISSIONER MCHUGH: Aye.

17           COMMISSIONER CAMERON: Aye.

18           COMMISSIONER ZUNIGA: Aye.

19           COMMISSIONER STEBBINS: Aye.

20           CHAIRMAN CROSBY: Opposed? The ayes  
21 have it unanimously.

22           MR. LENNON: Thank you.

23           COMMISSIONER CAMERON: Thank you,  
24 good work.

1           CHAIRMAN CROSBY:  Yes.  A lot's gone  
2 into this and I appreciate it from all of you.  
3 Thank you.

4           MR. DAY:  Mr. Chairman,  
5 Commissioners, we'll just move onto 3c.  If I  
6 can get you to take a look at the documents  
7 behind item 3c, cost assessment regulation 205  
8 CMR 125 licensing fee and assessment and then  
9 also 118.06 RFA-2 license determinations.

10           What I'll try to do this morning  
11 here is to review the issue and then ask  
12 Catherine and Derek and Todd to chime in as we  
13 need to to answer questions and provide any  
14 additional explanation.

15           At our last regular meeting, the  
16 Commission discussed identified changes and  
17 approved an emergency regulation to amend into  
18 121 a fee assessment and budget process.  We  
19 are bringing 121 back at this point to clarify  
20 changes added by the Commission during that  
21 discussion.

22           If I might point you to what you  
23 have in your packet, there's a redline version  
24 which is the changes.  But the highlighted

1 yellow are the changes that the Commission made  
2 during session. We want to make sure that this  
3 reflects the discussion. Just let me direct  
4 them to you real quick.

5           We're bringing 121 back to clarify  
6 those changes by the Commission. The  
7 Commission, those changes are noted in yellow  
8 highlight. In 121.02 section 1 we added  
9 precondition and then also added before the  
10 award is made and the license issued.  
11 Paragraph three, we added except in the case of  
12 an assessment for the fourth quarter of fiscal  
13 year 2014. And we added pro rata basis  
14 commencing with the fourth quarter of fiscal  
15 year 2014, and then we added will make such  
16 assessment.

17           In summary, these changes clarify  
18 any installment payments of license fees must  
19 be made prior to award of a license. And they  
20 add the ability to assess costs in the last  
21 quarter of 2014 on a pro rata basis and then  
22 assess costs for each fiscal year.

23           As we move forward in the process of  
24 making those changes to 121, Commissioner

1 McHugh noted that we also needed emergency  
2 amendment to 118.06 to allow the option of the  
3 installment payments. It should be the last  
4 item that you have in that packet.

5           What this 118 provides and is  
6 consistent with the statute, it provides three  
7 ways for the Commission to take action on an  
8 application. Essentially that's to grant, deny  
9 or extend the timeline.

10           In order to use the installment  
11 authority that the Commission inserted in the  
12 cost assessment regulation, in 121 we thought  
13 it made sense to provide a fourth option to  
14 allow for a decision that provides for an award  
15 on a future effective date which should allow  
16 for the installment payments if the Commission  
17 determines that's appropriate.

18           And that language is added as (d)  
19 and in red is issue a decision on the  
20 application for a gaming license that provides  
21 that a license shall be awarded effective as of  
22 a date to be determined by the Commission.

23           As the Commission is preparing to  
24 make a licensing decision around the end of

1 February, the remaining time does not allow for  
2 the usual regulation development and approval  
3 process. And our request is that both  
4 amendments be enacted as emergency regulations.

5 As I understand the process, the  
6 regulations will be effective for -- the  
7 emergency regulation will be effective for 90  
8 days from when we provide notice to the  
9 Secretary of State. And we will also move  
10 forward with the formal adoption process.

11 So, if Catherine or Derek have  
12 anything to add or if the Commission have any  
13 questions on that point.

14 COMMISSIONER ZUNIGA: I do have a  
15 question. 121.02 subsection 3 presupposes that  
16 the two Category 1s and one Category 2 would be  
17 awarded by the end of the fiscal year. Or put  
18 another way, we would start fiscal year '15 on  
19 May 30, and ideally assesses as many applicants  
20 as we can for fiscal year '15, which if  
21 everything goes well may still happen, but it  
22 may not.

23 So, I was wondering if we need to  
24 write that the exception for the fourth quarter

1 could also extend if necessary to fiscal year  
2 '15.

3 COMMISSIONER MCHUGH: So, that we  
4 could make an assessment, or a revised set of  
5 assessments sometime during FY'15 rather than  
6 just at the beginning of FY'15?

7 COMMISSIONER ZUNIGA: Yes,  
8 precisely.

9 CHAIRMAN CROSBY: Is that not  
10 available at this point?

11 COMMISSIONER ZUNIGA: Unless there's  
12 another section where we can revise the  
13 assessments during the fiscal year '15.

14 MR. DAY: There is that ability. We  
15 monitor the budget quarterly, that's in section  
16 124.04. Then paragraph three allows if any  
17 time during the fiscal year the Commission  
18 determines actual costs will exceed projected  
19 costs and so forth the Commission will revise  
20 the annual assessment. So, it does give us the  
21 authority to revise that during 2015.

22 COMMISSIONER MCHUGH: But  
23 Commissioner Zuniga's point's a little  
24 different.

1 MR. DAY: Yes.

2 COMMISSIONER MCHUGH: The costs stay  
3 the same but the potential payers increase.

4 COMMISSIONER ZUNIGA: That's right.

5 COMMISSIONER MCHUGH: So, what do we  
6 do then?

7 COMMISSIONER ZUNIGA: If we were to  
8 assume the worst that we only issue one license  
9 in this fiscal year, for the sake of argument,  
10 actually that we only issue one license before  
11 May 30, the way this reads it would have us  
12 assess fiscal year '15 only to the one  
13 licensee, which was a lot of what we were  
14 trying to avoid from our prior discussion.

15 So, in my view and recommendation,  
16 the exception that we have in this paragraph  
17 that only applies to the last quarter of fiscal  
18 year '14 may need to be extended to include  
19 fiscal year '15.

20 MS. BLUE: I think we can add some  
21 language to the section to clarify that. One  
22 of the other ways to address this is through  
23 the reconciliation at the end where if we had  
24 assessed only one applicant during '15, when

1 get to the middle or to the end of '15, we  
2 would have to reconcile back to the other  
3 applicants they came onboard during the year.  
4 I think we have the ability to do that.

5           But I do agree with you that it's  
6 not as clear in paragraph 121.02(3) the  
7 situation that you propose. So, we could add  
8 some language to three to allow for the fact  
9 that not all of the applicants come online  
10 before the beginning of FY'15. I think that's  
11 the issue that you're pointing out.

12           CHAIRMAN CROSBY: I agree with that.  
13 But I think we're looking to create (A) as much  
14 flexibility and (B) as much clarity in that  
15 flexibility as possible. So, I think that's  
16 right.

17           We also have just got through  
18 setting up a situation where if that happened,  
19 we could use some of license fees for a period  
20 of time if we wanted to. Nevertheless, I think  
21 your clarification is important.

22           COMMISSIONER MCHUGH: It's a simple  
23 clarification. Except in the case of an  
24 assessment for the fourth quarter of fiscal



1 year 2014 and for fiscal year 2015. That does  
2 it.

3 MS. BLUE: Yes, I think that works.

4 COMMISSIONER MCHUGH: And do that in  
5 two places. That's all we need to do.

6 MR. DAY: Add 2015 at the end of the  
7 first sentence. You said two places?

8 COMMISSIONER MCHUGH: At the end of  
9 the first clause, at the end of the first  
10 highlighted yellow and then make some similar  
11 reference in the penultimate sentence of that  
12 paragraph.

13 CHAIRMAN CROSBY: The next to last?

14 COMMISSIONER MCHUGH: Yes, the next  
15 to last. Yes, sorry. These changes, all of  
16 them together really do give us the flexibility  
17 we need to meet any contingency imaginable,  
18 although --

19 CHAIRMAN CROSBY: Who knows?

20 COMMISSIONER MCHUGH: -- who knows.  
21 I think it's important to note that insofar as  
22 the clarification of the condition of 118.06 is  
23 concerned, the statute, the language of which  
24 is really in the first sentence of that, the

1 first two sentences --

2 CHAIRMAN CROSBY: Which one are you  
3 talking about, Jim?

4 COMMISSIONER MCHUGH: The next page.  
5 The statute really doesn't define the universe  
6 of what action is. It gives three actions that  
7 the Commission can take, but it doesn't say  
8 those are the only actions it can take.

9 So, this regulation pursuant to our  
10 broad authority under section four says that in  
11 addition to the three statutory actions, the  
12 highlighted in red actions another action we  
13 can take and maybe others that we think about  
14 later on. But this too adds an element of  
15 flexibility to our arsenal at the moment.

16 CHAIRMAN CROSBY: I think this is  
17 great. Among other things we're trying to give  
18 applicants a heads-up as to the range of  
19 options out there.

20 COMMISSIONER MCHUGH: Right.

21 MR. DAY: Any other questions?

22 CHAIRMAN CROSBY: Anybody else? Do  
23 we need a vote on this? I guess we do.

24 MR. DAY: Yes.

1           CHAIRMAN CROSBY:  Commissioner  
2   Zuniga, do you want to do it again?

3           COMMISSIONER ZUNIGA:  Sure.  And we  
4   are adopting this on an emergency basis.

5           CHAIRMAN CROSBY:  As amended by you.

6           COMMISSIONER ZUNIGA:  So, I would  
7   move that the Commission enacts the regulations  
8   as presented here relative to licensing fees  
9   and actions as amended herein today --

10          COMMISSIONER MCHUGH:  -- on an  
11   emergency basis.

12          COMMISSIONER ZUNIGA:  Thank you.  
13   -- on an emergency basis.

14          CHAIRMAN CROSBY:  Second?

15          COMMISSIONER CAMERON:  Second.

16          MR. DAY:  That's inclusive of the  
17   two changes that the Commission discussed to  
18   add fiscal 2015.

19          COMMISSIONER MCHUGH:  That's  
20   correct.

21          MR. DAY:  And it pertains to 121 and  
22   to 118.

23          CHAIRMAN CROSBY:  Did we make a  
24   change in 118?

1           COMMISSIONER MCHUGH:  The changes in  
2 the book.

3           CHAIRMAN CROSBY:  Second, we had a  
4 second.  Any further discussion,  
5 clarifications, anything?  All in favor of the  
6 motion as offered signify by aye, aye.

7           COMMISSIONER MCHUGH:  Aye.

8           COMMISSIONER CAMERON:  Aye.

9           COMMISSIONER ZUNIGA:  Aye.

10          COMMISSIONER STEBBINS:  Aye.

11          CHAIRMAN CROSBY:  Opposed?  The ayes  
12 have it unanimously.

13          MR. DAY:  Thank you, Commissioners.  
14 That will be very helpful to get our plans  
15 cleaned up.

16          CHAIRMAN CROSBY:  Thank you.

17          COMMISSIONER MCHUGH:  Thank you.

18          MR. DAY:  Mr. Chairman that brings  
19 me to the next item in your agenda, which is  
20 the gambling credit discussion.  Behind tab 3d  
21 there are two letters which raise concerns  
22 about gaming credit.

23                 And if I might just share a couple  
24 of points with you as we -- the Commission gets

1 into the discussion. At this point, the  
2 Commission is scheduled to begin taking a look  
3 at a draft of credit and check acceptance  
4 regulations as part of our internal control  
5 regulations and will be our schedule, and I'll  
6 talk about that total schedule later, will be  
7 to begin about April 17.

8           In addition, the Gambling Act itself  
9 in section 27 does provide for credit. That  
10 credit, of course, is limited by whatever  
11 regulations the Commission determines. I  
12 wanted to also -- Mark Vander Linden couldn't  
13 be with us today, our problem gambling  
14 director. But he did leave some information  
15 that I wanted to share with the Commission to  
16 also to put this in perspective.

17           On March 6, he intends to present a  
18 report on responsible gaming framework. As  
19 part of that package, it will include -- part  
20 of that package includes strategies. And one  
21 of those strategies will be to reduce financial  
22 risk. That provides some specific parameters  
23 on house credit. However, containing house  
24 credit is just one way to reduce financial risk

1 to patrons. There are also a series of steps  
2 that we can take to accomplish that and support  
3 that effort as well.

4           If you let me just hit a few of  
5 those, I won't go through this. It's fairly  
6 lengthy, but I can comment further if the  
7 Commission wants me to. The banning of house  
8 credit in Mark's strategy, this is a draft is a  
9 responsible best practice for gaming. Those  
10 licensees choosing to offer house credit shall  
11 utilize the following guidelines. And this  
12 comes from his strategy. The Commission has  
13 not adopted this but will be presented to the  
14 Commission on March 6.

15           House credit will only be extended  
16 to qualified patrons. Credit instrument to be  
17 defined. The granting of house credit is  
18 limited to \$500 a day for qualified patrons. A  
19 maximum of \$1500 may be extended to qualified  
20 patrons at a Massachusetts licensed gaming  
21 facility. Agents are permitted to deposit cash  
22 reserves that can be accessed and allow patrons  
23 to place limits on themselves voluntarily on a  
24 credit suspension list if they are also

1 requesting that.

2           This also would propose regulations  
3 on where ATMs are placed. So, they are a  
4 certain distance away from the gaming floor  
5 itself. A lot these concepts have to do just  
6 to put some time and distance between when  
7 players have to get more money or make  
8 decisions to use what they have won.

9           Check acceptance is another  
10 particular area that could often be used as  
11 credit. So, there'd be restrictions on when  
12 those are deposited, when those are received  
13 which helps as well. For instance, it must be  
14 currently dated and not postdated. It must be  
15 drawn from a personal account. It could put a  
16 limit on personal checks. Patrons may not cash  
17 checks for more than \$500 a day.

18           Credit cards also come into play for  
19 this type of restrictions on financial  
20 transactions. He did also leave a couple of  
21 notes, made references to a text that was  
22 written by Robert Williams restricting access  
23 to money. Just a couple of notes in there.  
24 Mr. Williams noted that in the United States

1 house credit is a common practice in gambling.  
2 So, we're talking about something that does  
3 take place in gambling establishments.  
4 Contrast to that in Europe, house credit is  
5 generally banned.

6 CHAIRMAN CROSBY: Is what?

7 MR. DAY: Banned. So, there is a  
8 different perspective. Also in the States,  
9 there's a wide range of gambling credit  
10 regulations or restrictions. They range all of  
11 the way state law that doesn't allow collection  
12 of a gambling debt all the way through, of  
13 course, the more liberal processes that we've  
14 seen in some of the more significant gaming  
15 states.

16 I might just note as well that  
17 section 27 of our Gaming Act does say a gaming  
18 licensee may issue credit to a patron of a  
19 gaming establishment in accordance with  
20 regulation promulgated by the Commission. Then  
21 there is a series of different restrictions in  
22 the law itself. And I think as well in  
23 response to the letters a little bit,  
24 Catherine, do you have a couple of thoughts on



1 credit?

2 MS. BLUE: Under our statute, we  
3 have a great deal of leeway in terms of our  
4 regulations regarding granting credit. We have  
5 a little bit less in terms of how those debts  
6 are collected, but we will certainly look at  
7 that and try to cover that appropriately in  
8 regulations as well.

9 We also will discuss this with the  
10 AG. They have offered to discuss this with us  
11 as they've done consumer protection regulations  
12 on similar matters. So, we'll avail ourselves  
13 of their thoughts.

14 And we will always get public  
15 comment as well, which I am sure we will get a  
16 great deal of robust public comment on this.  
17 So, I think we'll be able to develop a good  
18 strong set of regulations that address the  
19 issues that both letters raise.

20 CHAIRMAN CROSBY: Great. I think it  
21 was important that we talked about this for  
22 several reasons. This obviously was triggered  
23 by the newspaper article that talked about  
24 collection practices. We all know not to

1 necessarily take such an article simply at face  
2 value, but it raises important issues.

3           But it was important that the public  
4 know that this was on our radar screen long  
5 before the article and something we're paying  
6 close attention to in a variety of ways. And  
7 that we're in the process of collecting best  
8 practices and doing research about what works,  
9 what doesn't. We're not here to comment now on  
10 Director Vander Linden's framework. We'll do  
11 that when the time comes.

12           I had one other reason why I thought  
13 it was important to put this on the agenda. Is  
14 there any role -- We are now in the evaluation  
15 process for that matter both Category 1 and 2  
16 applicants. Is there any role for us in the  
17 evaluation process to assess what our  
18 applicants now use as standards? The second  
19 question is if so, how should we do that?

20           What do you think about that? Is  
21 that something we want to know about as we're  
22 making decisions on who we want to license in  
23 Massachusetts?

24           COMMISSIONER MCHUGH: Certainly, for

1 the Category 1s there is time to do that. But  
2 it seems to me that the regulations we are  
3 talking about are going to apply to everybody,  
4 regardless of what their current practices are.  
5 And our best line of attack on the problems  
6 that house credit creates is a thoughtful  
7 comprehensive set of regulations that will  
8 apply to the slots licensee as well as the  
9 casino licensees. That's not a direct answer  
10 to your question.

11           COMMISSIONER ZUNIGA: I agree with  
12 that. I was thinking of if we got too granular  
13 in the evaluation piece, we would have to take  
14 into context the practices and the regulations  
15 of other jurisdictions.

16           So, practices by themselves could  
17 not be, in my opinion, would be difficult to  
18 assess of an applicant because other  
19 jurisdictions have, as Director Day just stated  
20 different regulations and a combination of how  
21 different regulations interact with each other,  
22 not just credit but also collection.

23           So, I think there's a parallel to  
24 something that has been in the finance section,

1 but it's rather broad and it's on the  
2 operations side. It's not necessarily on this  
3 one particular topic. I ultimately agree with  
4 Commissioner McHugh that we have a much better  
5 mandate from the statute and tool with our  
6 regulations to effect this type of topic.

7           COMMISSIONER STEBBINS: I would  
8 agree with that.

9           CHAIRMAN CROSBY: I definitely agree  
10 that the most critical line of defense is in  
11 our own regs. And we will think those through  
12 carefully. We'll make sure that our licensees  
13 go by standards that we think are appropriate  
14 for our jurisdiction.

15           We've also established the principle  
16 that just because other jurisdictions have laws  
17 which are different from ours or standards  
18 which are different from ours, we don't accept  
19 those at face value. That we hold our  
20 applicants accountable to certain performance  
21 standards independent of the rules in other  
22 jurisdictions.

23           This is not a rhetorical question.  
24 This is really an open-ended question. I don't

1 have an answer clearly in my mind. We have  
2 made any number of efforts to try to discern so  
3 that the character and value system of our  
4 bidders is the whole suitability process was,  
5 as Director Wells says, we don't want just to  
6 regulate want to trust. We want to know that  
7 we've got people that are ascribing to the  
8 value structure that we're trying to establish.

9           So, is there any substantive value  
10 on this topic, which is a particularly  
11 incendiary sort of high visibility topic, is  
12 there any value to us to know how our bidders  
13 presently behave prior to us imposing our own  
14 standards?

15           COMMISSIONER CAMERON: Mr. Chair,  
16 there are many questions in the mitigation  
17 section which deal with responsible gaming and  
18 that I have been looking at and evaluating.  
19 And we'll talk more about that next week.

20           So, it touches on some of these  
21 issues. Certainly, all of our applicants have  
22 said that they will willingly comply with our  
23 regulations. So, we are touching on this issue  
24 when it comes to mitigation and looking at

1 their practices elsewhere.

2 CHAIRMAN CROSBY: Does this come up  
3 at all specifically, this issue of how do you  
4 extend credit? What kind of checks do you do  
5 on creditworthiness?

6 COMMISSIONER CAMERON: It's not a  
7 direct question, but there are some of the  
8 responses that touch on this issue, but there  
9 is not a direct question that talks about  
10 credit.

11 COMMISSIONER MCHUGH: It also seems  
12 to me that this inquiry is undoubtedly doable,  
13 but it's really has to take into account a lot  
14 of factors. And I'm not sure what the yield  
15 would be from an investigation of those  
16 factors.

17 For example, suppose we found that  
18 some applicant actually put liens on houses in  
19 order to collect debts. And suppose one  
20 applicant did it but only did it when they  
21 concluded that very wealthy people were  
22 intentionally not paying debts and were using  
23 this as a perfectly legitimate means of  
24 coercing payment from somebody who could afford

1 to pay and just was choosing not to? You have  
2 to go into a lot of analysis in order to come  
3 up with that conclusion rather than simply  
4 stopping at the fact that the person is putting  
5 liens on houses.

6           On the other hand, somebody is  
7 putting liens on houses for people who they  
8 overly extended credit to and known, should  
9 have known weren't going to be able to pay.  
10 That's a different kind of person, kind of  
11 entity.

12           So, it seems to me that the effort  
13 that would be required to do a fair assessment  
14 of everybody's credit practices and collection  
15 practices elsewhere might not yield sufficient  
16 information to justify the energy that goes  
17 into doing that. And instead we should rely on  
18 creating some regs. of our own that would  
19 prohibit the practices we find undesirable.

20           I just don't see how, to sum up, we  
21 could do this fairly without being highly  
22 granular and labor-intensive and then come up  
23 with some general --

24           CHAIRMAN CROSBY: I kind of lean

1 towards what you're saying, but let me just say  
2 one other thing. I don't think the issue is  
3 whether you put liens on houses. The issue is  
4 what kind of standards do you as a corporate  
5 entity use for assessing creditworthiness? How  
6 seriously do you take this? Is this just a  
7 game in order that you can suck people in? Or  
8 are you really serious about trying to make  
9 sure that people have credit limits which are  
10 appropriate for the means?

11 That is a really critical essential  
12 principle that we certainly will want to  
13 establish. And in one respect it would be nice  
14 to know in advance whether people took this  
15 seriously or not.

16 Having said all that, I don't know  
17 that I disagree on the bottom line. It raises  
18 the sensitivity with which we want to address  
19 the issues in our own regs. and make sure that  
20 we have the tools in our own regs. to  
21 understand that there's a long continuum about  
22 the degree of responsibility you exercise in  
23 assessing creditworthiness. And we want to be  
24 pretty far along on that continuum in our



1 standards. And maybe it's enough to leave it  
2 at that.

3 But I do think that it's really an  
4 important thing for us to (A) wrestle with and  
5 (B) make sure the public knows that we're  
6 paying close attention to this issue.

7 COMMISSIONER MCHUGH: I fully agree  
8 with all of that.

9 COMMISSIONER ZUNIGA: Maybe the  
10 banking and mortgage industry can take a page  
11 from that.

12 CHAIRMAN CROSBY: Yes, good point.  
13 If we had the authority, right?

14 COMMISSIONER ZUNIGA: If we had the  
15 authority, we would also impose on them.

16 COMMISSIONER MCHUGH: The whole  
17 world.

18 CHAIRMAN CROSBY: Who knows what's  
19 next? Okay. I'm fine with that. This is  
20 great. And I think we'll spend more time  
21 talking about it when we see the draft regs.  
22 coming up. Great. Thank you.

23 And you did mention about talking  
24 with the Attorney General who offered her

1 services and I think that's appropriate. Also,  
2 our own consultants, Michael and Carroll in  
3 particular are knowledgeable about this stuff.  
4 And I think given their backgrounds have a  
5 perspective that would be sympathetic to the  
6 kind of standards we would want. So, they  
7 might be helpful too if you haven't already  
8 spoken to them.

9 COMMISSIONER ZUNIGA: And to your  
10 prior point, Mr. Chairman, I went back to look  
11 at the strategic plan, which I hadn't done in a  
12 little while. There's a good broad section  
13 there. So, we've been thinking about this for  
14 some time now, actually, from very early on and  
15 we're continuing to do so.

16 CHAIRMAN CROSBY: Good point.  
17 Anything else on that?

18 MR. DAY: That's all. That's all we  
19 have.

20 CHAIRMAN CROSBY: Next item?

21 MR. DAY: The last item I have for  
22 you today is a regulation development schedule.  
23 And it's under tab three. We included the  
24 document entitled the regulation development

1 checklist and a chart depicting a consolidated  
2 and plan schedule for regulation, drafting  
3 consideration in addition. With all that said,  
4 it's an attempt to get our regulation  
5 development under one roof, so to speak, get  
6 the entire group where we can see it and what  
7 kind of progress we're making.

8           We did commit an area, even in mine,  
9 I forgot to put a large copy in my pamphlet and  
10 probably did the same with you. So, it's going  
11 to take a little bit of extra effort to read  
12 what's actually on that.

13           So, let me summarize what we have.  
14 First of all, the checklist that you have looks  
15 like this regulation checklist. The bold type  
16 in the checklist represents the statutory  
17 direction. So, this is everything that really  
18 the Legislature directed the Commission to  
19 enact some regulations about. It doesn't limit  
20 the Commission to that. It actually allows the  
21 Commissioned much more authority than those  
22 that's required.

23           And then the other section is the  
24 chart itself. In the upper right-hand corner

1 of that chart you will see a regulation  
2 promulgation period. And what that is designed  
3 to -- It's right here on this chart, right up  
4 in the right-hand corner. It's in yellow.

5           What that is designed to do and it  
6 guessestimates a period of about 70 days, it's  
7 designed to go through briefly what the  
8 standard and required process is for rule  
9 development. And I think if you are in a  
10 perfect world, you might be able to do that in  
11 56 days or maybe a little less. But we're  
12 using as a standard kind of 70 days because  
13 that takes into consideration holidays,  
14 weekends and those kinds of things to give us a  
15 little bit more time.

16           So, at this point what we have done  
17 in this regulation area and in the checklist,  
18 we've identified three different topic areas.  
19 This isn't an attempt to provide a list of  
20 every individual regulation that will be in  
21 those topic areas, but is a concept to make  
22 sure that we can address those topic areas as  
23 we move through in a reasonably timely fashion.

24           So, there's 33 total areas. This is

1 not an exhaustive list as we've discussed.  
2 We've completed eight licensing topics at this  
3 point, which is our most significant effort  
4 here as of late.

5           The Commission had already completed  
6 the requirements with Phase 1 and the  
7 application screening and deliberation process.  
8 So, up in the right-hand corner this kind of  
9 reflects on this chart the time and those areas  
10 that we have already completed relative to  
11 licensing.

12           From there, we've also went as you  
13 move forward on the left-hand side you'll see  
14 we started listing categories. So, we can  
15 actually take a look to see whether we've  
16 addressed each one of these. For instance,  
17 we've got about 11 categories total.

18           We start with an assessment  
19 regulation which the Commission has been  
20 considering for some time at this point. On  
21 the next page, we've got problem gambling. And  
22 those categories are listed right over here on  
23 the far left of the chart. We're trying to  
24 provide a little grouping.

1           We've got problem gambling,  
2 monitoring regs., which you're looking at  
3 initial draft today. Training, alcohol  
4 beverage control, which you are also seeing an  
5 initial draft today. Slot approval, which is a  
6 short way of saying a real long or significant  
7 area of regulation. But it's a little bit  
8 easier to talk about as we move forward.

9           Responsible gaming we'll have coming  
10 forward. Financial, internal controls as we've  
11 talked which are inclusive of our credit  
12 discussion and then surveillance and then  
13 general area. We're leaving to last at this  
14 point junkets, interim transfers and table  
15 games. A lot of the reason is obviously table  
16 games are the jurisdiction of casinos. And we  
17 don't see that happening until -- opening until  
18 at least two years. We'll have that well  
19 before two years, but there's no sense in  
20 trying to do that all at the same time.

21           So, we're trying to spread out these  
22 regulations tasks essentially as far as we can  
23 in the year without trying to do too much at  
24 one time.

1           With that said, what ends up  
2 happening is if you look right down the middle  
3 of the chart, you will see that we're timing we  
4 anticipate probably early September to be  
5 through the major categories of the regulations  
6 that we need and particularly to support the  
7 slot parlors. That gives you an idea of the  
8 number of regulations, the different hearings.

9           And these come before the  
10 Commission, the Commission has established  
11 really a little bit of an expanded process. At  
12 this point, we draft regulations, review and  
13 assemble those. We get a draft into the  
14 Commission. The Commission takes a look at  
15 them. Oftentimes will offer suggestions.

16           We then put those out for public  
17 comment informally. We contact stakeholders.  
18 We work on that draft. Then we bring that  
19 draft back to the Commission essentially as the  
20 final draft for authorization to move forward  
21 in the formal process.

22           At that point, if the Commission  
23 authorizes us to do that then we actually begin  
24 that formal 70-day process that I was talking

1 about, which includes a formal public process  
2 and of course the administrative hearing about  
3 the regulations themselves.

4           So, I didn't want to spend too long  
5 on this but I did want to make sure the  
6 Commission is aware we've got all of these in  
7 the sights. You'll be seeing them coming  
8 forward. They will be coming fairly regular  
9 here as we get through the spring and early  
10 summer. So, you have seen enough regulations  
11 by the time you get to September to last quite  
12 some time.

13           But that gives you at least a little  
14 bit of the plan as we move forward. Probably  
15 the largest section we already talked briefly  
16 about responsible gaming framework. What that  
17 idea is Mark will go through a bunch of policy  
18 areas. And then from there we'll develop  
19 regulations to bring back to the Commission I  
20 think it's later in the month.

21           You should also see on March 6,  
22 we're really looking forward to the slot  
23 standards, electronic gaming standards, so we  
24 can get those in place by around July. And



1 that's to provide for the ability for our  
2 licensee to be able to order that equipment.

3 With that we're also going to be  
4 starting to license the gaming vendors. So,  
5 that all fits together. That license gaming  
6 vendors, approve equipment, ability to order so  
7 we can open up the slot parlor hopefully by the  
8 end of the year, early next year.

9 COMMISSIONER ZUNIGA: We are turning  
10 into a very efficient regulation promulgation  
11 machine, which is great. There's a lot of work  
12 that goes in here. And it's good to have as  
13 thoughtful plan as you have laid out.

14 At one point, our consultants had  
15 suggested a placeholder for Internet Gaming  
16 regulations. I know that we can always get to  
17 that if the landscape changes. Have we not  
18 decided to focus on those because of  
19 priorities?

20 MR. DAY: Commissioner Zuniga, we  
21 haven't added that to this list formally at  
22 this point. Part of the reason is really at  
23 this point, we don't have any statutory  
24 authority really that describes it. But the

1 Internet Gaming forum is actually a beginning  
2 because that's going to help us actually  
3 explore the facts around Internet Gaming, what  
4 are the possibilities and how they look? At  
5 least before we can actually move forward with  
6 regulations, we'd have to have some additional  
7 statutory authority, at least I believe.

8 COMMISSIONER ZUNIGA: We do. I just  
9 wanted to mention that.

10 COMMISSIONER MCHUGH: At this point,  
11 who knows whether we'll get the statutory  
12 authority.

13 COMMISSIONER ZUNIGA: Yes.

14 COMMISSIONER MCHUGH: I thought that  
15 this chart was really helpful to everybody.  
16 Laying out the regs. as it does and the events  
17 that have to be taken into account in order to  
18 have the regs. completed. So, I thought that  
19 is really very helpful.

20 I am uncertain though as to -- if  
21 you go back to the listing.

22 MR. DAY: The checklist?

23 COMMISSIONER MCHUGH: Yes, the  
24 checklist, what those dates in the far left-

1 hand column are.

2 MR. DAY: Thank you, Commissioner  
3 McHugh. That's when we plan the draft to be  
4 presented before the Commission.

5 COMMISSIONER MCHUGH: I see. So,  
6 those dates correspond to dates on this chart.

7 MR. DAY: Yes, you'll see it's in  
8 the yellow.

9 COMMISSIONER MCHUGH: Those yellow  
10 arrows.

11 MR. DAY: The yellow arrows down,  
12 yes.

13 COMMISSIONER MCHUGH: I see. So,  
14 that's the first draft to the Commission is  
15 that date.

16 MR. DAY: Right. And that sort of  
17 tees our work when we actually have to have  
18 something produced. So, we debated, we went  
19 with the first draft as the way to actually  
20 decide when we're starting the project.

21 COMMISSIONER MCHUGH: Got you.  
22 Okay. Thanks.

23 MR. DAY: And as we go through the  
24 assignments with all staff and these get

1 closer, we start putting them in so we're  
2 actually looking at little bit closer as we get  
3 about a month, a month and a half out.

4 COMMISSIONER MCHUGH: Okay. Thank  
5 you.

6 CHAIRMAN CROSBY: I agree. This is  
7 great work. And as you know, it gives me a  
8 great sense of comfort to know that somebody is  
9 on top of this. So, you can spend as much time  
10 talking about this chart as you want.

11 MR. DAY: I've got many other charts  
12 that I'll bring back.

13 CHAIRMAN CROSBY: Good. We are  
14 increasingly or frequently into areas where we  
15 have very little in-house domain knowledge.  
16 And we have some, you and Director Acosta but  
17 not much. I just wonder what is the process by  
18 which we compile the original drafts of some of  
19 these things? Internal controls is a classic  
20 about which we know next to nothing.

21 COMMISSIONER ZUNIGA: Well, I take  
22 exception to that one.

23 CHAIRMAN CROSBY: Do you know  
24 something about it?

1           COMMISSIONER ZUNIGA: Sure.

2           CHAIRMAN CROSBY: So, you start with  
3 Enrique's draft. Good. Where do you go to get  
4 the initial sort of baseline best practice for  
5 things like that?

6           MR. DAY: I would say there's kind  
7 of two primaries we are doing it at this point.  
8 And Catherine can add to that. Essentially,  
9 we've sat down and we take a look at what we're  
10 moving forward with. Then we do request  
11 consultant assistance.

12                   Primarily, what we're looking at  
13 though is asking our consultants that we've  
14 assigned to those particular regulation areas  
15 to bring together a package of what best  
16 practices is overused, but essentially  
17 representative examples from other states.

18                   And particularly as we get into  
19 these areas, there's a lot of good examples, a  
20 lot of good regulations. So, I think for the  
21 most part, we don't have to invent a lot of new  
22 things. But we have to look to see whether  
23 that's what works in Massachusetts.

24                   Then as we bring them forward, draft

1    them and add to it so we have a product that  
2    works here in Massachusetts.  But we also --  
3    Staff will reach out and assemble that  
4    information as well.  So, Artem for instance  
5    has assisted John Glennon in doing that  
6    research and bringing a package together for  
7    the electronic side.  So, it's kind of those  
8    two combinations between consultants and staff  
9    to bring together that package originally.  And  
10   then move that package initially before the  
11   Commission.

12                   CHAIRMAN CROSBY:  Consultants, staff  
13   and Commissioner Zuniga.

14                   COMMISSIONER ZUNIGA:  I should  
15   mention because it's not irrelevant, internal  
16   controls we abide by a lot of internal controls  
17   here.  Our CFAO is perhaps the best -- the head  
18   of how we guard our assets and pay our bills  
19   have all these responsibilities and things like  
20   that.  So, the finance department deals on a  
21   day-to-day basis a lot with internal controls  
22   including the staff that reports to Derek.

23                   It ultimately is also part of the  
24   Executive Director's responsibilities and

1 duties. So, there are nuances to how internal  
2 controls apply to gaming. And that's important  
3 to understand and rely on consultants. But  
4 it's not something that's entirely new. It's  
5 not something that's going to rest with me  
6 either. It ultimately rests with everybody  
7 here at this table.

8           It's just one example that I think  
9 there's a lot of jurisdictions as you made  
10 mention, a lot of examples. There's a range.  
11 We could be very prescriptive or we could be  
12 very risk-based. In other words, the approach  
13 may vary. That's a decision that we have to  
14 make as we draft these.

15           These are not irrelevant decisions.  
16 These are important decisions. But there is a  
17 lot, in my opinion, know-how and capability to  
18 draft a lot of these and ultimately decide on  
19 these regulations.

20           COMMISSIONER CAMERON: I would like  
21 to add that I know we are talking about  
22 surveillance, security, enforcement issues.  
23 And I know the State Police have been attending  
24 training sessions and really reaching out to

1 their colleagues in other jurisdictions to find  
2 those best practices. I've had several  
3 conversations with them about their education  
4 and how hard they are working to learn this  
5 business.

6           So, I think there are many, many  
7 efforts going on to make sure we are -- we will  
8 be -- I know best practices is overused. But  
9 there are best practices and we are learning  
10 what they are.

11           MR. DAY: And we do use sort of a  
12 team approach as we move these packets along.  
13 It's not just one individual. So, the State  
14 Police, for instance, will be part of the  
15 process of drafting the initial regulations  
16 that come to the Commission on surveillance.  
17 That's just one topic, but there are several  
18 others.

19           CHAIRMAN CROSBY: Great. That's  
20 good. Thank you.

21           MR. DAY: Mr. Chairman, if there  
22 aren't any other questions that brings me to  
23 item four, the Legal Division and Catherine.

24           MS. BLUE: The first thing on our



1 section this morning is the draft license award  
2 with conditions. And about a month ago we  
3 brought a draft license to the Commission. We  
4 talked about separating that into two parts.  
5 We talked about the necessity of a short form  
6 for the licensee to have on the premises. We  
7 also talked about putting it out for comments  
8 to our various constituents.

9           So, what you see in your package  
10 today, the first is a draft short form license.  
11 This was created by one of our consultants,  
12 Michael and Carroll, with our input. I have no  
13 doubt our communications folks can make it look  
14 a lot better than it currently looks in your  
15 package. But this is the prototype for the  
16 award, the license form that our licensee would  
17 have on the premises to show that they have  
18 been appropriately licensed by the Commission.

19           The balance of the draft license  
20 form we did email particularly to all of our  
21 applicants. We had it posted on our website.  
22 We got comments from some of the applicants,  
23 from our consultants and from municipality.  
24 There is in your package a list of the comments

1 that we received. We also got two additional  
2 sets of comments after we prepared the package  
3 that we are going to review as well.

4 I think the comments can best be  
5 described as folks maintaining that the form  
6 that we provided was too long. That we should  
7 not include all of the statutory conditions  
8 specifically in the form. That we could get  
9 away with just referencing them and that would  
10 be fine.

11 Certain comments addressed some  
12 permitting issues that I actually thought were  
13 helpful. And that we can make some of the  
14 permitting requirements and the Commission's  
15 monitoring of permitting requirements as they  
16 go forward a little more specific. So, I think  
17 that would be good.

18 The bottom line is I think what we  
19 need is a form that is a more decisional form,  
20 probably has less verbiage from the statute.

21 So, what I would propose to the  
22 Commission is that the legal department draft a  
23 form that is more in conformance with that kind  
24 of a structure. That we get it to you next

1 week so that you can see it as you start your  
2 deliberations.

3           Then we move forward with a form  
4 that is basically in two pieces. One is a  
5 short form license that the licensee has. The  
6 second is a more decisional format that will  
7 have all of the applicants that you considered  
8 for a particular license. It will have the  
9 findings that you make on each applicant. It  
10 will allow a comparison between the applicants.  
11 And it will show why the final award was made.  
12 It will have a lot more detail.

13           Then we'll have specific provisions  
14 for that applicant. Things like the debt-  
15 equity ratio. Things like specific permitting  
16 requirements and any unique conditions that the  
17 Commission requires for that applicant.

18           COMMISSIONER ZUNIGA: I had a  
19 thought or a question. The way the form, the  
20 short form is written here could allow but it  
21 may be good for us to highlight that there are  
22 two milestones here that are very important.  
23 Once when we award the license. And once when  
24 the term begins because they open operations,

1 the five-year or the 15-year term begins. And  
2 those are separated by the amount of time it  
3 takes to permit, design and construct the  
4 facility.

5 So, whether we have a temporary  
6 license or it's one of the conditions and it  
7 gets refreshed with a 15- or five-year term  
8 upon the vote to allow them to begin gaming  
9 operations, may be just something to consider.

10 MS. BLUE: I think that's a  
11 discussion that the Commission would want to  
12 have.

13 CHAIRMAN CROSBY: I didn't quite  
14 follow the distinction. So, this form is  
15 pretty close to done you're saying.

16 MS. BLUE: Yes.

17 CHAIRMAN CROSBY: What is the second  
18 document that you're referring to?

19 MS. BLUE: The second form would be  
20 what we call a decisional award. It would look  
21 much like our suitability decisions. So, it  
22 would compare each of the applicants. For  
23 example, in the category 2s, it would address  
24 each of the three applicants that you

1 considered. It would discuss the findings that  
2 were made based upon each Commissioner's  
3 report. Then it would explain why the  
4 successful applicant was picked. It's modeled  
5 on the Pennsylvania form.

6 CHAIRMAN CROSBY: That's not a  
7 license. That's got nothing to do with the  
8 license. That's just a decision analysis or a  
9 decision document. In fact, the law calls for  
10 us to have some kind of a document which  
11 describes our decision-making process.

12 MS. BLUE: It does only for the  
13 unsuccessful applicants. We've talked about  
14 doing it for everyone and making it  
15 comparative. It is a decision but it also  
16 functions as the final award at the end of that  
17 document.

18 And one of the examples that we  
19 looked at is the award that Pennsylvania  
20 issues. So, what it is is it sums up all of  
21 the considerations and at the end of that  
22 document, it says the award was made based upon  
23 the discussion in this document.

24 So, it functions a little bit as

1 both. It's decisional as well as an award.

2 COMMISSIONER MCHUGH: It also  
3 contains in that award a list of the conditions  
4 that the successful applicant has to follow,  
5 right?

6 MS. BLUE: Yes.

7 CHAIRMAN CROSBY: Is that the  
8 document here, the order of Commission granting  
9 the license; is that what you are describing?

10 MS. BLUE: Yes that would be part of  
11 it. This part would be the short form, but  
12 then this would incorporate the conditions that  
13 were in that longer decisional award, yes. So,  
14 we would reference that date of award and that  
15 award decision in the short form.

16 CHAIRMAN CROSBY: I'm sure you've  
17 got this straight, but just to make sure.  
18 There's this which is sort of the simple  
19 license.

20 MS. BLUE: Yes.

21 CHAIRMAN CROSBY: There is this  
22 decision structure, decision analysis leading  
23 to a determination of an award. The detailed  
24 license which has the conditions of the license

1 in it, where does that?

2 MS. BLUE: That will be in the  
3 decisional award. That will be part of that,  
4 yes, all one document.

5 CHAIRMAN CROSBY: So, that is a  
6 legal agreement between us and the winner in  
7 effect.

8 COMMISSIONER MCHUGH: It's a one-way  
9 agreement. It's an order. You get the license  
10 on these conditions.

11 CHAIRMAN CROSBY: I guess it seems a  
12 little bit funny to me to go through the  
13 process, to have a document which describes the  
14 analytic process, which is the same document as  
15 the license agreement with its conditions. I  
16 don't quite logically see why those two things  
17 go together but I'm not sure it makes any  
18 difference.

19 COMMISSIONER MCHUGH: Just in a  
20 form, if you think about it, there's a lot of  
21 things that take that form. You list a whole  
22 series of factors that you considered. And you  
23 get to in light of the foregoing section, we  
24 hereby award the license to X on the following

1 conditions. And these conditions are hereby  
2 incorporated into license issued on even date.

3 So, formally you tie the two  
4 together. And you've got something that isn't  
5 60 pages long that they have to plaster one  
6 wall with in order to operate their business.

7 CHAIRMAN CROSBY: It seems weird to  
8 me, but that's fine. Why wouldn't we just have  
9 a document that describes our decision-making  
10 process at the bottom of which we say and based  
11 on this we decided to award it to X?

12 Then there's a second document which  
13 is the award to X, which says subject to the  
14 following conditions, you win. Here are the  
15 conditions.

16 COMMISSIONER CAMERON: So, that's a  
17 third.

18 COMMISSIONER MCHUGH: So, now we've  
19 got three documents instead of two.

20 CHAIRMAN CROSBY: Right.

21 COMMISSIONER MCHUGH: Then some  
22 lawyer is going to say there's a conflict  
23 between the two documents. You gave us an  
24 unconditional thing here and this --



1           CHAIRMAN CROSBY: Fine, I give up.

2           COMMISSIONER ZUNIGA: Are we talking  
3 about some of these requests next for the  
4 revisions changes to the form of the license?

5           MS. BLUE: Some of those requests  
6 are requests that raise concerns about  
7 requirements that are in our statute. And our  
8 statute is our statute. So, we can certainly  
9 discuss those comments, but as we stand now we  
10 comply with those. Those will be conditions  
11 because they're raised in the statute. But we  
12 can certainly discuss the comments from the  
13 applicants on them.

14           COMMISSIONER ZUNIGA: I did have one  
15 of these comments we already talked about early  
16 on actually. I remember this because I drafted  
17 the position paper when we were doing the  
18 policy decisions.

19           It relates to the debt-to-equity  
20 ratio. As written in the statute, the  
21 Commission determines the debt-to-equity ratio.  
22 And I remember from our position our read, we  
23 incorporate in the regulations or not, I wanted  
24 us to look at not just that one ratio but other

1 ratios. Kind of like New Jersey does.

2           There's a five test procedure. They  
3 look at the current ratio, the ability to pay  
4 bills, and ultimately the Commission can  
5 request -- require rather an increase in the  
6 equity position, etc. So that it's an ongoing  
7 monitoring process rather than a one-time --  
8 once at some point in time.

9           It just sort of struck me as maybe  
10 at least one of our applicants doesn't know  
11 that we have taken a much broader position  
12 relative to this particular issue, which we  
13 could probably make them aware.

14           MS. BLUE: I think that's correct.  
15 As we listed conditions in that original  
16 document we took straight from the statute.  
17 So, we only took the one that was listed. But  
18 we can describe that and flesh that out more in  
19 the specific conditions section of the award  
20 and we can address those.

21           COMMISSIONER MCHUGH: What about the  
22 comments that are not statutory? Take the  
23 comments on the first page of the summary  
24 dealing with paragraph 12 or paragraph seven

1 and eight. What's our plan for figuring out  
2 what to do about those?

3 MS. BLUE: Paragraph 12 is something  
4 that we've started to address in the next set  
5 of regulations that you're going to look at  
6 today, which is the preconstruction monitoring.  
7 So, we can address that in regulations.

8 COMMISSIONER MCHUGH: But they're  
9 talking about, and I don't have it in front of  
10 me, they're apparently talking about the term,  
11 the wording, the verbiage, the content of  
12 paragraph 12. And I just use that as an  
13 example. There are some nonstatutory comments  
14 in here. The question is what are we going to  
15 do about those?

16 MS. BLUE: We are going to review  
17 them against what their concern is and see if  
18 we can address it. Whether we've addressed it  
19 already in some form of regulation. Whether we  
20 can address it in the award itself. Whether it  
21 needs to be a specific condition to a licensee.  
22 Some of them may be unique to what they see as  
23 their concerns. But we will address all of  
24 their comments and see if we can get them into

1 the decision.

2 CHAIRMAN CROSBY: And then we'll  
3 have a chance to talk about them, right,  
4 knowing that if you still stick with the  
5 biweekly reporting and the bidder suggests it  
6 ought to be more infrequent than that, then  
7 we'll have a chance to talk about it when the  
8 draft regs. come before us, right?

9 MS. BLUE: Yes.

10 COMMISSIONER MCHUGH: Before we  
11 leave that, but these are license conditions.  
12 So, these are part of that document that's  
13 going to accompany the award of the license.  
14 So, we're talking about next Friday.

15 COMMISSIONER ZUNIGA: I don't think  
16 everything has to be either a condition or a  
17 regulation. The condition or the regulation  
18 could read something like provide reports to  
19 the Commission as they determine appropriate or  
20 as the Executive Director or the staff  
21 determine to be appropriate.

22 We don't have to be prescribing  
23 whether it's biweekly or every six months and  
24 put that in regs. or otherwise.

1           COMMISSIONER MCHUGH: I fully agree  
2 with that. And that's a way of addressing this  
3 comment. But the question is when and how are  
4 we going to address all of these comments  
5 between now and conceivably next Friday?

6           COMMISSIONER ZUNIGA: Yes. That was  
7 part of my question initially whether we were  
8 going to get to this, which we are now.

9           MS. BLUE: I think for a number of  
10 these comments as I've reviewed them they are  
11 based upon the specific conditions we took out  
12 of the statute. So, I think one of the ways we  
13 are going to address some of these is we are  
14 going to put in a general compliance with 23K  
15 and with our regulations.

16           Now, for more specific comments, we  
17 will look at to see what we have in the  
18 regulation pipeline. They might be addressed  
19 there. We may want to address them as you  
20 proposed as required by the Commission to be  
21 determined at some point. Some of them may be  
22 specific enough that you may want to address  
23 them with a specific licensee depending on the  
24 award.

1           So, we will look at all of these  
2 comments, but the general -- The comments that  
3 they've made here predominately are based upon  
4 statutory requirements because that's how we  
5 set up the form that they looked at.

6           COMMISSIONER MCHUGH: Okay. I  
7 understand that. And it's the nonstatutory  
8 requirements that --

9           CHAIRMAN CROSBY: And your point is  
10 on Friday we are going to make a decision,  
11 right? So, a document that's going to have all  
12 of these conditions in it needs to be done that  
13 day, right, or a day or two thereafter.

14           MS. BLUE: We talked last time about  
15 drafting this document after the Commission  
16 made a decision. So, we were going to look at  
17 the findings and then the draft the decisional  
18 document after that.

19           CHAIRMAN CROSBY: So, just walk me  
20 through the process. For the moment, let's  
21 just stick with the slots because that's  
22 easier. We make the award decision on Friday.  
23 That triggers the 30 days. That's the award  
24 decision that we're making on Friday; is that

1 correct?

2 MS. BLUE: If you make the decision,  
3 yes.

4 CHAIRMAN CROSBY: That's the plan at  
5 the moment is to make that decision. What then  
6 happens in terms of this decision  
7 document/license, which includes conditions  
8 which include those commented on here? How  
9 does that get drafted and executed?

10 MS. BLUE: So, we were going to talk  
11 specific conditions first with the proposed  
12 licensee in case there were conditions that  
13 they had to agree on. If the Commission wanted  
14 specific conditions based upon that  
15 application, there was going to be some time  
16 for the licensee to review those and determine  
17 whether they could agree to them or not.

18 While that process is going on, this  
19 document will be drafted. It will have  
20 statutory conditions. We will look at these  
21 other conditions. I don't think there are a  
22 lot of nonstatutory conditions, but we will go  
23 through them very carefully. And we will have  
24 the specific conditions incorporated into that

1 document for the Commission to review. And  
2 then we will pass that by the licensee. And  
3 the licensee will agree or raise other comments  
4 or concerns with us.

5 CHAIRMAN CROSBY: Meanwhile the 30-  
6 day clock is ticking. They object to some of  
7 the conditions. There's a negotiation on some  
8 of the conditions. How do those get resolved  
9 and handled?

10 MS. BLUE: The Commission would  
11 review --

12 CHAIRMAN CROSBY: The Commission  
13 would?

14 MS. BLUE: -- the Commission would,  
15 yes, review them. And if the Commission  
16 approves them, we would incorporate them into  
17 the document.

18 CHAIRMAN CROSBY: Or not, right?

19 MS. BLUE: Or not.

20 COMMISSIONER MCHUGH: And all of  
21 this is going on while the 30-day clock is  
22 ticking? I thought our timeline called for  
23 this to be done in the 24 hours between the  
24 time we made the tentative award or indicated



1 where we were going to go and the time we  
2 actually made the decision? Maybe I misread  
3 something.

4 MR. DAY: From the process the  
5 Commission adopted, the plan was the reports,  
6 there would be a period of time. That's what  
7 we indicated on the process document that if  
8 there's specific conditions with the applicant  
9 that there would be allowed time for staff to  
10 review that with the applicant.

11 That basically at the end of the  
12 process, the applicant would come back to an  
13 acceptance or not an acceptance of the  
14 conditions. That would occur before Friday.  
15 That's what the schedule is at this point.

16 COMMISSIONER MCHUGH: Right.

17 MR. DAY: And then if I understand  
18 correctly, after that process Catherine is  
19 talking about development of the decisional  
20 format, which is basically just the document  
21 the Commissioners sign in the end to record  
22 those decisions.

23 COMMISSIONER MCHUGH: Right. But  
24 the decisional process, the conditions are a

1 scrivener's process to reduce to writing the  
2 things that have already been agreed on by the  
3 time we make the decision as to who is going to  
4 get the license.

5 MR. DAY: Correct. That's what my  
6 understanding is. And that's what's noted in  
7 the process that supports the agenda for next  
8 week's.

9 COMMISSIONER MCHUGH: That's what my  
10 understanding was as well.

11 CHAIRMAN CROSBY: So, to go back.  
12 Tuesday, Wednesday we get through the reports,  
13 maybe we make the sort of tacit decision by  
14 Wednesday evening if we got lucky. And then I  
15 guess as part of that we will discuss what  
16 conditions would be required. That would  
17 probably be some kind of an iterative process.  
18 Maybe on Thursday by that time we have the  
19 tacit winner at the table and are talking with  
20 them about what --

21 COMMISSIONER MCHUGH: Staff.

22 CHAIRMAN CROSBY: -- staff is,  
23 right, about those conditions. There's back  
24 and forth. The Commission is having a meeting,

1 an open meeting that day. So, we can be  
2 involved in the back and forth. And  
3 theoretically within that more or less 24-hour  
4 period, the conditions get agreed to by both  
5 parties and the formal award then is announced  
6 on Friday and that triggers that 30 days.

7 COMMISSIONER MCHUGH: Whatever the  
8 award is.

9 CHAIRMAN CROSBY: Right.

10 COMMISSIONER MCHUGH: In the format.

11 CHAIRMAN CROSBY: And if it takes  
12 longer, if it takes us longer to decide who the  
13 winner is, that could bump things, but such is  
14 life. Luckily in the slots parlor, we've got  
15 plenty of time. So, that could happen.

16 But the key thing that I think we're  
17 now getting settled with, Commissioner McHugh  
18 and I at least are, the big document the  
19 decision document you're talking about is  
20 really just a reportage. There is no  
21 negotiations or very little negotiations except  
22 for the conditions section. And the conditions  
23 section of that is designed to be handled  
24 pretty quickly post-tacit decision and award,

1 which could be as little as a day.

2 COMMISSIONER MCHUGH: Ideally, in 24  
3 hours, yes.

4 MR. DAY: Yes. The agreement to  
5 those conditions would take place before the  
6 award.

7 CHAIRMAN CROSBY: Right.

8 MR. DAY: So, just merely taking the  
9 information from the process and putting it  
10 into the decisional format.

11 CHAIRMAN CROSBY: Right. Makes  
12 sense.

13 COMMISSIONER ZUNIGA: Yes.

14 CHAIRMAN CROSBY: That's helpful.

15 MR. DAY: It sounds simple.

16 CHAIRMAN CROSBY: No, it doesn't.

17 COMMISSIONER MCHUGH: There's a lot  
18 compressed into that, maybe a lot compressed  
19 into that 24 hours, maybe not.

20 CHAIRMAN CROSBY: Maybe a lot of  
21 conditions aren't in it. Probably need to hire  
22 some additional lawyer drafters to start  
23 working on that decision document. You don't  
24 want to start that Wednesday night.

1                   COMMISSIONER ZUNIGA: Cancel the  
2 dinner plans on Wednesday night.

3                   CHAIRMAN CROSBY: Okay. So far so  
4 good. What's next?

5                   MS. BLUE: So, the next item in your  
6 package is the monitoring and preopening  
7 regulations. These regulations were drafted  
8 under the same process that Executive Director  
9 Day has explained.

10                   What we did is we went to our  
11 consultants, in this case outside Counsel,  
12 suggested to them particular best practices and  
13 asked them to review other jurisdictions. And  
14 then in combination with that review and with  
15 our statute, we came up with this set of  
16 proposed regs.

17                   We also got a lot of good staff  
18 input in terms of additions to make to this  
19 regulation. This is the very, very first  
20 draft. It will need to go out, obviously, for  
21 some informal comment as well formal public  
22 comment but it is our first foray to  
23 preconstruction and monitoring regs.

24                   You will notice there are some

1 timeframes in there that we need to think  
2 about. And there may be other things that the  
3 Commission would like to add in terms of how it  
4 wants to see preconstruction monitoring done.

5 CHAIRMAN CROSBY: Anybody?

6 COMMISSIONER ZUNIGA: I had a couple  
7 of comments. I know that they are only  
8 presented as a first draft but I think one  
9 that's broad and important to be -- we can talk  
10 about today. When we mention schedule, I think  
11 it should apply to schedule, budget and  
12 specifications, plans and drawings  
13 collectively.

14 This comes from a recommendation  
15 from the architects. You may remember the  
16 white paper from the AIA and the Boston Society  
17 of Architects that highlighted the need for us  
18 to effectively do a design review process. So,  
19 that any scope changes potentially happen in  
20 between the submittal of different construction  
21 drawings can be analyzed by our staff and  
22 consultants.

23 So, those three documents really  
24 always work hand-in-hand. They interact with

1 each other, a detailed budget form, a detailed  
2 schedule and the construction plans,  
3 specifications and drawings.

4           Similarly, and I know this is not  
5 intended to read as a contract but we would  
6 require access to the premises, space during  
7 the construction period as well as not just for  
8 the Commission but for its designee. So,  
9 there's a couple of places where that could be  
10 inserted but think it's very important for us  
11 to highlight that.

12           COMMISSIONER MCHUGH: Do we need, in  
13 your view, the entire set of construction  
14 plans?

15           COMMISSIONER ZUNIGA: That's always  
16 very tricky. This gets me to another point.  
17 All of those documents should be submitted in a  
18 form required or prescribed by us. We don't  
19 want it 4000 activity schedule or the full set  
20 of drawings necessarily. We may want them at  
21 some point or we may require them but that's  
22 not by default the form that they need to be  
23 submitted.

24           But we also don't want the nine

1 activity milestone schedule because that could  
2 not tell us much about when delays are  
3 happening.

4 COMMISSIONER MCHUGH: The outline of  
5 how the shower stalls are done, we don't need  
6 that.

7 COMMISSIONER ZUNIGA: We don't, but  
8 if that ultimately is the source of a big  
9 problem or the big delay, we need the access or  
10 the capability to request it.

11 COMMISSIONER MCHUGH: Right.

12 COMMISSIONER ZUNIGA: So, it's just  
13 a little word smithing but the larger picture  
14 is we need these three sets of documents in the  
15 form that's prescribed by us. And we may  
16 require them from time to time what we really  
17 need is access to those and we need our agents  
18 to also have access.

19 CHAIRMAN CROSBY: What is the sense  
20 of when these will be ready to go relative to  
21 when the slots winner, licensee will need to be  
22 to be overseen by them?

23 MR. DAY: I'd have to look at my  
24 schedule to give you an exact date. But we are



1 anticipating we need to have these basically in  
2 the early spring of this year.

3           One of the holdups I want to be sure  
4 we try to get is when we select our contractor  
5 for the monitoring, I do want to have them take  
6 a look at these regs. and provide their input  
7 as well.

8           We were looking at this as an  
9 initial draft. Then we're talking about two  
10 weeks before we can get it back before the  
11 Commission. That would be the request to start  
12 the formal process, which would be about a 70-  
13 day adoption period.

14           CHAIRMAN CROSBY: Okay. It could be  
15 that everything we've heard about, actually all  
16 of the slots applicants have talked about  
17 moving at Mach speed. So, I think there's a  
18 substantial likelihood that these will  
19 certainly not be formally adopted they may not  
20 even be done by the time they're starting to  
21 give us, for example, construction schedules.  
22 So, I am sure we can deal with that somehow or  
23 other. But it's just something to be mindful  
24 of because this process is going to need to be

1 regulated prior to the regulations being in  
2 place, I think.

3 MR. DAY: Correct. Part of what  
4 we're trying to do with all of these  
5 regulations is get with the initial drafts to a  
6 point where we could adopt them by emergency  
7 regulation if we were in that position.

8 CHAIRMAN CROSBY: Right.

9 MR. DAY: But I think we should be  
10 in the process where these monitoring  
11 regulations are pretty much final then I think  
12 we'll probably be in good shape.

13 CHAIRMAN CROSBY: Okay, good. Next.

14 MS. BLUE: And then lastly in your  
15 package, you have the draft alcohol beverage  
16 licensing and distribution regulations. These  
17 again are in very first draft. We have not yet  
18 shared them with the Alcohol Beverage and  
19 Control Commission, but we will because we  
20 would like their comments.

21 We modeled these predominantly on  
22 the process that was used by Massport.  
23 Massport being a fairly similar facility where  
24 you have an overarching regulator and then

1 various establishments within the premises.

2           So, we know we've covered some  
3 issues based upon concerns that have arisen out  
4 of that sort of construct, but we also know  
5 that we will be getting other comments as well.  
6 So again, these are just the first and we take  
7 any comments from the Commissioners. And then  
8 we'll put them out for informal public comment  
9 as well.

10           COMMISSIONER ZUNIGA: I did not get  
11 a chance to look at them in detail and I will,  
12 just one quick thought was that when licensees  
13 get into arrangements like leasing to national  
14 providers, to The Cheesecake Factory or  
15 whatever it may be that all of these apply to  
16 all of those leasees as well.

17           MS. BLUE: Yes. And that is the  
18 structure that we're trying to put into place.  
19 And it would be the responsibility on the  
20 premises by the licensee, The Cheesecake  
21 Factory for example as well as the  
22 responsibility with the licensee who runs the  
23 casino as well. That was a very important  
24 issue that came up in airports.

1                   COMMISSIONER ZUNIGA: Yes.

2                   COMMISSIONER MCHUGH: Do we enforce  
3 these or does the ABCC people who are put on  
4 our group or do we jointly do it? How does  
5 that work?

6                   MS. BLUE: We issue the license. We  
7 have the Alcohol Beverage Control Commission  
8 enforcement unit that reports into us. So,  
9 they will enforce part of it. I do believe our  
10 gaming agents have a part of it.

11                  MR. DAY: I believe it's cooperative  
12 jurisdiction, yes.

13                  COMMISSIONER MCHUGH: So, that ABCC  
14 is an important ingredient in creating these  
15 regulations, right?

16                  MS. BLUE: Yes, that's right.

17                  COMMISSIONER MCHUGH: Are we working  
18 with them to get that staff up and ready as  
19 well? I saw someplace that was on some  
20 schedule.

21                  MR. DAY: Correct. That's on one of  
22 the schedules we have. We're trying to finish  
23 up our agreement with MSP which we are very  
24 close with. Then we are going to move forward

1 with ABCC agreement similar to that and then  
2 one with the Attorney General's office.

3 COMMISSIONER MCHUGH: But the  
4 consultation on this set of regs. doesn't have  
5 to wait for that process.

6 MR. DAY: No, it won't wait for it.  
7 Basically, we are going forward with that  
8 process as we speak.

9 COMMISSIONER MCHUGH: Okay.

10 MR. DAY: We will want them to  
11 comment specifically on these regs. as we  
12 develop the MOU.

13 CHAIRMAN CROSBY: Anything else?  
14 Are you done, Director and General Counsel?

15 MS. BLUE: That's all I have, yes.

16 MR. DAY: Yes.

17 CHAIRMAN CROSBY: Anything else on  
18 anybody's agenda?

19 COMMISSIONER MCHUGH: Yes I would  
20 move to adjourn.

21 CHAIRMAN CROSBY: Second?

22 COMMISSIONER CAMERON: Second.

23 CHAIRMAN CROSBY: All in favor?

24 Aye.

1 COMMISSIONER MCHUGH: Aye.

2 COMMISISONER CAMERON: Aye.

3 COMMISSIONER ZUNIGA: Aye.

4 COMMISSIONER STEBBINS: Aye.

5 CHAIRMAN CROSBY: Thank you all.

6

7 (Meeting adjourned at 11:13 a.m.)

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## 1 ATTACHMENTS:

- 2 1. Massachusetts Gaming Commission February  
3 20, 2014 Notice of Meeting and Agenda
- 4 2. Massachusetts Gaming Commission February  
5 20, 2014 Memorandum Regarding Disposition  
6 of Licensing Fee
- 7 3. 205 CMR 121.00 Licensing Fee
- 8 4. Repeal The Casino Deal Committee February  
9 10, 2014 Memorandum
- 10 5. Office of the Attorney General February  
11 10, 2014 Memorandum
- 12 6. Regulation Development Checklist
- 13 7. 2-07-2014 Massachusetts Gaming Commission  
14 Regulations Schedule
- 15 8. DRAFT Short Form License
- 16 9. Responses to Request for Proposed  
17 Revisions to the Form of the Gaming  
18 License
- 19 10. DRAFT 205 CMR 135.00 Compliance With  
20 Approved Schedule for Construction of  
21 Gaming Establishments and Related  
22 Infrastructure
- 23 11. DRAFT 205 CMR 136.00 Sale and Distribution  
24 of Alcoholic Beverages at Gaming Establishments

1 MASSACHUSETTS GAMING COMMISSION STAFF:

2 Catherine Blue, General Counsel

3 Richard Day, Executive Director

4 Derek Lennon, Chief Financial and Accounting

5 Officer

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

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

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

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

WITNESS MY HAND this 21st day of February, 2014.

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