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THE COMMONWEALTH OF MASSACHUSETTS

MASSACHUSETTS GAMING COMMISSION

PUBLIC MEETING #53

CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

Gayle Cameron

James F. McHugh

Bruce W. Stebbins

Enrique Zuniga

February 21, 2013, 1:00 p.m.

OFFICE OF THE DIVISION OF INSURANCE

First Floor, Hearing Room E

1000 Washington Street

Boston, Massachusetts

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

CHAIRMAN CROSBY: We can call to order the 53rd public meeting of the Massachusetts Gaming Commission meeting on February 22, 2013 (SIC).

We will start out with the approval of the February 14 minutes.

COMMISSIONER MCHUGH: All right, Mr. Chairman, I had distributed the minutes yesterday, albeit late in the day. So, if everybody has not had a chance to read them, we can do it next week. But if they have, comments are welcome and then I'd move to approve them.

CHAIRMAN CROSBY: Does anybody want to not wait one week, until next week?

COMMISSIONER CAMERON: No, I had a chance to read them.

COMMISSIONER MCHUGH: Comments? I have one brief set of comments that's technical in nature from the Chairman. Any other comments, thoughts?

All right. Then I move that the minutes of the February 14 meeting be approved with one mechanical change as suggested by the Chairman.

1 COMMISSIONER CAMERON: Second.

2 CHAIRMAN CROSBY: All in favor, aye.

3 COMMISSIONER STEBBINS: Aye.

4 COMMISSIONER ZUNIGA: Aye.

5 COMMISSIONER CAMERON: Aye.

6 COMMISSIONER MCHUGH: Aye.

7 CHAIRMAN CROSBY: Opposed? Ayes have
8 it unanimously.

9 Okay. Administration, we've got
10 several items. I don't think there's anything to
11 really talk about about the schedule. The main
12 issue is that we are continuing to wrestle with
13 tightening up the background check, regulation
14 writing, application process.

15 The surrounding communities
16 conversations bears on that. There's a lot of
17 discussion about is it possible to have a referendum
18 on the date of the special election in June.

19 All of those issues are in play. We
20 are doing everything we can to speed up the process.
21 But I don't think at the moment that we really have
22 anything to talk about on the critical path chart.
23 We have added the additional hires, which are in the
24 pipeline, which I'll mention in just a second.

1 The Director of Supplier Workforce and
2 Diversity Development is -- interviewing is going
3 on, same with the Director of Research and Problem
4 Gaming, and same with the Director of Licensing, I
5 think, which are our three remaining big issues, big
6 personnel decisions.

7 And we have started to involve
8 Executive Director Day in these processes. So,
9 he'll play a role. Even if he's not here yet, he
10 can play a role at least by Skype in interviewing
11 these key people. And he's pleased to play that
12 role and glad to do it.

13 Which gets me to our one other big
14 position, which is General Counsel. And
15 Commissioner McHugh was the hiring manager for that
16 position.

17 COMMISSIONER MCHUGH: Thank you, Mr.
18 Chairman. Catherine Blue, would you join us,
19 please, at the table so I can introduce you to my
20 colleagues on the Commission?

21 Mr. Chairman and colleagues, by way of
22 prologue, we began a search for an Executive Counsel
23 some months ago. And I'm delighted to present
24 today Catherine Blue as the person I've selected for

1 your consideration for that position.

2 In the search, we were assisted by
3 Isaacson Miller, one of the country's preeminent
4 search firms. They contacted over 175 people
5 during the course of the search. And that resulted
6 in a pool of some 60 candidates from across the
7 country.

8 It was a rich pool. It was a diverse
9 pool. It was narrowed to 10 individuals whom I
10 interviewed with the assistance of Isaacson Miller.
11 The interviews lasted each about two hours. And I
12 also received some helpful advice from a
13 representative of the Attorney General's office.

14 Catherine Blue is the selection, the
15 person, the lawyer I am delighted to present to you
16 today as a result of that process. She is a
17 graduate of Stonehill College and William and Mary
18 Law School. She's currently the General Counsel of
19 the Mass. Development Finance Agency, an agency
20 that finances complex development and fundraising
21 for those developments and projects across the
22 Commonwealth.

23 She's got a wide range of experience.
24 She began in the public sector in Pennsylvania where

1 she was a lawyer in Department of Labor and
2 Industries and in the Department of Revenue. She
3 was General Counsel for QED Communications, a
4 Pittsburgh-based public radio and television
5 corporation that also published a magazine and was
6 approximately a \$25 million a year enterprise.

7 For 10 years, she was the Vice
8 President of Law and Associate General Counsel for
9 land use transactions at AT&T and then at Cingular
10 and then at AT&T Wireless as AT&T morphed from the
11 AT&T we used to know and love to what it is today.
12 And she handled those affairs on a nationwide basis.

13 She then worked as counsel for the
14 Metropolitan Transit Authority in New York, the
15 nation's largest public transportation enterprise.
16 She's worked in a major Boston law firm and she has
17 started her own law firm. So, she's done it all in
18 terms of legal work, legal experience in the public
19 and in the private sectors.

20 As part of their background process,
21 Isaacson Miller did a number of reference checks
22 thoroughly. And several factors recurred in the
23 reports that the references turned up.

24 Ms. Blue is a problem solver and a

1 consensus builder. She is a skilled manager of
2 people who is able to bring out the best in the
3 people with whom she works over whom she's in
4 charge. And she's finally one who's demonstrated
5 time and time and again an ability to work with a
6 broad array of customers and constituents to
7 achieve enterprise objectives while at the same
8 time finding a way to take into account the
9 reasonable concerns of those who'd be impacted by
10 achievement of those objectives. She's in sum, I
11 think, the ideal candidate for our enterprise at
12 this time.

13 So, I'm pleased to present Catherine
14 Blue to you and invite your questions, any questions
15 that you have.

16 CHAIRMAN CROSBY: Commissioners?

17 COMMISSIONER CAMERON: Ms. Blue I had
18 a question. I was reading your resume and you
19 talked about the ability to master new areas of law
20 of which this will be one for you.

21 MS. BLUE: It definitely will, yes.

22 COMMISSIONER CAMERON: I just wanted
23 to hear your thoughts on how you would go about
24 mastering this. I know we are in the middle of

1 background investigations. So, I have been
2 dealing pretty much on a daily basis with gaming
3 attorneys and the issues that come with our
4 applicants.

5 And just if you've had any time to think
6 about that or had any experience talking to folks
7 who may work in this industry.

8 MS. BLUE: I have not. I've started
9 obviously with the Enabling Act. I will be
10 spending time with the counsel and the consultants
11 that we have to get more involved. And I'm going
12 to listen to the concerns that people in the agency
13 have. And reading, reading, reading as much as I
14 get my hands on.

15 COMMISSIONER CAMERON: Thank you.

16 COMMISSIONER STEBBINS: I just had a
17 quick question, Catherine, kind of under I think the
18 area that Commissioner Cameron just referred to on
19 your resume. It talked about people management and
20 we're obviously in a startup mode.

21 Would you share with us or with me at
22 least your experience in kind of building a legal
23 team, what type of people you look for to be part
24 of your team. How do you think, since we're really

1 in a startup mode, how are you going to help us build
2 an effective legal team?

3 MS. BLUE: What I look for in lawyers
4 are people who are good with the clients, people who
5 are solution based, because I believe that there's
6 always a way to get where you need to go, but you
7 have to be creative sometimes about putting that
8 solution together.

9 I build a team that I empower each
10 member of the team to get results and to get where
11 we need to go. But I also spend a lot of time
12 listening both to my teammates and to the people
13 that we serve.

14 I stress that as a legal department, we
15 are a service agency. We are there because the
16 agency or the entity needs us. And that's our job
17 is to try and fulfill those objectives.

18 So, I will be looking for people who are
19 open-minded, who are interested in learning new
20 things, who are creative and who really are based
21 on service to the client.

22 COMMISSIONER STEBBINS: I know you are
23 coming over to us from Mass. Development, which is
24 probably the State's most successful and largest

1 economic development quasi. Where do you see the
2 skills that you've learned and the experience you
3 had at Mass. Development kind of translating into
4 the Gaming Commission?

5 MS. BLUE: Well, when I came to Mass.
6 Development, I spent a lot of time learning what the
7 clients at Mass. Development needed. And what they
8 do is very diverse. It's from financing from real
9 estate, last week we sold a boat that we took title
10 to. So, it's all across the gambit.

11 And I think those skills in learning
12 what we did at Mass. Development and how best to do
13 it will help me, because it's the same kinds of
14 skills that you need at the Gaming Commission
15 because I'm going to have to learn about what you
16 need, what your goals are and how to get there. So,
17 it's a lot of listening and a lot of finding out what
18 the clients need and want and what the goals are.

19 COMMISSIONER STEBBINS: Thank you.

20 COMMISSIONER ZUNIGA: It's good to
21 meet you, Ms. Blue. I was looking at your resume.
22 And to some degree the references that Commissioner
23 McHugh was mentioning allude to this.

24 But I was looking at your resume and you

1 mentioned a place here about strategic thinking and
2 long-term planning as one of the areas that you have
3 done in a number of different places that you've
4 been.

5 Just building on that, I sometimes
6 think of General Counsel as playing a very big role
7 when it comes to risk mitigation. Always trying to
8 anticipate things that could go wrong or things that
9 minimize, if you will, risk for an organization.

10 At times, that role can be perceived as
11 one of placing obstacles by the people who are
12 trying to get things done. And I was wondering if
13 you could share with us -- Perhaps that perception
14 is warranted or not warranted. I'm not sure. That
15 depends. But could you share with us your
16 experience and approach towards that balance, if
17 you will, that has to happen in an organization
18 being an internal counsel?

19 MS. BLUE: A lot of times, and I've
20 seen this across my career, a client will come to
21 you with a request to do something. They have a
22 goal that they want to achieve. And I think the
23 difference between maybe average lawyers and the
24 better lawyers is that the average lawyer may say

1 I see what you're doing. The answer is no. I don't
2 think a simple answer is no question from any lawyer
3 is ever a good answer.

4 I think the answer should be okay, let
5 me understand a little bit more about where you're
6 trying to go. Let me understand the factors that
7 impact what you're trying to do. And let me find
8 a solution. I think any in-house legal department
9 that acts as an obstacle to trying to move forward
10 is not serving the client well.

11 And so you won't hear from this legal
12 department a flat-out no. But you will get a lot
13 of questions. And we will strive to find another
14 way maybe to get you where you want to go. It might
15 not be what you thought of at first, but we will try
16 to find a way to achieve the goal that you're trying
17 to set.

18 So, that's been my focus. That's how
19 I approach all of the problems that my clients do
20 bring to me.

21 CHAIRMAN CROSBY: That was a great
22 question. Can you give us an example of a situation
23 where you had to -- that was really
24 confrontationally, where you had to deliver news

1 that the other party did not want to hear, where you
2 were saying no to somebody you were working with.
3 A situation that demonstrates your experience and
4 your ability to deal with really hard
5 confrontational controversial issues.

6 MS. BLUE: Well, when I was at AT&T
7 Wireless a lot of what I did pertained to building
8 wireless facilities. So, out in the community, we
9 had many situations where we would go to build a
10 facility in a community and the community would be
11 upset.

12 Oftentimes, I would speak to the
13 different -- I would speak either to members of the
14 community or I would speak to the public officials
15 and try to help them understand what we were trying
16 to do. And how could we adjust what we were doing
17 to meet some of their needs.

18 Some of those conversations were very
19 heated. Some of those conversations involved
20 people who were protesting outside of meetings.
21 But yet what I would try to do is calm the situation
22 and try to hear them. I wanted to hear what their
23 concerns were to see if I could address it.

24 In a more internal kind of issue, I've

1 had situations where when I was in television, for
2 example, my producers would want a particular piece
3 of intellectual property. They couldn't have it,
4 no matter how much they wanted it. They couldn't
5 have it.

6 I would have to sit with them and
7 explain why. And I would sit with them and try to
8 understand was there someplace else they could go?
9 Was there a different piece of property that they
10 could use?

11 And if you know creative people,
12 sometimes they're very adamant about what they
13 want. But we would work together to find a
14 solution. Sometimes it meant I had to negotiate
15 with the folks that maybe they unsuccessfully
16 negotiated with and get a better resolution. Or
17 sometimes I'd have to help them find a different
18 piece of intellectual property.

19 CHAIRMAN CROSBY: Interesting. I
20 know the kind of vetting that you've gone through.
21 And it's very, very thorough. And I have absolute
22 total confidence in Commissioner McHugh's judgment
23 about this. I don't think there's very much that
24 any of us think we could elicit from you that has

1 probably not been elicited.

2 But I'm interested in what brings you
3 back to the public sector? You've been in both.
4 Why come back to the public sector?

5 MS. BLUE: The private sector was very
6 good to me and I enjoyed my time in the private
7 sector.

8 And I feel very strongly that when you
9 have had a very good career in the private sector
10 like I have, it's time to take those skills that you
11 learned and to use them to give back to the
12 community.

13 So, when I left my own private practice
14 in 2008 and I went to work for the MTA in New York
15 that was the point of that because I felt like I
16 could do it. I could bring something of value to
17 the table.

18 I was lucky that when I moved back up
19 here in 2010 to take care of my mother, I got to work
20 for Mass. Development. So, at the same time as I
21 was considering this position, there were some of
22 my old friends from the private sector talking to
23 me.

24 And when I made the choice, I thought

1 it's still time to give back. I'd rather use my
2 skills to serve the Commonwealth. So, this is a
3 good opportunity to do that.

4 CHAIRMAN CROSBY: Great. I think a
5 lot of us feel that way. Anybody else?

6 COMMISSIONER ZUNIGA: We have perhaps
7 a different situation from other organizations in
8 which we have a full-time gaming commission, the
9 five of us that have a role, if you will, in making
10 a lot of decisions. But we also will have an
11 Executive Director soon who will have a lot the
12 management of the organization.

13 What can you tell us about whether this
14 is very unique or how do you feel about having five,
15 six people we might have something to say about what
16 you're doing, how you're doing?

17 MS. BLUE: I think that's fun. I
18 would just assume -- I would like to know what
19 everyone thinks about what I'm doing, because the
20 more I know about what you think, the better I'm able
21 to serve you. So, I don't have a problem with that.

22 I view it in similar situation to
23 having a board, but a board that's there all the
24 time. Board members provide input whether they

1 think you're asking for it or not. And I think it's
2 important. So, I don't have any concern with that.

3 In an Executive Director, I hope to
4 work with him to have what I refer to as continuous
5 process improvement. So, how he wants to set up
6 processes and how he wants those to work, I want to
7 help him do that. And then I want to make them
8 better, because I think you can always improve on
9 the processes. And the better the processes, the
10 better the workflow and the more you can get done.
11 So, I'm looking forward to working with him.

12 CHAIRMAN CROSBY: Are you clear in
13 your mind on the reporting relationships, who
14 you'll report to, how that will work?

15 MS. BLUE: I do, but I also would
16 assume that over time those things morph and change
17 and I'm comfortable with that. So, yes.

18 CHAIRMAN CROSBY: I did talk with
19 Executive Director Rick Day as recently as
20 yesterday about the fact -- It's a funny situation,
21 because the directors have been reporting to us,
22 effectively. And now there's going to be somebody
23 in between.

24 And everybody, at least on the

1 organization chart will be reporting to Rick. But
2 there'll be some needs and one will be the General
3 Counsel that will have a relationship with the
4 Commission as is the case with the Director of
5 Communications has a relationship with me and with
6 the Commission.

7 So, there's going to be some dotted
8 lines and some sort of some funky lines.

9 COMMISSIONER MCHUGH: Some solid
10 lines too?

11 CHAIRMAN CROSBY: And some solid
12 lines, right. Starting with the solid and then
13 going funky.

14 COMMISSIONER ZUNIGA: Flexible, let's
15 call it flexible.

16 CHAIRMAN CROSBY: Flexible, okay,
17 good, thank you. But I think the right kind of
18 personalities will make those work fine. I think
19 it'll be easy and I'm feeling very comfortable with
20 Rick Day. He and I think are going to get along
21 fine.

22 But it will be something we'll have to
23 talk about and keep our eyes on, because it will be
24 a difference. It won't be so much for you because

1 you haven't been working for us. But for everybody
2 else who's been working for us, it's going to be a
3 bit of a transition as we interpose this new person.
4 Anybody else?

5 COMMISSIONER CAMERON: A big part of
6 what we do is there's an enforcement and a
7 compliance piece. We have State Police members in
8 our office now working for the State Police. They
9 will have two hats. They will always report up the
10 chain of command to the State Police, but then they
11 will work for the Commission as well.

12 So far that's been working very, very
13 well. Although there's always with the
14 enforcement, we've been trying very hard to be in
15 touch with our legal folks to make sure these
16 decisions that we're making pass the legal test as
17 well.

18 Just didn't know if you've had any
19 experience, I don't think you have, or had thought
20 about that relationship with a full-time law
21 enforcement bureau within the Commission.

22 MS. BLUE: I worked very close when I
23 was at the MTA with the MTA Police Department as well
24 as with NYPD, because obviously we had a lot of

1 similar interests. And they did some of our
2 policing for us as we did some of our own. So, I'm
3 very comfortable with those relationships. In
4 fact, I enjoy working with law enforcement very
5 much.

6 COMMISSIONER CAMERON: Great.

7 CHAIRMAN CROSBY: Great. Anything
8 else? Commissioner?

9 COMMISSIONER MCHUGH: Well, then I
10 enthusiastically move that the Commission hire
11 Catherine Blue as its first General Counsel under
12 the terms that have been agreed upon and will be
13 formalized before she starts on an anticipated
14 start date of March 11, 2013.

15 CHAIRMAN CROSBY: Second?

16 COMMISSIONER ZUNIGA: Second,
17 enthusiastically as well.

18 CHAIRMAN CROSBY: Any other
19 discussion? All in favor of selecting Catherine
20 Blue as General Counsel, aye.

21 COMMISSIONER STEBBINS: Aye.

22 COMMISSIONER ZUNIGA: Aye.

23 COMMISSIONER CAMERON: Aye.

24 COMMISSIONER MCHUGH: Aye.

1 CHAIRMAN CROSBY: All opposed?

2 Welcome aboard.

3 COMMISSIONER MCHUGH: Welcome.

4 COMMISSIONER CAMERON: Welcome.

5 MS. BLUE: Thank you very much.

6 COMMISSIONER CAMERON: Thank you.

7 CHAIRMAN CROSBY: Okay. Sites for
8 Western Mass. meetings, Commissioner Stebbins
9 you've been thinking about this.

10 COMMISSIONER STEBBINS: Yes, Mr.
11 Chair. We had a question I guess kind of internally
12 about the need or the opportunity to get back out
13 to Western Massachusetts and where we might hold
14 either regular business meetings or any special
15 business meetings.

16 I guess my first inclination was to
17 look at communities in and around where those
18 communities we know are going to be host
19 communities. But at second glance, it just
20 occurred to me that there's really for us to shy away
21 from or be hesitant about scheduling a business
22 meeting in a potential host community.

23 We somewhat meet in a potential host
24 community every Thursday. We've had two meetings,

1 a regulatory meeting as well as a business meeting
2 and a forum in Springfield, which is likely a
3 potential host community.

4 I just thought in considering our
5 calendar in the coming months, it would not hurt us
6 to go back out to Western Massachusetts, perhaps
7 schedule a meeting with the folks in the Town of
8 Palmer, maybe the next trip beyond that scheduling
9 a regular business meeting in West Springfield.

10 As I thought about going to adjacent
11 communities, I just thought it would lead to more
12 questions of why the Commission was there. Would
13 we be putting ourselves in a position of saying, oh,
14 you had a meeting in X-Y-Z community, that must mean
15 we're going to be a surrounding community or why
16 else would you be here.

17 So, I didn't want to have anybody
18 construe having a meeting in an adjacent community
19 as somewhat a viewpoint that we were considering
20 that community a surrounding community or why else
21 would we be there.

22 So, just in terms of when we decide to
23 head back out west for a business meeting, I just
24 would encourage us to consider scheduling something

1 I would think next time in Palmer and beyond that
2 a meeting in West Springfield.

3 CHAIRMAN CROSBY: I asked
4 Commissioner Stebbins to bring this up because I
5 think I overreacted. For a while, I was feeling a
6 little uncomfortable with the idea of having --
7 going to Palmer and having a meeting there. And
8 think we ought to talk about it and make a decision.
9 But the more I think about it, I think Commissioner
10 Stebbins is right. I think that's overly
11 sensitive. We can spread it around. We've been in
12 Springfield. And you just now made clear that it
13 doesn't mean anything other than we need to find a
14 place to have a meeting.

15 COMMISSIONER STEBBINS: Right.

16 CHAIRMAN CROSBY: Again, we do
17 definitely want to be out there from time to time.
18 Does anybody disagree with that? Does anybody
19 think there's anything else to be attentive to?
20 Okay.

21 COMMISSIONER ZUNIGA: No, I think on
22 the contrary. It furthers our mission of being
23 participatory and communicating effectively. And
24 if we can further that goal by being close to where

1 people have concerns about gaming then the better.

2 CHAIRMAN CROSBY: Right. Okay.

3 Yes, I agree with that. So, let's go ahead and do
4 that as soon as we can.

5 COMMISSIONER MCHUGH: Not for now, but
6 to thinking ahead, it may be a good idea to have
7 meetings even in places that aren't hotbeds of
8 gaming interest, because this after all does affect
9 the Commonwealth entirely.

10 And so there are other major population
11 centers throughout the Commonwealth that we might
12 think about from time to time having a meeting in
13 just so that people can see who we are up close and
14 personal.

15 CHAIRMAN CROSBY: That's actually a
16 good idea. Places like --

17 COMMISSIONER MCHUGH: Worcester is an
18 example.

19 CHAIRMAN CROSBY: -- Worcester,
20 Brockton, Fall River, New Bedford.

21 COMMISSIONER ZUNIGA: Right, Lowell.

22 COMMISSIONER MCHUGH: Up on the North
23 Shore, Lowell, right.

24 CHAIRMAN CROSBY: That's a good idea.

1 Okay, so I'm with you on that. Let's do this,
2 Janice, proactive. Let's plan ahead for these.

3 While we're on this, you and Janice are
4 looking around for space where we could have a
5 Western Mass. office, right?

6 COMMISSIONER STEBBINS: Yes, we are.

7 CHAIRMAN CROSBY: There's something
8 in the pipeline? There's a request in the
9 pipeline?

10 MS. REILLY: We're working with DCAM
11 on it now.

12 CHAIRMAN CROSBY: Okay. Because if
13 we have a facility out there, we will have office
14 space in the facility. But I think we're going to
15 need, not only for you from time to time but for our
16 other people as they start to come on board we're
17 going to need them. So, moving that is good.

18 Okay, enhanced code of ethics
19 Commissioner McHugh and Attorney Grossman.

20 COMMISSIONER MCHUGH: A draft of the
21 -- I'm going to turn it over to Mr. Grossman in just
22 a second, who's done a terrific job of pulling all
23 of this together.

24 But just to put it into context, we are

1 under a statutory mandate to create an enhanced code
2 of ethics, i.e., a code of ethics that will build
3 on top of the code of ethics that's applicable to
4 all State employees. And that code of ethics is
5 applicable not only to us but also to our partners
6 from the State Police and our partners from the
7 Alcoholic Beverages Control Commission.

8 The Attorney General has to do the same
9 thing, but they are not bound by our enhanced code.
10 They're working on their own code. It likely will
11 track ours. But ours is applicable to us, the ABCC
12 employees assigned to us and the State Police
13 assigned to us.

14 Commissioner Cameron and I therefore
15 have met with representatives of the State Police,
16 indeed with Major Hughes and his associates. Major
17 Hughes being the head of the entire State Police
18 unit that's assigned to us and to the Attorney
19 General, I believe, and with representatives of the
20 ABCC to work out in a collaborative fashion the code
21 of ethics that's going to bind us all.

22 So, the draft that was distributed to
23 you the other day is the product of that
24 collaborative effort. A number of Commissioners

1 had input on that. Mr. Grossman has, in excellent
2 fashion, taken those comments into account, has
3 distributed now a redlined version that reflects
4 changes he made as a result. And that is the
5 genesis of how we get here.

6 So, having done all of the easy work,
7 I will turn it over to you, Mr. Grossman, now to take
8 it from there and help us through this in any way
9 you choose.

10 MR. GROSSMAN: Thank you,
11 Commissioner McHugh. Members of the Commission,
12 this does come to you by way of Chapter 23K, section
13 3M, which provides that the Commission shall
14 establish a code of ethics for itself and for all
15 employees of the Commission that's more restrictive
16 than the existing ethics laws.

17 So, as Commissioner McHugh noted, in a
18 collaborative effort with all interested parties,
19 we have developed this draft code for your
20 consideration. I think what it is intended to do
21 is to supplement the existing ethics laws and the
22 campaign-finance laws. It is not intended to be an
23 all-encompassing one-stop code.

24 The existing ethics laws are still

1 applicable to the Commission as are the
2 campaign-finance laws. So, in order to ensure that
3 all Commissioners and employees of the Commission
4 are fully apprised of all of the laws and their
5 incumbent duties, we've included a section in here,
6 which I think is one of the more critical
7 components, to provide for training to all of the
8 employees and the Commissioners, which we envision
9 would include not only a presentation from us in the
10 legal department, but also from a representative
11 from the State Ethics Commission and from the Office
12 of Campaign-Finance.

13 So, there's an annual training
14 component. We have built in a component whereby
15 members of the staff as well as Commissioners may
16 request legal advice from the legal department and
17 may reasonably rely on any advice that they're
18 given, which is similar to a provision in the ethics
19 laws. And with that, we have this code.

20 And I'm happy to go through any
21 particular provisions that anyone has a question on
22 or I can just kind of go through it in order if you'd
23 prefer. I think though it's important just to note
24 that this was intended, where it is a supplement,

1 to hit the gaming specific type issues that may come
2 up with an understanding that the ethics laws cover
3 a lot of other ethical related areas. And Chapter
4 23K itself governs a great many areas of ethical
5 considerations that may arise.

6 So, we made efforts not to copy and
7 paste sections of 23K into here or sections of 268A
8 or B into here, because they stand alone by
9 themselves.

10 CHAIRMAN CROSBY: We've all read it.
11 So, nobody's we don't want to spend too much time
12 on this. But I do think it would make sense for the
13 public as well as for us if you could just very
14 quickly hit the highlights, sections, the critical
15 points of the sections.

16 MR. GROSSMAN: Sure. In
17 chronological order, it starts with -- The way I
18 like to look at it, if we break it down to what you've
19 done before you come to the Commission, what you can
20 do while you're at the Commission, what happens
21 after you leave the Commission and what your family
22 can do. Those are the four general components of
23 the ethics laws and this ethics code. And that is
24 the way chronologically speaking that we attempted

1 to set up this enhanced code of ethics.

2 So for starters, we have annual filing
3 requirements. That is a mechanism that we
4 developed to allow us, and by us I mean the
5 Commission of course, to enforce the provisions of
6 section 3, which prohibit certain involvements
7 prior to your employment with a three-year look back
8 window for your involvement or employment with
9 applicants and other entities who are involved in
10 the gaming process.

11 We set out a definition that is
12 specifically applicable to consultants in
13 recognition that though under the State ethics laws
14 they are State employees generally. In our
15 context, it was important that they be given special
16 designation so that our code is not over burdensome
17 for our consultants as far as their employment after
18 and pre. In fact, Chapter 23K envisions such
19 treatment of consultants that they be designated as
20 special type employees by us.

21 We have incorporated all of the
22 mandated areas that section 3M requires. There are
23 three. And they're all included in here including
24 conflicts of interest. In 3M, it talks about

1 prohibiting participation by Commissioners and
2 employees in particular matters that affect the
3 financial interests of relatives and other folks
4 with whom they share a special relationship. We
5 cover that in the conflict of interest section in
6 our enhanced code.

7 We talk about recusal by Commissioners
8 from any licensing decisions in which they have
9 potential conflicts of interest. That coincides,
10 I believe as we were talking earlier, with the
11 ethics laws in disclosing any potential conflicts.
12 Disclosure, purging certain taints that may be in
13 existence.

14 We have a section on gifts.
15 Essentially, we prohibit for the acceptance of all
16 gifts as the law requires, carving out a very narrow
17 exception for food or refreshment of nominal value.
18 If you happen to be at -- You can take a cup of coffee
19 if you happen to be at some event or something like
20 that.

21 Getting into some of the gaming
22 specific areas, we have a section that deals with
23 use of licensee facilities. Members of our staff
24 and the Commissioners are prohibited from staying

1 at hotels and other establishments owned or
2 operated by licensees or any Indian tribe with a
3 gaming establishment in Massachusetts.

4 The wagering section we have is
5 slightly broader than that and prohibits wagering
6 by any Commissioners or staff or consultants, not
7 only in Massachusetts gaming establishments, but by
8 any gaming establishment anywhere that is owned or
9 operated by an entity that also has a license in
10 Massachusetts or an Indian tribe with a gaming
11 establishment in Massachusetts.

12 We have provided a section that deal
13 with attendance and other activities of our staff
14 and Commissioners at gaming establishment
15 themselves. Essentially, while you could go to a
16 casino or a slot parlor, no employee can really do
17 anything there. You can't gamble there. You
18 can't eat there. You can't go to a show there. You
19 can't purchase anything there, along those lines.

20 We have carved out an exception for
21 situations in which there is some type of social
22 gathering unrelated really to gaming. And in those
23 situations, we've set up a protocol for which you
24 could receive approval to go to a gaming

1 establishment.

2 The exception to all of this, the last
3 three things I just talked about the wagering, the
4 staying at a hotel and just going to a gaming
5 establishment is subject to the fact that if you are
6 performing an official function you can go do these
7 type things. So, if you're conducting an
8 investigation, for example, for the IEB or
9 something of that sort, of course you can go into
10 a casino and you could place a wager. This is all
11 with the proper disclosure and approval of the
12 Executive Director or the Commission.

13 We have general provisions governing
14 conduct unbecoming, which is similar to provision
15 in the State Police code of ethics. We have a
16 provision requiring our employees to cooperate with
17 any investigations relating to their duties.

18 We have set out a section that deals
19 with communications. And I think this is an
20 important section here. It's section 22 on page
21 nine dealing with the types of communications that
22 Commissioners can engage in. Now this section is
23 limited to Commissioners.

24 And it recognizes the public nature of

1 these positions and the fact that we're certainly
2 all out making appearances and the like.
3 Essentially, the language that we have included
4 would proscribe a Commissioner from engaging in a
5 communication that a reasonable person would likely
6 view to affect a Commissioner's judgment relative
7 to an application or other matter that is pending
8 before it in an adjudicatory proceeding.

9 So, it doesn't proscribe a
10 Commissioner from listening to general discussion
11 about subjects that the Commission may regulate.
12 What it is intended to do is prohibit communications
13 on an application for a license or a specific
14 disciplinary proceeding or something of that ilk.

15 And it is intended to prevent a
16 Commissioner from engaging in the communication.
17 Certainly, it would be difficult to control someone
18 from coming up to you and saying something. But it
19 becomes incumbent, at least under the way we've
20 drafted this, from a Commissioner engaging that
21 person in further discussion.

22 In fact, the last sentence of 22A
23 provides that the Commissioner shall take all
24 reasonable actions necessary to avoid receiving

1 such communications. So, you wouldn't place
2 yourself in a situation where you're likely to get
3 these. And to the extent you've been approached
4 that there would be an incumbent obligation to
5 attempt to not engage in these specific
6 communications.

7 CHAIRMAN CROSBY: I want to come back
8 to this one, but let's go ahead.

9 MR. GROSSMAN: Sure. The companion
10 to that is what will be section B. It's presently
11 listed as section C. As you can see, we've cut out
12 section B.

13 This deals with reporting of
14 communications that you have received that a
15 reasonable person would view as an improper attempt
16 to influence an action. And I think that's
17 powerful language and it's intended to be that way.
18 It's not someone comes up to you and says I like what
19 you're doing with the Commission or I hate what
20 you're doing with the Commission or something like
21 that.

22 It's someone who's strong-arming you
23 or making some other statement that is clearly
24 intended to try to influence an official act. It

1 imposes an obligation to report that to the
2 Executive Director or if you're a Commissioner --
3 yes, I'm sorry, to the Executive Director. So,
4 that's what that section does. Do you want to
5 discuss --

6 CHAIRMAN CROSBY: Go ahead. Let's
7 finish this and then I'm sure other people will have
8 questions about it.

9 MR. GROSSMAN: I think another
10 important provision here is section -- paragraph
11 27. It begins on page 11 and over to page 12 deals
12 with variances. We certainly recognize that it's
13 difficult to craft a code as it is with regulations
14 that will cover every section.

15 And perhaps in certain situations the
16 code may be over inclusive in ways we hadn't
17 envisioned. And what section 27 does is it gives
18 an individual and the Commission an opportunity to
19 grant a variance in any specific situation where it
20 is deemed or compliance with a certain provision is
21 deemed overly burdensome and otherwise in
22 accordance with that. And I think that's an
23 important provision as well.

24 Otherwise, I think that's a broad

1 overview of the enhanced code that we've put
2 together for your consideration. Certainly, I'm
3 happy to take any questions.

4 CHAIRMAN CROSBY: Well, I've got one
5 on 22 that we talked about this quite a bit
6 yesterday, you and I did. And I just want to make
7 sure I understand it and make sure that I think --
8 I think the improvements that you've made are good.
9 The adjustments you've made are good.

10 This means that we cannot -- Does this
11 mean that we cannot outside of the public meet with
12 an interested party? We've had an invitation, I
13 think, to go speak to some group about the Milford
14 proposal. And I think it's a group that has a stake
15 one way or the other. This means we cannot do that;
16 is that correct?

17 MR. GROSSMAN: I think it depends what
18 group you're referring to specifically. And this
19 is something we'll have to talk about with the new
20 General Counsel, because this is how these
21 positions are going to get developed.

22 But in general, it is intended to
23 prevent a Commissioner from sitting down to discuss
24 a specific application with someone outside one of

1 these meetings. The theory being, of course, that
2 anyone who has comment on it can submit any kind of
3 comment they want. In fact, there will be a public
4 hearing on each application.

5 And to the extent it's a disciplinary
6 matter to the extent they have relevant
7 information, there are ways to present relevant
8 information. But that there shouldn't be a
9 situation where you're meeting privately with an
10 interested party relative to an application or a
11 disciplinary matter or an appeal or something of
12 that nature.

13 CHAIRMAN CROSBY: So, it's not just on
14 all policy matters. Let's say it's the anti-casino
15 group in town X. If they want to talk to us about
16 the proposal that's in process in town X that we
17 can't do outside of a public meeting.

18 If they want to talk to us about the
19 definition of surrounding communities, we could
20 talk to them because that's neither an application
21 nor an adjudicatory event?

22 MR. GROSSMAN: Well, I think the
23 latter is certainly clearer.

24 COMMISSIONER MCHUGH: I think that

1 surrounding community will be an adjudicatory
2 event, the designation of a surrounding community
3 will be an adjudicatory event.

4 CHAIRMAN CROSBY: I'm sorry, but I
5 meant in the definition.

6 COMMISSIONER CAMERON: How we define
7 it.

8 CHAIRMAN CROSBY: Yes. If the
9 discussion we're having right now, if a group said
10 we want to come sit down with you about how you're
11 going to define and what your protocols are going
12 to be.

13 COMMISSIONER CAMERON: Yes. That
14 would not be something that was itself part of an
15 adjudicatory proceeding. This is really designed,
16 as Mr. Grossman's pointed out so ably, to divide
17 between our sort of legislative role and our
18 adjudicatory role.

19 So, when we're talking about the closer
20 we come to policy, the closer we come to big picture
21 stuff, how we're going to design things, the freer
22 we are to discuss these things in a nonpublic
23 setting. Although it's still a good idea to
24 discuss them as much as we can in a public setting.

1 The closer it comes to touching on how
2 we're going to decide something that's been
3 committed to us for an adjudicatory process, the
4 licensing, the designation of specific towns as
5 surrounding communities, the revocation of
6 somebody's license, that stuff we can only discuss
7 and should only discuss in public. That's what
8 this is intended to do.

9 And it's inevitably a fuzzy line
10 because you can't -- The issues of public policy
11 blend inevitably into specifics. That's why we
12 have incorporated the reasonable person standards.
13 Sort of a familiar one that's used in other context
14 and also it has sort of a visceral core when you sort
15 of know when a reasonable person would raise their
16 eyebrows at what you're doing, the smell test that
17 you referred to. And this is a way of formalizing
18 that and doing the best we can to make sure we ere
19 on the side of not having those conversations.

20 CHAIRMAN CROSBY: Right. For the
21 most part some of the issues we've been wrestling
22 with it's not subtle. People want to talk to us
23 about their strong opinions about something or
24 other. And I think establishing that we are now

1 barred from that until we make these decisions I
2 think is one of the most important things in here.
3 It gives us real clarity.

4 But there's still, like for example, we
5 were going to talk about Region C. We will have to
6 decide whether to open Region C to commercial bids.
7 If the tribe or the community of Taunton or somebody
8 wants to come in and talk to us about that, would
9 that now be precluded?

10 COMMISSIONER MCHUGH: No, it
11 wouldn't. It would not be precluded by this code
12 because the decision to open or not to open that is
13 not part of an adjudicatory proceeding. It's a
14 policy that we're going to make. It's important,
15 however, to understand that this code sets a floor.
16 It does not set a --

17 CHAIRMAN CROSBY: -- a ceiling, right.

18 COMMISSIONER MCHUGH: -- ceiling.
19 And so there still is discretion to say no. That's
20 the kind of conversation though permitted by this
21 code we ought to have in a public setting for
22 anything, I'm not picking those. But the direct
23 answer to your question is this code would not
24 prohibit that.

1 CHAIRMAN CROSBY: As everybody knows,
2 there are nuances in there that we live with every
3 single day. And it's hard to try to figure out.
4 And we, I think, as this process, we have clearly
5 got committed to being open to this as we possibly
6 can be. But a lot of people just aren't comfortable
7 talking in this kind of an environment. And we got
8 to figure out where -- It's really complicated.

9 I had dinner last night with some
10 people. And one of the two said, I don't understand
11 how a casino could work in location X. And then she
12 started to go into -- She had no vested interest.
13 -- just talking about it. And I wasn't sure whether
14 I ought to let her talk or not.

15 It was trying to affect my view on
16 whether or not this idea was a good idea. She
17 wasn't an interested party but she's just a citizen
18 who reads the newspapers. And I guess that would
19 probably be precluded, right?

20 COMMISSIONER MCHUGH: Prohibited.

21 CHAIRMAN CROSBY: What I should say in
22 a situation like that, which I did actually, was
23 that's not a conversation that I would like to have
24 at this point. And if I did have it then I'd have

1 to report it.

2 COMMISSIONER MCHUGH: Yes. And
3 that's why that adjudicatory proceeding piece was
4 left in here so there would be sharp edges on what's
5 permissible and not permissible as we can possibly
6 make it.

7 If it's something we're going to have
8 to decide with the formality of the adjudicatory
9 process that's where we want to hear it and that's
10 the stuff we want to get and it's got to be on the
11 record. That's the deal.

12 And if it's policymaking, pure
13 policymaking, we can listen to people in a variety
14 of contexts. It would be very difficult to operate
15 otherwise. But we also can ask people to come in
16 and talk to us in a public setting.

17 CHAIRMAN CROSBY: Right. Yes. This
18 is really helpful.

19 COMMISSIONER MCHUGH: It's hard.

20 CHAIRMAN CROSBY: Yes, it is hard.
21 And it also answers, we've all wrestled with the
22 question about can we socialize with friends who
23 have pieces of the action or somehow have a vested
24 interest? And most of us have stopped socializing

1 with friends who have a vested interest until these
2 issues are over.

3 But at least this gives us a clear
4 direction that if we do socialize that at least it
5 gives us a clear standard by which to conduct that
6 conversation. And maybe we shouldn't do it for
7 appearance purposes but --

8 COMMISSIONER MCHUGH: Right.

9 CHAIRMAN CROSBY: Other questions,
10 comments about any of this?

11 COMMISSIONER STEBBINS: I had one
12 question that Attorney Grossman and I were trying
13 to tackle it this morning. But on page seven under
14 charitable and other outside activities, item B it
15 says a Commissioner may not solicit funds for any
16 educational, religious, charitable, fraternal or
17 civic organization.

18 But it goes on to say be a speaker or
19 guest of honor at an organization's fund-raising
20 events. And I raise that because a Chamber of
21 Commerce, a Kiwanis Club or Rotary Club certainly
22 fit into the description of that type of
23 organization. And for you or anybody else who goes
24 out and has a speaking engagement, obviously, those

1 organizations are making money off of the event that
2 they are hosting.

3 So, I understand what this language is
4 trying to get at, but I don't want to preclude us
5 from those types of community engagements.

6 CHAIRMAN CROSBY: You mean so if
7 they're having an annual and it's an annual meeting
8 that they charge a hundred bucks for and they
9 actually retain some of that hundred bucks that's
10 what you're talking about?

11 COMMISSIONER STEBBINS: Yes.
12 They're certainly not just covering the cost of the
13 chicken dinner.

14 CHAIRMAN CROSBY: Right.

15 COMMISSIONER MCHUGH: Here's what
16 this is designed to do. This was a continuing
17 problem now in my former life because it's part of
18 the code that affected all of those people. It's
19 designed to avoid having people who have an interest
20 pending before us from flocking to events and
21 enriching the coffers of the event holder in an
22 effort to curry favor with us. So, it's designed
23 to prevent this secondary effect.

24 Now the problem is the Chamber of

1 Commerce dinner where it's a hundred bucks and not
2 the association's annual fundraiser. It's less
3 troublesome when you are simply a speaker as opposed
4 to when you're the guest of honor and people come
5 and contribute --

6 CHAIRMAN CROSBY: -- buy tables.

7 COMMISSIONER MCHUGH: -- buy tables,
8 and put their name in the book, congratulations Joe.
9 So, it's possible to narrow this, but again the
10 lines are fuzzy. This is admittedly a
11 prophylactic, broad prophylactic swipe at those
12 kinds of secondary influences.

13 Whether we want to leave it there or
14 whether we're sufficiently concerned about it
15 impinging upon the legitimate needs of the
16 Commission, which Commissioner Stebbins you raise.
17 It's important to go out and speak at various
18 meetings, particularly Chambers of Commerce and the
19 like.

20 COMMISSIONER ZUNIGA: Isn't the
21 variance section, couldn't that prospectively
22 cover any one of these situations?

23 COMMISSIONER MCHUGH: Couldn't what,
24 Commissioner?

1 COMMISSIONER ZUNIGA: So, there's a
2 variance provision if somebody gets an invitation
3 for a Kiwanis event that person can then come before
4 the Commission or the Executive Director to say
5 here's all of the circumstances and what do you
6 think? That would cover it, wouldn't it?

7 COMMISSIONER MCHUGH: It would. It
8 would. It would. That would have I suppose -- It
9 would.

10 CHAIRMAN CROSBY: I think it's really
11 good question, but I think if the words here stood,
12 there is an understandable distinction between
13 speaking at an annual dinner and being an honoree
14 at the organization's fundraiser where tables are
15 sold. There's a real difference there.

16 And I think our General Counsel and
17 staff could readily make the case that speaking at
18 the annual dinner is not at their fund-raising
19 event. It's like pornography. You know what it
20 is. You know what a fund-raising event is. And
21 the annual meeting isn't a fund-raising event.
22 It's an annual meeting that nets them a few bucks.

23 So, I think I'd be comfortable taking
24 the language as it is with the variance clause in

1 there, our ability to get interpretations from
2 counsel. I think we know what is trying to be said
3 here.

4 COMMISSIONER MCHUGH: Yes, I do too.
5 And I think that it would be preferable, but this
6 is just a personal view, to be overbroad in the
7 facial prohibition subject to case-by-case
8 determinations that cut back on that than it would
9 be to be under inclusive in an effort to avoid ruling
10 out the ones that we really think we should be okay
11 doing. And I think that's a better construct,
12 which is what this would do.

13 COMMISSIONER ZUNIGA: I would agree
14 with that.

15 CHAIRMAN CROSBY: Right.

16 COMMISSIONER CAMERON: I wanted to
17 commend Mr. Grossman. We started this process
18 before he was hired. And stakeholders had
19 different opinions. There were a number of
20 concerns. People have not seen language like this
21 before. There were all kinds of questions about
22 unions and how that would affect our partners in
23 this.

24 So, it started out to be what I would

1 consider somewhat of a convoluted process and hard
2 to get our arms around it. And Mr. Grossman was
3 hired and immediately took this under his wing and
4 brought sense to it, and organization to the
5 meetings, and listened to all of the stakeholders,
6 and included language and researched best practices
7 from other jurisdictions. And this has been a work
8 in progress for months and months.

9 Knowing what went into this and what
10 all of those conversations and ideas, I just wanted
11 to commend you for taking this on immediately and
12 putting out such a good product. Really very well
13 done.

14 MR. GROSSMAN: Thank you very much.

15 COMMISSIONER MCHUGH: It is.

16 Excellent job.

17 CHAIRMAN CROSBY: This is related but
18 only tangentially, this controls the Commission and
19 employees and does not regulate the people we do
20 business with. We've talked about the issue of
21 some kind of disclosure.

22 It's now come up, it keeps coming up in
23 my day-to-day life that I'm aware of the, to put it
24 one way, the potential pressure on our applicants

1 from people who want things in their community.
2 And the difficulty for our applicants to say no,
3 we're in the process of trying to win approval,
4 never mind the other direction.

5 And I'm wondering whether if we should
6 -- I think it's in the regs. We're going to get to
7 it at some point, right? There's sort of a plug
8 that would get us to that point. But I'm just
9 bringing it up for discussion whether we should --
10 I wonder whether it would not be an important part
11 of this process to do something like require that
12 an applicant reveal, disclose to us any request for
13 anything of value, a job, a contribution and any
14 giving of anything of value, a job, a contribution
15 so forth, on the theory that this process at this
16 time with what's going on that is a kind of cleansing
17 of light that is constructive (A). (B) It sort of
18 protects the bidders to a certain extent. If
19 anybody asks for something, they have to say we'll
20 consider it, but you should know this is going to
21 be public.

22 So, I'm not suggesting we decide on
23 that at this moment, but I'm asking whether -- I'm
24 beginning to think things are moving so quickly out

1 in the field that maybe we should address this as
2 a separate item.

3 COMMISSIONER MCHUGH: Part of it is
4 already addressed, I believe Mr. Chairman, and that
5 is the giving is required under our current
6 regulations to show up in the application, all of
7 the way back to November 21, 2011 when the statute,
8 the expanded gaming statute was enacted.

9 CHAIRMAN CROSBY: Money or jobs or
10 anything of value?

11 COMMISSIONER MCHUGH: Money or
12 anything of value. And we have to take another look
13 at that to make sure it's broad enough. But that
14 has to show up in the application.

15 It seems to me that we should think
16 about the other piece. And in thinking about that
17 the question of requests not only should be the
18 substantive question, do we require reporting of
19 those, but how? And it maybe that requiring them
20 to show up in the application as well from the same
21 date would be an appropriate thing to do.

22 I don't make that decision, but there
23 are two pieces to that. You don't want the
24 telephone to be ringing every day with things. On

1 the other hand, you want to know what they are.

2 CHAIRMAN CROSBY: Well, I think this
3 is something that I for one would like to hear from
4 our bidders on. So, let's agree to put this on the
5 agenda for the next week or two and see if we get
6 any comment from anybody on it.

7 And then let us think about it a little
8 bit. Let's research what the present reg. says.
9 There probably and I know there is other relevant
10 State law and ethics, relevant ethics issues.

11 COMMISSIONER MCHUGH: Is there a place
12 for this in the current regs.? There's some area
13 where we touch on this in the current regs., isn't
14 there?

15 MR. GROSSMAN: I think there is a
16 section on that, but it's not until the end of our
17 drafting process. We could accelerate it if we
18 want.

19 COMMISSIONER MCHUGH: But it's the
20 opportune time to begin to think about this now.

21 CHAIRMAN CROSBY: It's kind of like
22 another key policy question.

23 COMMISSIONER ZUNIGA: It was part of
24 one, if I remember correctly. The discussion was

1 not concluded, as I recall it, but we had a
2 discussion about this.

3 CHAIRMAN CROSBY: Well, we sort of
4 keep kicking this can down the road. We've talked
5 about it a number of times. But I'm very much aware
6 of it of it being an issue in the field.

7 So, we'll tee this up. And if anybody
8 has comments on the issue, we would be interested
9 in hearing them.

10 COMMISSIONER MCHUGH: Should we do
11 that next week so we can when we post the request
12 for comments we can give people a deadline? Or do
13 you want to do it in two weeks and give people two
14 weeks to comment on it?

15 We've talked about it enough. It
16 seems to me we could give people until next
17 Wednesday to comment and put it on the agenda next
18 week.

19 CHAIRMAN CROSBY: Okay.

20 COMMISSIONER MCHUGH: Does that make
21 sense? Can we do that? That will give us a chance
22 to check what we have already and then recommend
23 something to supplement that.

24 CHAIRMAN CROSBY: And figure out how

1 we could draft -- What it would look. How would we
2 actually structure the language.

3 COMMISSIONER MCHUGH: Right.

4 CHAIRMAN CROSBY: Let's put it on for
5 next week. And if we feel like we're ready to make
6 a decision, we'll make a decision next week. So,
7 if anybody has any opinions on that let us know.

8 I think you're moving a little too
9 quickly, Commissioner McHugh.

10 COMMISSIONER MCHUGH: I know. I'm
11 having second thoughts, Mr. Chair.

12 CHAIRMAN CROSBY: Okay, number four.
13 Thank you very much, Todd.

14 COMMISSIONER ZUNIGA: Is there a vote
15 on this code at this point?

16 CHAIRMAN CROSBY: Yes, do we want to
17 adopt by vote?

18 COMMISSIONER MCHUGH: Yes, we should.
19 We should do that by formal vote, good point.

20 So, as I understand it, there are no
21 amendments to the present -- to the draft that is
22 currently before us. And that's the redlined
23 draft. So, I would move that the Commission adopt
24 as its enhanced code of ethics the draft that was

1 just described by Mr. Grossman.

2 CHAIRMAN CROSBY: Second?

3 COMMISSIONER CAMERON: Second.

4 CHAIRMAN CROSBY: Any further
5 discussion? Does anybody else have any particular
6 issue?

7 COMMISSIONER ZUNIGA: No. I've read
8 it. I've had comments and discussions with Mr.
9 Grossman as recently as yesterday. I understand
10 it. And I also share the view that this is great
11 work. So, I'm in favor of it.

12 CHAIRMAN CROSBY: Great, yes. And I
13 thought the amendments you came up with were really
14 good. All in favor of the motion, aye.

15 COMMISSIONER STEBBINS: Aye.

16 COMMISSIONER ZUNIGA: Aye.

17 COMMISSIONER CAMERON: Aye.

18 COMMISSIONER MCHUGH: Aye.

19 CHAIRMAN CROSBY: Opposed? The ayes
20 have it unanimously. Thank you.

21 MR. GROSSMAN: The last thing that
22 just needs to be done with this is it needs to be
23 filed with the State Ethics Commission, which I will
24 certainly do. We had a request by the AG's office

1 that we just kind of coordinate our filings. So,
2 with your approval, I'll just wait until theirs is
3 ready to go and then file ours along with theirs.

4 CHAIRMAN CROSBY: Fine. There's a
5 bunch of disclosure stuff. I think we'll want to
6 be releasing it publicly. We'll want to post it on
7 our website and so forth. But we can figure out
8 those logistics. Great. Thank you. Ombudsman
9 Ziemba?

10 MR. ZIEMBA: Thank you, Mr. Chairman.
11 My remarks today will be a preview of coming
12 attractions. We've been working with Commissioner
13 McHugh and Mr. Grossman on protocols and procedures
14 for resolving disputes between applicants and
15 surrounding communities that have not reached an
16 agreement by the time of the RFA-2.

17 We are coming to some conclusions
18 regarding some of those procedures and we hope to
19 have that available for discussion by as early as
20 next week.

21 You've heard me report that we received
22 a number of comments on the surrounding community's
23 definition. The protocols and procedures, they're
24 very intricately connected to the surrounding

1 community definition. So, at this time next week
2 we think that we can also have a discussion on
3 revisions to this surrounding community's
4 definition regulation as well, at least a
5 preliminary discussion of both of those items.

6 I continue to have meetings out there
7 in the communities. I have a couple of different
8 appearances next week as well.

9 And one other item is that we've been
10 working pretty hard at trying to develop our
11 regional planning agency process to bring before
12 you. I had initially thought that we could bring
13 it as early as next week. It's still possible that
14 we could bring it as early as next week, but it's
15 now, because of scheduling difficulties and other
16 consultations that we need to get done before that
17 date that may not be possible. But we're working
18 hard to try to do that. That's what I have to report
19 today.

20 CHAIRMAN CROSBY: My mind wandered.
21 So, surrounding community's is next week you say
22 that you're going to put forward a formal --

23 MR. ZIEMBA: Yes. We're planning to
24 have at least the initial discussion of the revised

1 draft of surrounding community and initial
2 discussion regarding the protocols and procedures
3 that are connected to that draft. It may not be for
4 a vote, but we'll at least have a discussion about
5 the --

6 CHAIRMAN CROSBY: The protocols and
7 procedures, we haven't seen anything yet, have we?

8 MR. ZIEMBA: No, no. So, the thought
9 is that we would at least have a discussion about
10 it tomorrow as it's a hot topic out there.

11 CHAIRMAN CROSBY: Okay. Great.
12 Anything else?

13 COMMISSIONER CAMERON: Thank you.

14 MR. ZIEMBA: Thank you.

15 CHAIRMAN CROSBY: Anything else?
16 Okay, thanks. Discussion of preliminary
17 evaluation criteria matrix. I had distributed a
18 slight redraft of Commissioner McHugh's structure
19 for this. And I think we need to decide whether we
20 want to go with this and then start to blow it back
21 out into the full format.

22 And also Commissioner McHugh has
23 started the conversation going about the weighting
24 factors. I don't know whether we really are ready

1 to talk very much about that.

2 COMMISSIONER MCHUGH: In my view,
3 we're not, but it's lurking in the background. So,
4 I distributed that memo simply to set out some
5 possibilities and we can talk about those better
6 after we get this finished.

7 CHAIRMAN CROSBY: Were their comments
8 on this revised outline? Were you comfortable with
9 this revised outline?

10 COMMISSIONER MCHUGH: I must
11 confess --

12 CHAIRMAN CROSBY: -- you missed it?

13 COMMISSIONER MCHUGH: -- that I missed
14 it.

15 CHAIRMAN CROSBY: I think I sent it
16 around.

17 COMMISSIONER ZUNIGA: You did and it
18 did not make it into the packet. I'm in the same
19 boat as Commissioner McHugh.

20 COMMISSIONER CAMERON: Agreed, it did
21 not make it.

22 COMMISSIONER ZUNIGA: You did
23 distribute it by email.

24 CHAIRMAN CROSBY: Right. I didn't

1 give it to put it in the packet. I didn't think
2 about that. I'm sorry. That's all right. I
3 didn't think to put it in the packet. I should
4 have.

5 COMMISSIONER MCHUGH: Suppose we just
6 assume that it's right and take the next step of
7 blowing it up in the fashion that we blew up the last
8 one. And then understand this remains a work in
9 progress. Blow it up, distribute that and then
10 talk about the blow up at the next meeting with that
11 as the --

12 CHAIRMAN CROSBY: -- as the structure.

13 COMMISSIONER MCHUGH: -- as the
14 structure.

15 CHAIRMAN CROSBY: Okay. I think that
16 makes sense. And as you say, it can be changed in
17 a second. So, that's fine.

18 If anybody happens to have any other
19 comments on this, fine. But in the meantime, we'll
20 go forward. And then this will be something that
21 we can make public as part of the conversation next
22 week.

23 COMMISSIONER MCHUGH: Right, right.

24 CHAIRMAN CROSBY: And we may or may not

1 start to talk about this, the weighting memo at the
2 same time.

3 COMMISSIONER MCHUGH: Right, right.

4 We posted the old one for comments. The comments
5 we get for the one we discussed last week, will still
6 be applicable to this. So, we can think about those
7 at the same time.

8 CHAIRMAN CROSBY: Right, right.

9 Okay. Preparation for Region C. I just mentioned
10 this last week. We need to consider, we'll get an
11 update on the status of the compact negotiations.
12 Do we want to have -- Do we want to invite people
13 in?

14 Essentially, the question is going to
15 be doing do we open Region C up for the commercial
16 license or not. And I don't know what the process
17 really -- I think we've all got our own ideas. But
18 I'm sure there are plenty of people who want to
19 convey their opinions to us.

20 I wonder whether maybe we should make
21 it a separate meeting, possibly held in
22 Southeastern Mass.? Or do we just put it on the
23 agenda for one of our regular meetings and invite
24 people to come? I don't know. I'm of several

1 minds about how to proceed.

2 COMMISSIONER ZUNIGA: I remember we
3 did receive during our policy question invitation
4 there were a couple, if I remember, maybe one or two
5 questions relative to Region C. And we did receive
6 at the time a few comments.

7 We could look at those again, but also
8 if this is one part of the question, Mr. Chairman,
9 invite any additional comments from -- since that
10 time. Some time has passed. But I recall there
11 were a number of comments.

12 CHAIRMAN CROSBY: Yes. We got
13 comments from Taunton. We got comments from KG
14 Urban.

15 COMMISSIONER ZUNIGA: Several
16 representatives.

17 CHAIRMAN CROSBY: Several members of
18 the House and Senate. I'll get those again and
19 redistribute those. I guess really the question is
20 do we want to just limit it to submissions of written
21 comments? Or do we want to have any more of a
22 process than that?

23 COMMISSIONER MCHUGH: What would be
24 the downside of having a broader process than that?

1 A process -- Let me hypothesize. -- that we have a
2 meeting, whether it's a special meeting or this
3 meeting, and invite those who are interested in that
4 question, not on whether we should have expanded
5 gaming and not the broad thematic question, to come
6 in and make a 10-minute presentation if they sign
7 up in advance. Listen to what people have to say
8 in a public setting and have a little chance for a
9 back and forth. And then make a decision as to what
10 we're going to do.

11 I'm a little concerned, not hugely, but
12 I'm a little concerned about the sort of
13 implications that have surfaced about the
14 Commission's heading in this direction. The
15 Commission's heading in that direction. The
16 Commission's doing this because that that have
17 surfaced and are rippling around as sort of a
18 low-grade fever under this whole discussion. And
19 if sunlight's a good disinfectant that's a way to
20 begin to disinfect. So, I just throw that out as
21 a possibility.

22 CHAIRMAN CROSBY: I don't think
23 there's any downside. I think the argument against
24 it that is we know what everybody's got to say.

1 It's all been said. There are interests, which are
2 not reconcilable. It depends on which side of the
3 thing you're sitting on. But I don't think there's
4 any downside.

5 Anybody else have any thoughts or
6 preferences?

7 COMMISSIONER ZUNIGA: I don't
8 disagree. In fact, I agree that it would be a good
9 idea. I'm perhaps cognizant of the timing as to
10 whether anything between now and March, which is
11 coming soon -- Was it the mid-week in March?

12 COMMISSIONER CAMERON: The 15th.

13 COMMISSIONER ZUNIGA: The 15th of
14 March when we first said? Whether anything before
15 or after for one or for a starter. Or were there
16 other pieces that we are not aware of, ongoing
17 negotiations, likelihood of other approvals may
18 happen before or after. That's one of way of saying
19 I don't know when should we have this.

20 CHAIRMAN CROSBY: I think it wouldn't
21 be fair to have it before the 15th. We said we would
22 suspend this discussion until the 15th. So, I
23 don't see any reason not. It's clearly incumbent
24 upon us to address this issue again and soon.

1 What we determine is to be determined.
2 But that we address it soon is critical. So, I
3 wouldn't see any reason having it be whenever the
4 next meeting is after the 15th. I think inviting
5 people in to speak is probably a good idea. It's
6 a pretty high-stakes question. For the people
7 involved, it's a pretty big question.

8 COMMISSIONER CAMERON: But that would
9 be separate than a briefing about compact progress?

10 CHAIRMAN CROSBY: The compact process
11 would just be an educational update from the
12 Governor's Office, right. The Governor's Office
13 would be welcome to come talk if they wanted to.
14 But we're on their team in negotiating the compact,
15 and we just need the update on that. That would be
16 separate, yes.

17 COMMISSIONER MCHUGH: If we did
18 something like that at the next meeting after the
19 15th, we would in all likelihood have finished with
20 the regulation process. So, we've got a full
21 agenda between now and the time we get those
22 regulations through us and off to --

23 CHAIRMAN CROSBY: What is the date?
24 What is the first Thursday?

1 COMMISSIONER MCHUGH: It's the 21st,
2 the first Thursday after if we did it on a Thursday.
3 We could also go to -- Your other idea was to go
4 someplace south and have it just devoted to that.

5 CHAIRMAN CROSBY: I think if we went to
6 the Region, there would be a lot of individuals that
7 would want to come talk to us and give us their
8 opinions about it. And I don't know whether we want
9 that or not. I don't think it's that kind of a
10 public hearing.

11 I think we want individual comments at
12 Mass. Gaming Commission comments and I'm sure we'll
13 get lot of them. And we will take those into
14 consideration. But I think this ought to be
15 institutional representation of some sort. This
16 has to be an entity speaking rather than just an
17 individual.

18 COMMISSIONER MCHUGH: I agree with
19 that. But we could also do it by saying everybody's
20 invited to send in comments to Mass. Gaming. and if
21 they want to be heard, let us know that. And then
22 we invite the ones who we think can contribute most.
23 But we'll at least have the benefit of their
24 comment, even if we don't invite them.

1 CHAIRMAN CROSBY: What do you think
2 about doing it there or just a regular -- going to
3 Southeastern Mass. or just doing the regular
4 meeting? Any strong feelings? Or we could have
5 our March 21st meeting in Southeastern Mass.
6 That's not a bad way to do it.

7 COMMISSIONER STEBBINS: I don't see
8 any downside. To pick up on Commissioner McHugh's
9 point, I think it is helpful if we identify the
10 parties that we want to make sure we hear from at
11 the public meeting. I know we have some protocols
12 in place for people that wish to, members of the
13 general public who wish to sign up to offer their
14 comments. It gives you discretion to call them out
15 of order if they start to drift off into other topics
16 beyond that what we're asking them about.

17 CHAIRMAN CROSBY: All right. Then
18 let's at least make a tentative decision that our
19 March 21 meeting, it'll be a regular meeting. A
20 major part of the agenda will be how to proceed in
21 Region C. We will have it somewhere in Region C.

22 And the public of any type is invited
23 and encouraged to weigh in on how we should proceed
24 in Region C between now and the 21st. We'll post

1 this but also let us know if you feel like you have
2 something to say which can't be said sufficiently
3 in your written comments.

4 COMMISSIONER CAMERON: So, we would be
5 listening to comments and not making a decision on
6 that date?

7 CHAIRMAN CROSBY: I would say if we
8 were ready we would make a decision. I think we
9 would set it up as a potential vote and be prepared
10 to vote if we're ready. Do you have a different
11 view of that?

12 COMMISSIONER CAMERON: Sometimes
13 comments or information, you need a little time to
14 think about it or to ask further questions, receive
15 additional information. So, that would be my only
16 concern is if we were having presentations, are we
17 prepared at that point? Have we had enough time to
18 really think about it?

19 CHAIRMAN CROSBY: I think we would
20 make that decision at the time. Chances are, we're
21 not going to hear something we haven't heard before.
22 I mean I think that's reality. It will be restated
23 and reinforced, but if we do then we don't vote. I
24 agree with you. If something new important comes

1 up, we may need to weigh it. But we ought to be able
2 to vote if we choose to. Okay. So, we'll go with
3 that.

4 Report from the Director of
5 Communications and Outreach, oh, my God, on the
6 website.

7 MS. DRISCOLL: Good afternoon.

8 COMMISSIONER MCHUGH: Good afternoon.

9 COMMISSIONER CAMERON: Good
10 afternoon.

11 MS. DRISCOLL: The long-awaited
12 website. So, what I'd like to do first is just
13 basically take everybody through the progress that
14 we've made to this point, just give you some
15 background on how we got here. And just take you
16 through the site a bit, so, you can get a feel for
17 what the site includes.

18 Let me say that the company we worked
19 with, Jackrabbit Design really did a tremendous
20 job. The level of responsiveness and hard work,
21 the number of calls they dealt with from me a daily
22 basis for months now.

23 CHAIRMAN CROSBY: Their worst
24 nightmare.

1 MS. DRISCOLL: Yes, no doubt.

2 However, it has manifested itself in work that they
3 had said to me after we had some time to reflect on
4 the new site the other day that not only am I proud
5 of where I think we've been able to take the site,
6 but they said it's actually they believe it's one
7 of the best sites they've ever created.

8 They are very, very proud of the
9 product that they were able to deliver to us. So,
10 I'm excited to share that with all of you.

11 But I just want to briefly give you some
12 background, again, which is that when we had started
13 out I think that it's fair to say that the
14 Massachusetts Gaming Commission truly has a
15 historic opportunity to set the industry standard
16 on effective external communication as we go
17 through the licensing process. I think that in
18 keeping with the Commission's repeatedly stated
19 mission of introducing expanded gaming in a way that
20 is fair, transparent and participatory, the
21 Commission really must take the opportunity to
22 capitalize on the newest technologies that are
23 available to us.

24 Which is why you will see that the new

1 site utilizes a blog, highlights all of our social
2 media capabilities and really incorporates some
3 innovative uses of new media. I think that
4 throughout this process, we are going to be
5 consistently seeking ways to improve our
6 communications with our many constituents.

7 And as we know, we have a wide variety
8 of constituents that range from the citizens of the
9 Commonwealth, public officials, the applicants and
10 certainly the media that all have a very active
11 interest in what we are trying to accomplish here.

12 So, the hope in developing this site
13 was to essentially create a one-stop shopping
14 resource for all of the expanded gaming news
15 happening in the Commonwealth. It's important
16 that it's easy to use, easy to navigate, and that
17 all of the information, if someone goes to visit the
18 site, is all in an obvious place, if you will.

19 Without getting into -- boring
20 everybody with too many of the details, I think one
21 of the things that's really interesting about it is
22 that in terms of building it out from the technology
23 standpoint, it's very complex. Meaning that back
24 of the house of the site is very complex. And they

1 did a remarkable job making sure that they delivered
2 every aspect of the punch list that I had set before
3 them.

4 But what's remarkable about it is that
5 as complex as it is, it's manifested itself in
6 simplicity. So, not only from the aspect of the
7 visitors to the site but on the administrative end
8 in terms of -- I mean, as you can see as when we were
9 talking earlier today, no less than seven, eight
10 things by tomorrow morning that need to be added to
11 the site already.

12 And that can be difficult on an
13 administrative end, but it's things that we need to
14 get up there right away. It's things that the
15 applicants and the host and surrounding communities
16 want and need to know about. So, it was really
17 important that we developed a way to be able to
18 easily do that.

19 So, when we started out on this, the
20 objectives were, like I said, to implement the
21 technologies that are available to us, to make sure
22 that we are able to reach all of our constituents
23 with unfiltered information, maximizing the use of
24 our existing communications. We've had a lot of

1 success with Facebook and Twitter and YouTube. And
2 we want to find ways to maximize that, which the site
3 does.

4 Again, make sure that we are
5 disseminating accurate and timely information.
6 We're promoting newsworthy developments, which are
7 happening on a weekly basis. We want to make sure
8 that we are cultivating ongoing relationships with
9 the public so that we are building upon trust in
10 public confidence. We want to build brand
11 recognition of the newly created Gaming Commission.

12 And the other thing that's really
13 important is that we're creating consistent
14 awareness of our timelines, milestones all of those
15 important things. As you know, obviously, there's
16 an endless amount of interest around the dates.
17 What's happening when? And what should the
18 municipalities be expecting and anticipating?

19 So, before I go into the site, I want
20 to touch on it very quickly another important aspect
21 of it, which when you have a site like this, it's
22 one thing to have it. But it's important that you
23 take the steps that are necessary to promote its
24 existence so that everybody knows that you have it.

1 So, we've gone ahead in addition to
2 handling the site and made some steps in doing that.
3 And I can pass it around. It's just a mock right
4 now, but to make sure that we have a brochure, for
5 example, all of the speaking engagements that
6 everybody does, public meetings, quite frankly,
7 here at our open meetings, making sure that these
8 are on-hand for any of the newcomers. Because as
9 you can see, the audience grows and grows every
10 week.

11 So, also Jackrabbit in the midst of
12 doing all of this found the time to create
13 letterhead, business cards and customized email
14 signatures for all of us so we can make sure that
15 we are promoting the various ways that we are
16 communicating information.

17 And in conjunction with all of that,
18 one of the other things that we had created, and
19 hopefully I can figure this out quickly, is we went
20 ahead --

21 CHAIRMAN CROSBY: Because it's so
22 simple.

23 MS. DRISCOLL: Yes. -- and created an
24 intro video. So, if everyone doesn't mind, I'm

1 going to go ahead and play that for everybody.

2 This is important. Number one, it
3 chronicles what's happening right now. It will
4 help in a very simple way explain to everybody the
5 Gaming Act. And it's something that at our
6 speaking engagements we'll be able to present this
7 to the audience.

8 And also, for example, residents in
9 surrounding communities that are now starting to
10 say okay, there may be a casino coming to my
11 neighborhood soon. I want to educate myself about
12 this as much as I can. And this is a
13 10-minute snippet to go ahead and find a way to
14 quickly do that. So, I'd like to go ahead and play
15 that for everybody, if you just give me one second.

16
17 (Video plays)

18
19 MS. DRISCOLL: Like I said, that's
20 just a nice piece for us to have at the many speaking
21 engagements. Again, as we know, so many residents
22 that are realizing they may be in a surrounding
23 community or maybe they're a host community. And
24 it's really helpful because even here we are over

1 a year in and we're still answering some of the more
2 basic questions, which is the Gaming Act allows for
3 how many resort casinos? So, it's just nice to have
4 a piece that we're able to share with people.

5 With that said, I am now going to go
6 ahead and take us to the new site, which is actually
7 already live. I'll just quickly show you some of
8 the features. I'm sorry if I'm taking too much
9 time.

10 CHAIRMAN CROSBY: No, not at all.

11 MS. DRISCOLL: So, here's the new
12 site. Again, I'll just take you through some of the
13 important features that we have.

14 Anyone that comes and starts to click
15 through it will find that everything is really from
16 a commonsense perspective in its place. And we
17 really tried hard to make sure that we hit on
18 anything and everything that may be of interest to
19 people.

20 So, for example, in the about section,
21 one of the ways that a lot of these -- Let's say we
22 wanted to look up the Expanded Gaming Act, all of
23 these sort of for informational purposes pages has
24 three quick hits right here. What are the three

1 most important things about this particular topic
2 that I need to know?

3 Then as you scroll down, if you're
4 interested in more information than that, here's a
5 more detailed explanation. Right here under
6 related content, you'll see that it's easy to go
7 ahead and access the statute or the coded index that
8 we have.

9 Similarly, like I said, many of the
10 pages do address this. Host and surrounding
11 communities it will, obviously, be an important
12 page for us. Right now, again, what are the most
13 important things if you're a host and surrounding
14 community that you need to know? A more detailed
15 explanation of that including milestones, timeline
16 issues, whatever the case may be. Here on the
17 right-hand side, we have all of the important
18 documents right now for the municipalities such as
19 how to go about seeking community disbursements.

20 Very easy to update. I'm sure these
21 types of things will be changing very frequently.
22 So, that will be important.

23 I'm going to go ahead and take you back
24 to the homepage quickly. As you can see, by the

1 way, up here and this is in many different places
2 throughout the site, but all of our various social
3 media methods that we use.

4 We have an area dedicated to problem
5 gambling. By the way, Massachusetts Council of
6 Compulsive Gambling was kind enough to provide us
7 with a lot of content from that page. I had reached
8 out to them and asked them what they thought that
9 page needed to entail. They sent me a lot of really
10 helpful information. So, this is all from them
11 from the 1-800-number to various links and helpful
12 information. It's all there.

13 Jobs that's obvious what that is.
14 Even there's a lot of forms on this site. So, for
15 example, it's very easy if you want to contact the
16 Commission to go ahead and just fill out your
17 information. When you hit the submit button, it
18 comes right to a dedicated email address that we
19 have back at the Commission.

20 Helpful section, because as we get more
21 and more of these how to go about requesting a public
22 record. We made what we wanted to hit on all of
23 that.

24 Again, if I go ahead and go back to the

1 homepage and just sort of talk you through a little
2 bit about what was important in terms of real estate
3 on the homepage. Right here you've got a really
4 cool news and updates section that we can pull from.
5 Whether its press releases, blog posts, whatever
6 the case may be. On this site we have a gaming blog.

7 And you'll notice from here for example
8 we have the ability to have guest bloggers, which
9 I think will be really important given all of the
10 different partners that we have throughout this
11 process. And we already have our first guest blog
12 post, which is from Marlene Warner who is the
13 Executive Director of the Massachusetts Council on
14 Compulsive Gambling.

15 Here's a community calendar right here
16 where we can put all of our upcoming public
17 meetings. And what's really cool about this too is
18 when you enter the information in, it goes ahead and
19 takes you to the event page. So, it gives you a
20 little bit detail on that.

21 Then right here every single event
22 posting has a directions capability. So, just
23 really thoughtful in terms of how helpful it's going
24 to be for people. As you scroll down a bit more,

1 again, the live stream is always in the exact same
2 place. So, regardless of what the live stream is
3 for what meeting, for what event, whatever the case
4 may be, it's always going to be right here in the
5 same place.

6 CHAIRMAN CROSBY: Can we watch you
7 speaking?

8 MS. DRISCOLL: Yes, you could.
9 Although I don't know what that would do to it. So,
10 I better not go there right now.

11 Requests for public comments, again,
12 we do that so frequently. If you click on the
13 participate now, you'll see anything that we're
14 currently requesting public comment on. It's all
15 right here, very clearly separated by headlines
16 with the deadline dates etc., etc.

17 And again, if you were to continue down
18 the homepage a bit, this is really cool. Every time
19 we send out a tweet, it basically loads it in this
20 area. It's almost like a little news ticker.

21 Then this is really neat right here
22 too, which is the ability for individuals to sign
23 up basically you can hit submit and -- I don't know
24 what that will do. -- So, you can hit submit and it

1 will, again, send us an email to a dedicated email
2 address. So, anyone can write in, put in their
3 email address and get public hearing notices,
4 meeting notices and agendas, press releases or
5 soon-to-be newsletter.

6 If you want to request a speaker, very
7 easy to do so. There's a form that you need to fill
8 that again will also come back to a dedicated email
9 address that very clearly indicates on the
10 administrative end that it's for a speaker request.
11 News and events, again, meeting agendas,
12 notification, meeting archives, all of that, very
13 easy, our blog, licensing and regulations.

14 And then the I want to. So, I want to
15 look at job opportunities. I want to contact the
16 Commission. I want to read the law. These are
17 very easy to change out as our needs change. So,
18 like I said, the thing that is so great about this
19 site is that on the administrative end, it's very
20 easy to use.

21 We've spent a lot of time clicking
22 through, clicking on every link going to every page
23 hoping every link works. It's like anything,
24 something -- there's bound to be something.

1 So, I would just say that I invite
2 everyone to take some time and to look through the
3 site and to please let me know right away if there's
4 anything that needs to be adjusted. We'll be able
5 to do that really quickly.

6 It's currently live. In other words,
7 if somebody types in MassGaming.com right now,
8 they're going to go straight to the site. We still
9 have mass.gov/gaming up. I'm going to keep them
10 both up for a few days anyways just while we sort
11 of calibrate this to make sure that there aren't any
12 glaring issues.

13 Then mass.gov people were kind enough
14 when I contacted them and let them know about this,
15 and asked what some of the solutions might be to not
16 cause any confusion. Pretty soon the IT folks on
17 the mass.gov end will make it so that if you go to
18 the State website and you're looking for us and you
19 click on Mass. Gaming Commission, it will take you
20 to the site. If you type in mass.gov/gaming it will
21 take you to this site, which is really great that
22 they were willing to help us out on that.

23 So, like I said, please look around the
24 site. Any suggestions, changes are easily made.

1 If you identify anything that's missing or anything
2 like that just let me know, we'll quickly change it.

3 But the team that worked on this truly
4 did a tremendous job. And it was a considerable
5 amount of work and we were able to do it in a very
6 short period of time. These types of projects
7 usually take much longer than the five months that
8 we turned this around in.

9 CHAIRMAN CROSBY: Where is the video?
10 Is it on there?

11 MS. DRISCOLL: Not yet, because if
12 there were changes to it. That was just a draft of
13 the video. I worked on that separately with
14 someone else. It was actually independent of this.
15 But I wanted to find a way to marry the two of them
16 together.

17 That's lastly what I'll say. On the
18 live stream and video that was another thing that
19 we have here. Yes, so meeting archives or if we
20 were to go to this page, if you go to the live stream
21 page -- Because I want to be careful because I don't
22 want to accidentally click on it. There it is. And
23 you would need to press play.

24

1 (Video plays)

2

3 MS. DRISCOLL: That's what I was
4 worried would happen. It works. All right. So,
5 anyways. But what's really cool about that page is
6 that you can very easily go to our YouTube page that
7 has all of our past meeting events. It's all right
8 there.

9 And another thing that they did was our
10 Facebook page. They did a really nice job. Like
11 I said, it's so important that you sort of
12 cross-reference everything. And they redesigned
13 just the top of our Facebook page so it matches the
14 new website. They did a really nice job on the
15 design of all of it.

16 Really I can't say enough about what a
17 great job they did. Excellent on a graphics
18 perspective from their standpoint. That's about
19 it. Like I said, please look around the site.
20 Please let me know. We're trying to already stay
21 as up to date as it possibly can be. Certainly,
22 we're going to be filling things in over the course
23 of the next week or so. But there it is.

24 CHAIRMAN CROSBY: It's fantastic.

1 COMMISSIONER CAMERON: Great work.

2 COMMISSIONER ZUNIGA: That is really
3 fantastic, just incredible.

4 CHAIRMAN CROSBY: Just a great, great
5 job. That's really well done.

6 COMMISSIONER MCHUGH: You can sense
7 how much work went into this. It looks slick,
8 smooth simple. The amount of stuff to make all of
9 that work it's extraordinary. It's great.

10 CHAIRMAN CROSBY: That's great,
11 Elaine. Thank you.

12 COMMISSIONER ZUNIGA: Thank you.

13 COMMISSIONER CAMERON: Great work.

14 COMMISSIONER MCHUGH: Yes, great
15 work, really good.

16 CHAIRMAN CROSBY: A really good job.
17 And that was done in short order, wow. These
18 things usually go on forever.

19 COMMISSIONER ZUNIGA: And you
20 captured all of our good angles too.

21 COMMISSIONER CAMERON: I don't know
22 about that.

23 CHAIRMAN CROSBY: Those of us who have
24 good angles.

1 COMMISSIONER ZUNIGA: Speak for
2 yourself.

3 CHAIRMAN CROSBY: Elaine, that's
4 terrific. It really looks great. So, it's full
5 up?

6 MS. DRISCOLL: Yes.

7 CHAIRMAN CROSBY: Ready to go?

8 MS. DRISCOLL: Yes, ready to go.

9 CHAIRMAN CROSBY; Great, super.

10 COMMISSIONER MCHUGH: Great, good
11 job.

12 CHAIRMAN CROSBY: All right. Who
13 gets to follow that one?

14 COMMISSIONER CAMERON: Regulations.

15 CHAIRMAN CROSBY: Regulations.
16 Actually, why don't we take a break and come back
17 in five minutes.

18
19 (A recess was taken)

20
21 CHAIRMAN CROSBY: We will reconvene
22 public meeting number 53. And we were on
23 regulation update. I guess Commissioner McHugh.

24 COMMISSIONER MCHUGH: I invite Mr.

1 Grossman back here again. We are proceeding with
2 the regulations. The deadline remains March 14.
3 We are on track, as Mr. Grossman has been doing a
4 terrific job marshaling this and working through
5 the various substantive things we'll now tell you

6 MR. GROSSMAN: Thank you. So, I think
7 the most important point right now to just convey
8 is that we are, I think, on track to meet our early
9 March deadline with this.

10 And I emailed a copy of our grid last
11 evening. And the only noteworthy thing there is
12 that you'll see that a lot of our target dates for
13 receiving regulations have been met. I have a lot
14 draft language that we're in the process of
15 improving.

16 My hope is that by next week when we're
17 sitting here that we can talk about some actual
18 language for your consideration. And I anticipate
19 that every meeting for the next couple of weeks
20 leading up until that mid-March date I'll have some
21 language for you to consider.

22 CHAIRMAN CROSBY: How many pages of
23 regs. are we talking about do you think?

24 MR. GROSSMAN: For the whole thing?

1 CHAIRMAN CROSBY: That will be done by
2 the March 14 deadline, more or less.

3 COMMISSIONER MCHUGH: It's hard to
4 figure that out, but I would say it's about
5 three-quarters of what we had the last time. It's
6 going to be a big chunk of this stuff.

7 And the idea here and Todd's been
8 working on this, is to give chunks at a time and then
9 talk about that. We now have the luxury that we
10 didn't have before. We've got to sort of calibrate
11 how we do this, of being able to get to him with
12 comments other than in a public meeting.

13 The last time we had to give all of the
14 comments in a public meeting. But now we've got
15 staff, able staff who are able to take some of this
16 so we can -- it's manageable and it can be done on
17 the Commissioner's own time.

18 And then that'll be taken back and put
19 in another draft that will be presented at a meeting
20 as an integrated whole. But that hopefully, if the
21 plan works, will the second time everybody is seeing
22 things. So, I think this is a better process than
23 we had the last time.

24 MR. GROSSMAN: Like we did with the

1 ethics.

2 COMMISSIONER MCHUGH: Pardon me?

3 MR. GROSSMAN: Like we did with the
4 ethics code that would be exactly the same way this
5 would hopefully work. I thought that worked well.

6 I think we're close on a number of these
7 areas that you'll start to see groups of regs.
8 covering areas, host and surrounding and live
9 entertainment venues, I think are all coming in
10 together. You'll probably see that.

11 Then we have more administrative
12 things. And then some of the regulations towards
13 the end of the Phase 2 dealing with the transfer and
14 securities and things like that will come towards
15 the end.

16 So, that's where we are. And
17 hopefully, I will have some language to you shortly.

18 CHAIRMAN CROSBY: Great. So, the
19 schedule is unaffected. I guess the only other
20 issue then is the license fee conversation that we
21 had last week that I think we said we would talk
22 about again today.

23 COMMISSIONER MCHUGH: No. We said,
24 Mr. Chairman, we'd talk about it next week. And the

1 comment, we've posted a request for comments. And
2 we've set a comment deadline of next Tuesday. So,
3 we said we were going to pick it up next time.

4 So, the regulations are being well
5 manned. This matrix that Todd is maintaining and
6 the sort of coordination he's doing is helping us
7 move forward very efficiently, I think, with this
8 process as well. So, next week we will pick up that
9 discussion.

10 CHAIRMAN CROSBY: Great, thank you.
11 IEB report, in lieu of Director Wells.

12 COMMISSIONER CAMERON: I am prepared
13 to give that report in the Director's absence. The
14 first item mentioned is the scope of licensing.
15 Those decisions have been made. They are complete.
16 Although we anticipate additional financial
17 qualifiers who have yet to be determined that will
18 be added to many of the applicants as we move along
19 in this process. And that is in accordance with how
20 this process has taken place in every other
21 jurisdiction. Lots of times the financing isn't
22 all in place at the very beginning of the process.

23 As far as license category
24 declaration, we did --

1 CHAIRMAN CROSBY: What about issue of
2 reserve the right?

3 COMMISSIONER CAMERON: Okay. Do you
4 want to discuss that now, Mr. Chair?

5 CHAIRMAN CROSBY: I think so.

6 COMMISSIONER CAMERON: You're talking
7 about with regard to the license declaration,
8 right?

9 CHAIRMAN CROSBY: Yes.

10 COMMISSIONER CAMERON: So, I just was
11 starting that.

12 CHAIRMAN CROSBY: Okay, sorry.

13 COMMISSIONER CAMERON: So, we had two
14 -- As everyone knows, we had two applicants who had
15 not yet advised us of which category they were
16 seeking. And in order to meet our timelines, it was
17 important for us to have that information so that
18 we could prioritize the slots license
19 investigations.

20 Both of the applicants did meet our
21 deadline. And they both advised that they were
22 interested in pursuing category two license.
23 That's Mass Gaming as well as Cordish, known as PPE
24 Casino Resorts Mass. But both also requested the

1 right to change if that was in the best interest.

2 And what we think is really happening
3 here to because we made it known that we were
4 considering another alternative in Region C,
5 considering, I think, some of our applicants would
6 like the ability to consider a license in Region C
7 if that opportunity avails itself.

8 So, that's something. These are kind
9 of unanticipated developments. I don't know that
10 any of us thought that there would be an issue
11 initially where an applicant was not sure of how
12 they wanted to proceed with either a category one
13 or a category two license. But in showing good
14 faith, they have advised at this point that they are
15 interested in a slots two license and asking us for
16 the right to make a change.

17 In discussing this, and I think
18 Director Wells will have further discussions with
19 the attorneys for both of these applicants. I
20 think the only possible way that could work would
21 be if there would be a change in Region C, which none
22 of us know how that will turn out at this point. But
23 I believe that's what these applicants are
24 referring to. So, that's something we haven't

1 discussed. You're correct about that.

2 CHAIRMAN CROSBY: It raises the
3 question, which I don't think we had ever really
4 talked about. If somebody tells us they want to do
5 a category one or a category two and then they decide
6 later on they want to switch to category two, to one
7 or vice versa, is there any reason for us to have
8 a problem with that?

9 Is that something that these folks have
10 reserved -- Forget about Region C. I think we'll
11 deal with that separately. Even within A and B, is
12 there any reason, is there anything for us to say
13 about that issue? It's just been raised now in a
14 way. By not saying anything other than accepting
15 their letters, we're sort of implying that okay,
16 fine, you've reserved the right to change. We are
17 okay with that. And I just thought it was something
18 that we ought to at least have talked about a little
19 bit.

20 COMMISSIONER MCHUGH: We touched on
21 this earlier and came up with a sort of an
22 unsatisfactory conclusion to that in the sense that
23 you can't force somebody to take a license they
24 don't want. That's just an exercise in futility

1 for both sides.

2 But it does seem to me that we need to
3 know, certainly by the time we get the RFA-2
4 application whether this is the exclusive -- Again,
5 putting Region C to one side. Whatever happens
6 there, happens there. But this is the exclusive
7 approach they're going to take.

8 And I'm not sure we could force them to
9 do that given the way the construct of that took
10 place that existed when we took the application fee.
11 They didn't have to check off. They didn't have to
12 declare. But by that time perhaps things have
13 changed sufficiently so that we could require that
14 to be stated.

15 At the very least, it seems to me, we
16 could make it a component of the application
17 processing process that if you didn't say this is
18 my exclusive target, we could take that into account
19 in deciding whether to award you the license.

20 CHAIRMAN CROSBY: Right.

21 COMMISSIONER MCHUGH: The worst thing
22 that could happen, it seems to me, is to award the
23 license. And by the time we award the license, the
24 applicant has moved on and said I'm going after

1 something else.

2 CHAIRMAN CROSBY: Or even in the
3 middle of our evaluation process, somebody says,
4 wait a second, I want to be in there too. Or wait
5 a second, I don't want to be in there.

6 So, I think maybe up until they submit
7 their application, the RFA-2 application, it seems
8 to me that we would probably be fairly flexible on
9 that. It's in our interest to get the best deal
10 going and encourage competition. If somebody
11 thinks they have a better bet somewhere, we probably
12 would be okay with that.

13 But I think you're right. By the time
14 we get to submission time for RFA-2 -- as a practical
15 matter, I don't think anybody's going to be changing
16 after that anyway. But I think that is sort of a
17 reasonable expectation for the bidders to have.

18 COMMISSIONER ZUNIGA: As a practical
19 matter, by the time they submit the RFA-2
20 application, they better have negotiated a host
21 community agreement.

22 CHAIRMAN CROSBY: And a referendum.

23 COMMISSIONER ZUNIGA: And the basis of
24 a host community agreement is the size of and type

1 of project, frankly, which between categories could
2 be very different. It's not the same to have 1200
3 slot machines or there is a destination resort.

4 So, the project by itself is going to
5 manifest itself, I think, one way or another. So,
6 I agree with your characterization that the latest
7 should be RFA Phase 2. And we could talk about
8 Region C later, separately because if they are
9 mixing the two they should not.

10 CHAIRMAN CROSBY: Right. I agree
11 with that.

12 COMMISSIONER ZUNIGA: I agree with
13 everything you say.

14 CHAIRMAN CROSBY: Yes. If your sense
15 is right that people are trying to hold their
16 options open for C, I think we can disabuse them of
17 that concern, because that will be a whole new
18 process.

19 We will not let people be prejudiced by
20 having participated in A and B, they're not going
21 to be prejudiced in C. But I think we're talking
22 about a really hypothetical scenario here. If
23 there's going to be a change, we'll hear about it
24 very soon. But I think that we've done enough on

1 this.

2 COMMISSIONER ZUNIGA: Just to
3 reiterate perhaps the initial impetus of
4 declaration was to assign resources of the Bureau,
5 because we are still with the intention of
6 prioritizing the slots parlor investigation.

7 COMMISSIONER MCHUGH: Right.

8 COMMISSIONER CAMERON: Correct, I
9 believe all of the applicants have shown a good
10 faith effort in understanding our process,
11 understanding what's best for their project but yet
12 meeting our needs and understanding why we asked for
13 this. I don't think there's anything we need to
14 vote with regard to that declaration, Mr. Chair.

15 CHAIRMAN CROSBY: Okay, I agree.

16 COMMISSIONER CAMERON: Next item on
17 the agenda is an investigation status report. All
18 11 investigations are underway. The IEB will be
19 starting in conjunction with our contract
20 investigators will be starting the interview
21 process as soon as next week.

22 So, they've been working with
23 databases and gathering information for the last
24 several weeks reviewing all of the qualifier

1 information. So, the actual investigation
2 interviews will start as soon as next week I'm
3 appraised.

4 The other issue here is the discussion
5 of the public records, the processing of the public
6 records for the applicants. Again, our State
7 Police are working very hard on those redactions,
8 working with the applicants to get the specimens in
9 the form that we need them to be.

10 Most applicants, all but two or three,
11 have asked for additional redacted materials as our
12 regulations call for. We will need time to
13 evaluate those requests. I know Director Wells
14 will be working with Mr. Grossman on some of those
15 requests. I don't believe -- I know that we had
16 talked about making a decision about this
17 dissemination. I believe that may be premature
18 because we want adequate time to look at those
19 requests and evaluate what the concerns are of the
20 applicants.

21 There's also been numerous comments,
22 which have been sent to us, about the redaction
23 process and why and how important confidentiality
24 is. So, I don't believe we have had adequate time

1 to look at all of the comments, look at all of the
2 letters requesting additional redacted materials.

3 And I would just recommend that it may
4 be a bit premature to go ahead and make a decision
5 about we're going to disseminate that information.

6 COMMISSIONER ZUNIGA: Can I pick up
7 that point relative to the timing of the
8 dissemination, because this -- perhaps to
9 oversimplify, these are ongoing investigations.
10 And that is a particularly protected area of the
11 public records during the course of an
12 investigation. My question is --

13 CHAIRMAN CROSBY: Say that again. I
14 didn't understand what you said.

15 COMMISSIONER ZUNIGA: The public
16 records regs. and statutes exempts from disclosure
17 those records that are part of an ongoing
18 investigation. I can go back to --

19 CHAIRMAN CROSBY: Is that right?

20 COMMISSIONER ZUNIGA: Yes.

21 CHAIRMAN CROSBY: So, you're saying
22 that we could not put anything, make anything
23 public?

24 COMMISSIONER ZUNIGA: I'm wondering

1 whether any of these -- because it is in the course
2 of an investigation whether any kind of information
3 that's part of this investigation should be made
4 public at this point?

5 COMMISSIONER MCHUGH: You really have
6 to start, I think, with the explicit statutory
7 statement that except for three categories these
8 documents, the application is a public record. As
9 the statute thought about it, the application Phase
10 1 and Phase 2 were going to be together. It didn't
11 prohibit us from doing them apart.

12 But this is part of the application
13 that's covered by that statutory statement that
14 it's a public record except for the three categories
15 of competitive, sensitive and whatever else. Even
16 if the investigatory exception applied, that's got
17 a highly contoured interpretive meaning that would
18 not cover something that was part of -- something
19 that was designed to be a public record. So, I
20 really don't think we can take advantage of that.

21 But I do think that there has been a
22 great deal of angst on the part of the submitters
23 over the publication of these applications on the
24 Internet. And if you read the letters and the

1 comments that we've gotten, there is concern about
2 giving out tax returns and addresses and ages of
3 children and names of children and the like. Most
4 of that if not all of it is part of the redaction
5 that was achieved by applying our regulations to the
6 overall form and is not going to be part of any
7 public record.

8 In fact, it is doubtful to me that
9 anything that is public in these forms isn't
10 something that's available already elsewhere. But
11 that may not entirely be true.

12 It seems to me that the angst around
13 this would either be removed or specific things
14 could be clarified as to where the problems were.
15 And specific requests for additional redactions
16 could be processed in a simple and straightforward
17 fashion if we completed, as we will in the near term,
18 the redaction process and then said this is what the
19 public portion of the application is. Here it is
20 concretely. Now where on there is something of
21 concern to you? And then proceed in that fashion.

22 The plain fact of the matter is once you
23 give one of these applications to anybody, it is a
24 candidate for publication on the Web. In today's

1 world that's where it's going to wind up. So, I
2 would recommend that as the best way to handle this.

3 We are also dealing with a backdrop of
4 an almost universal experience in other states
5 where none of this is public information by statute.
6 Our statute takes the flipside of that and says it
7 all is public except for these categories that we've
8 defined. So that people coming into Massachusetts
9 are used to, I think, the experience in other states
10 where none of this sees the light of day. We've got
11 a different approach to it by statute.

12 But it seems to me that regardless of
13 what the environment is, it seems to me that if we
14 reduce this to specific facts rather than
15 generalities and concerns, we advance the process
16 enormously.

17 CHAIRMAN CROSBY: Right. Yes. I
18 think that's well said. I think there are two
19 sources of misunderstanding. One is the one you
20 describe, which is people are talking in
21 generalities. Oh, they're going to put it on the
22 Web. So, we have to make this specific. And how
23 we do that is worth pursuing a little bit further.

24 But the other misunderstanding I think

1 is that the Commission is trying to break new ground
2 to make stuff public as part of our transparency
3 commitment. This is one place where the Commission
4 is not trying to break new ground in terms of
5 transparency, quite the opposite.

6 What we're trying to do, what we have
7 to do is comply with the law. And we want to be as
8 rigorous about that on behalf of the applicants. I
9 think I personally, and I've said this many times,
10 side with the applicants in this case.

11 So, I don't want anybody to get the
12 misimpression that we are trying to do something in
13 the clause of transparency here. What we're trying
14 to do is figure out how we can protect the applicants
15 in the context of our control and law.

16 I think this is important enough and
17 there's been enough pushback that we ought to be
18 pretty flexible on -- I think we could invite people
19 to meet with us. I think you've already done that
20 in some cases.

21 COMMISSIONER CAMERON: We are.

22 CHAIRMAN CROSBY: And to identify,
23 once we get past the B-S into the particulars,
24 identify exactly which ones they object to. We

1 might agree with them as you were saying. I
2 wouldn't be surprised, this is something that
3 reasonable people can agree on, if we talked about
4 it being as specific Commission McHugh said.

5 COMMISSIONER CAMERON: And that's
6 been how the IEB has been proceeding with all of
7 these matters. There's been a number of issues
8 that are unique to the Commonwealth, different than
9 other jurisdictions. And many times it is
10 explaining and listening and coming to a decision
11 based on all of that information. So, those
12 meetings are ongoing with representatives for the
13 applicants and they will continue to be ongoing
14 until we have all of these issues resolved.

15 CHAIRMAN CROSBY: Yes. Okay. Good.
16 I totally agree with your bottom line. Maybe we
17 should let this one work for a little while.

18 COMMISSIONER CAMERON: That's all I
19 have, Mr. Chair.

20 CHAIRMAN CROSBY: Thank you. Racing
21 Division.

22 DR. DURENBERGER: Good afternoon.

23 CHAIRMAN CROSBY: How are you?

24 COMMISSIONER STEBBINS: How are you?

1 COMMISSIONER CAMERON: I guess I can
2 start with our administrative update for Racing. I
3 have a couple of recommendations based on some RFPs
4 that we've had out.

5 The first of these is for an RFP that
6 was issued on December 5, 2012. And this was for
7 laboratory testing services to conduct our equine
8 drug testing for the live horse racing in the
9 Commonwealth. The response deadline was January
10 7, 2013. I'm just reading off the memo that I
11 prepared for you.

12 The Commission received three
13 responses prior to that deadline. All three were
14 in accordance with -- passed the phase one review,
15 went onto phase two review. And I've outlined for
16 you there the different percentages that comprised
17 the phase two score. The phase two score was 70
18 percent on this contract, and cost was 30 percent.

19 We had a procurement management team
20 that met to do the phase two score. We met, we
21 discussed our individual scores to reach a
22 consensus score on our criteria and checked
23 business references. And moved onto phase three,
24 which is the cost proposal analysis.

1 And we did have a request for
2 clarification that was sent out to the respondents
3 regarding our sample shipping schedule, because
4 these samples are, of course, shipped to the bidding
5 lab. Following phase two, three, that
6 clarification and our best and final offer, the
7 respondent that ranked the highest was Truesdail
8 Laboratories, Incorporated.

9 So, my recommendation to you based on
10 the results of this process are that the Commission
11 approve the initiation of the contract in process
12 with them, with this vendor to provide equine drug
13 testing laboratory services. Truesdail
14 Laboratories, Incorporated is the name of the
15 respondent.

16 CHAIRMAN CROSBY: Do I have motion in
17 support?

18 COMMISSIONER STEBBINS: So moved.

19 CHAIRMAN CROSBY: Second?

20 COMMISSIONER ZUNIGA: May I add that
21 we execute a contract with the vendor selected make
22 sure we have the authority to enter into the
23 contract?

24 DR. DURENBERGER: You got it.

1 CHAIRMAN CROSBY: So, that is added to
2 the motion.

3 COMMISSIONER ZUNIGA: To the motion.

4 CHAIRMAN CROSBY: Any discussion?

5 COMMISSIONER CAMERON: Second the
6 motion.

7 CHAIRMAN CROSBY: I know you went
8 through a rigorous process, and they ended up
9 qualifying by some points. Do you feel like we got
10 the best of folks for our --

11 DR. DURENBERGER: Yes, Sir.

12 CHAIRMAN CROSBY: Okay. Good. All
13 in favor of the motion of getting -- of hiring, of
14 contracting with Truesdail say aye. Aye.

15 COMMISSIONER STEBBINS: Aye.

16 COMMISSIONER ZUNIGA: Aye.

17 COMMISSIONER MCHUGH: Aye.

18 COMMISSIONER CAMERON: Aye.

19 CHAIRMAN CROSBY: Opposed? That ayes
20 have it unanimously.

21 DR. DURENBERGER: Okay. The second
22 RFP that I bring to you today, this was for auditing,
23 pari-mutuel auditing services was an RFP that was
24 issued on January 16 of this year. Responses were

1 due February 11. And we received one response
2 prior to that deadline.

3 This was a qualified response. It met
4 all of the technical and cost requirements that we
5 had put out. But that certainly made our phase two
6 and phase three reviews much easier.

7 Upon review of this response, it is
8 certainly my recommendation that the Commission
9 approve the initiation of executing a contract with
10 this vendor. This is Pari-Global Solutions,
11 Incorporated to provide pari-mutuel auditing
12 services.

13 So, this is a web-based program that
14 will capture tote information from the tote
15 providers. And we'll be able to integrate it with
16 our financial reporting software. And there are
17 some other add-on services too that I think are very
18 good for the industry and the Commonwealth and are
19 available both to the track operators and to the
20 horsemen's groups.

21 COMMISSIONER ZUNIGA: My question is
22 the same as the Chairman for the last one. You're
23 satisfied with the one response that this a good
24 solution and good for us to implement at this time?

1 DR. DURENBERGER: I am.

2 CHAIRMAN CROSBY: Is there only group
3 that does this? Or why was there only one response?

4 DR. DURENBERGER: We reached out to
5 those that we could find. They do have the
6 contracts in a number of states.

7 CHAIRMAN CROSBY: These guys do?

8 DR. DURENBERGER: Yes. Those tracks,
9 those commissions that do not use this software tend
10 to have their own proprietary as we do right now.
11 But this group does have contracts with a couple of
12 commissions as well as several racetracks in the
13 country.

14 COMMISSIONER MCHUGH: What does this
15 do, this software do? It integrates the money
16 that's placed at the betting window with our
17 internal controls?

18 DR. DURENBERGER: It's an interface
19 with the totalizator company. So, it brings in the
20 information, the wagering information.

21 COMMISSIONER MCHUGH: Totalizer keeps
22 track of the money and sets the pools that you see
23 on the boards; is that right?

24 DR. DURENBERGER: Yes. And so this is

1 a very efficient streamlined way to bring that
2 information to us. And it had a number of features
3 that will be very useful to us. It's very easy to
4 generate reports. And we have a lot of reports.
5 We have a lot of public information requests. It's
6 very easy to provide those reports.

7 There are a number of features such as
8 you can do what-if scenarios. So, if a percentage
9 in a takeout were to be changed, it will analyze the
10 effect of the different pools, the distributions.
11 They program in the different statutory
12 distributions that are required by our statute.
13 And they continue to work with us, so if there are
14 changes, they implement those changes.

15 It's useful as an investigative tool
16 when there are out of balance situations or other
17 questions about wagering integrity, they can
18 provide investigative reports. So, we do think
19 this is valuable.

20 COMMISSIONER MCHUGH: It sounds
21 great.

22 COMMISSIONER ZUNIGA: But it
23 fundamentally monitors the system at the tracks and
24 gives us that information and we can reconcile that

1 with what's reporting and paid back to the
2 Commission.

3 DR. DURENBERGER: Yes.

4 COMMISSIONER CAMERON: Our racing
5 consultant that we hired before bringing on our
6 Director saw this as a real deficiency in our system
7 and noted it in the report. And I was able to see
8 a sample of this product out in Pennsylvania, and
9 highly recommended. Something that will add great
10 value to our system.

11 COMMISSIONER MCHUGH: Is today the
12 information that we're getting, the financial
13 information based on self-reporting by the tracks?

14 DR. DURENBERGER: We have a
15 proprietary software system. So, we have staff
16 that collect settlement sheets from the racetracks.
17 And then they enter that data manually into our
18 system.

19 COMMISSIONER MCHUGH: It's all
20 manual?

21 DR. DURENBERGER: Yes.

22 COMMISSIONER MCHUGH: And this
23 automates all of that?

24 DR. DURENBERGER: It does.

1 CHAIRMAN CROSBY: Great. Do we have a
2 motion?

3 COMMISSIONER MCHUGH: So moved.

4 CHAIRMAN CROSBY: Second?

5 COMMISSIONER CAMERON: Second.

6 CHAIRMAN CROSBY: All in favor, aye.

7 COMMISSIONER STEBBINS: Aye.

8 COMMISSIONER ZUNIGA: Aye.

9 COMMISSIONER MCHUGH: Aye.

10 COMMISSIONER CAMERON: Aye.

11 CHAIRMAN CROSBY: Opposed? Ayes have
12 it unanimously.

13 DR. DURENBERGER: Which brings us to
14 the meat, I guess, of this afternoon's Racing
15 Division report. And that is our brief memorandum
16 that we've prepared for you that I think you've had
17 for some number of days to review. This is the
18 review of the pari-mutuel and simulcasting law as
19 it exists in the Commonwealth, recommendations as
20 to their efficacy and their need to be replaced. I
21 am going to have David give the overview and then
22 we'll tee it up for your discussion. Mr. David
23 Murray.

24 MR. MURRAY: Mr. Chairman,

1 Commissioners. I'm not sure exactly how you want
2 me to proceed here. I know you're quite familiar
3 with this draft report.

4 There are obviously two issues
5 regarding the report. One is the substance or the
6 recommendations that we make and suggest that you
7 make similar recommendations to the Legislature.

8 And then there's the business of how
9 those -- the structure of the report, the draft
10 report and whether the Commission feels like
11 signing onto it in its present state. Those two,
12 at least I would suggest, are separate issues.

13 So, once we get approval from the
14 Commission as to the ultimate recommendations
15 related to simulcasting and related to some
16 abolition of restrictions on rebating and wagering
17 on credit and establishment of the backstretch
18 improvement fund, then we can proceed to finalize
19 the statutory language that we would submit to you.
20 And one naturally follows the other.

21 Then there is, of course, the question
22 of whether you need this report edited in some
23 fashion.

24 DR. DURENBERGER: More stylistic

1 changes, stylistic suggestions.

2 MR. MURRAY: How you want it put
3 together. So, I can go through in broad-brush
4 strokes and tell you what the recommendations are
5 that we're making to you and suggesting that you
6 recommended of the Legislature. Or I can simply
7 answer questions the Commission may have.

8 CHAIRMAN CROSBY: Well, we've gone
9 through this enough times. I'm game to anything,
10 but maybe we just address the issues that we have
11 had as issues that have been open issues that we've
12 been chewing on for the last -- Do you have another
13 idea?

14 COMMISSIONER CAMERON: I actually
15 think a short summary might be beneficial to those
16 who have moved their seats up to listen closely.

17 DR. DURENBERGER: I agree.

18 CHAIRMAN CROSBY: Fine, good idea.

19 MR. MURRAY: So, there are three areas
20 that these recommendations fall into. The major
21 area is to do with simulcasting.

22 As the Commission knows, as a result
23 the Expanded Gaming Act, there are now the both
24 racing licensees and non-racing licensees, gaming

1 licensees who don't race who are going to be able
2 to simulcast. I say going to be able, because
3 whether or not licenses are issued to those
4 non-racing licensees is a matter for the
5 Commission's discretion. And that's the principal
6 instigator of many of the changes that we're
7 recommending that the Commission adopt.

8 The current system is very complex.
9 And it accounts for principally three types of
10 racing, one of which is no longer permissible, the
11 dog racing, but thoroughbreds, harness and dog
12 racing. And at the time that this framework was
13 drawn up, the Legislature, I think it fair to say,
14 sought to balance and to manage how the signal
15 coming into the Commonwealth would affect these
16 three sets of racing interests and to try to mediate
17 some kind of balancing.

18 Now that dogs are no longer permitted
19 to race, at least in the pari-mutuel sense, which
20 is the only sense I think is of interest to the
21 Commission, we have essentially Suffolk Downs
22 thoroughbred and Plainridge is a harness track.

23 And what we have tried to do is to
24 create a uniform system for simulcasting that

1 would, to the extent possible and practicable,
2 balance the interests of Suffolk Downs, Plainridge
3 and these gaming establishments that are likely to
4 come to the Commission and ask for simulcasting
5 licenses.

6 And we have spent a long time thinking
7 about this, trying to shuffle the cards as it
8 were --

9 CHAIRMAN CROSBY: So to speak.

10 MR. MURRAY: And we've come up with the
11 following recommendations. That there be
12 unlimited simulcasting. That within that
13 unlimited simulcasting there be the continued
14 obligation to carry local signals. There would be
15 permitted free negotiation no longer set fees for
16 intrastate simulcasting. So that intrastate and
17 interstate would be negotiable.

18 And for the intrastate negotiations,
19 we put some kind of a cap. We recommend a 12 percent
20 cap, but there's no magic I think to that number,
21 if the Commission thinks that number ought to be
22 other than 12. We would abolish the premiums and
23 the signal limitations so we make it truly unlimited
24 simulcasting.

1 And we would take all of the unclaimed
2 winnings both from the racing licensees and the
3 non-racing licensees, the 7B gaming licensees and
4 make those available essentially, I'm generalizing
5 here, but it's laid out in detail in the draft
6 report, they would be put into purses.

7 DR. DURENBERGER: Into the Race Horse
8 Development Fund.

9 MR. MURRAY: Either the Race Horse
10 Development Fund or directly into purses. And we
11 would require all licensees, if our recommendation
12 is accepted, to carry the local harness and
13 thoroughbred signals.

14 Like any model that attempts to mediate
15 dissimilar structure or industries, this isn't
16 perfect but it's the best that we have been able to
17 come up that would, as I say, mediate them in some
18 reasonable fashion, produce some uniform benefits
19 and burdens on both the racing and non-racing
20 licensees, simulcasting licensees. So, that's
21 essentially in general terms what our simulcasting
22 framework, recommended framework is.

23 We also propose the abolition of the
24 restrictions on wagering, pari-mutuel wagering on

1 credit, and the prohibition on rebating in a
2 pari-mutuel context. These, the rebating and the
3 wagering on credit are promotional tools that are
4 available to gaming licensee but if the current
5 prohibitions against those two are retained going
6 forward, would not be available to pari-mutuel
7 wagering licensees.

8 And we have thought long and hard about
9 that. And we can't come up with what we regard as
10 a reasonable argument as to why that distinction
11 should persist.

12 And finally, we have looked at the
13 current system for capital improvements and for
14 promotional activities by licensees. And we think
15 that in the current circumstances that we ought be
16 instead of generally making those monies available,
17 and these are monies from the breaks, monies
18 available for use only by licensees and their
19 promotional activities and capital improvements,
20 to carve out of this old system a targeted earmark
21 fund for back-stretch improvements, capital
22 improvements that really benefit the most
23 disadvantaged of the folks who are associated with
24 racing.

1 DR. DURENBERGER: Not only most
2 disadvantaged, but also its participants.

3 MR. MURRAY: And the only other thing
4 that I think that we need to say here as sort of a
5 general overview is that we are also proposing to
6 end this sunseting, periodic sunseting of the
7 racing laws.

8 DR. DURENBERGER: The cleanest way to
9 do that is rather, we felt, is rather than going
10 through and individually tweaking the provisions of
11 128A and C that the cleanest way to do all of these
12 things for everybody would be just to come up with
13 some sort of what would a model chapter look like
14 for us.

15 So, that's what we are prepared to
16 present to you if you're comfortable with the
17 recommendations. And we can do that as soon as next
18 week. We don't have to do it next week. We can do
19 it as soon as next week.

20 CHAIRMAN CROSBY: I think that the
21 report needs to start -- The mandate is to make
22 recommendations as to their efficacy and need to be
23 replaced. And nowhere does it say, okay, we've
24 looked at it and they're a mess and they need to be

1 replaced.

2 So, I think it needs to say we've done
3 a review. They're completely outdated, they're
4 irrational. They don't fit together. And we
5 propose that they be replaced in their totality.
6 There needs to be some kind of an introduction like
7 that. And then we propose that it have the
8 following elements.

9 But also I think, as you described it,
10 a couple of issues that are the most important you
11 didn't mention, which is that the simulcasting of
12 dog racing will die as things presently stand at
13 mid-2014. And we are, I believe you are
14 recommending and we have to decide whether we agree
15 with this that we not take a position on
16 simulcasting dog racing. That's not our business
17 to make a decision as to whether or not there should
18 be simulcasting. I think that needs to be
19 addressed in here.

20 MR. MURRAY: It is, Mr. Chairman.

21 CHAIRMAN CROSBY: Okay, pursuant to
22 the conversation that we had the other day about
23 this so it's clarified.

24 MR. MURRAY: Yes.

1 CHAIRMAN CROSBY: But I think it's a
2 highlight. That's a big issue that I think ought
3 to be somewhere upfront.

4 But beyond those thoughts for myself,
5 I'm comfortable with going forward. I think it
6 makes a lot of sense. And I think you've got so much
7 feedback, you've done a great job of reaching out
8 to the participants, to the players, there's no
9 surprises. Not everybody agrees with every single
10 little thing, although it's pretty close. But
11 there's no surprises, everybody has had a chance to
12 speak their piece on this. And of course, they'll
13 keep speaking their piece.

14 DR. DURENBERGER: Oh, absolutely.

15 COMMISSIONER MCHUGH: I take it that
16 the credit and rebate rules would be similar to or
17 the same as for gaming, right?

18 MR. MURRAY: The same, yes.

19 COMMISSIONER MCHUGH: So, I think that
20 this is a terrific proposal. I agree with the Chair
21 as to the straightforward statement that we've
22 looked at the efficacy and we don't think they're
23 efficacious under the new rule.

24 I also, and this goes to the second part

1 because I think that the history in this report and
2 the recommendations part is great. But the middle
3 of it, and I mentioned this to you when we talked
4 yesterday, the part from pages, really from pages
5 10 through 12 I found very hard to follow.

6 CHAIRMAN CROSBY: Ten through 12?

7 COMMISSIONER MCHUGH: Ten through 12,
8 yes. And based on an interpretation of a
9 legislative intent to keep 128A and C alive even
10 though the statute expressly repeals it, repeals
11 them and the inferences that we draw from that to
12 support how we talk about going forward. And I
13 think the more straightforward story -- And I found
14 it very hard to follow, frankly, as I said
15 yesterday.

16 And I think the more straightforward
17 story is the one that Chairman Crosby just
18 mentioned. 128A and 128C were abolished effective
19 the end of July 2014. Obviously, the Legislature
20 didn't mean to abolish racing, because there are all
21 of these other statutory provisions in the Expanded
22 Gaming legislation to keep it alive.

23 But they abolished the infrastructure
24 effective 2014 and asked us to take a look at the

1 infrastructure and make recommendations for either
2 reinstating it in the same form or a new form. We
3 think a new form is appropriate. Here's the form.

4 And it seems to me that would be a much
5 more straightforward way of getting to the goal
6 line. And I'm concerned that those pages there --
7 This really is about the packaging, not about the
8 substance. -- that the provisions here from pages
9 10 to 12 will really leave the average reader
10 struggling as to why that's there, what it means,
11 and where the emphasis is.

12 So, I would recommend that we do
13 something along that. I think it's a relatively
14 minor tweak. But I do recommend that we do it.

15 COMMISSIONER ZUNIGA: I have a much
16 smaller subset of that recommendation, which you
17 mentioned until the very end, which is some of the
18 research that you've done of other states. What
19 other states do relative to 12 percent or the breaks
20 or how they've dealt with backstretch improvements
21 and how Massachusetts will be at the forefront, etc.

22 So, somewhere where you describe the
23 process that you went through with stakeholders and
24 state, which is very important. It's well

1 explained at the forefront to include some of the
2 research that you did relative to other states and
3 the context in which some of the recommendations
4 that you make later would be very helpful.

5 MR. MURRAY: So, to enhance by
6 reference to the material that's essentially on
7 this chart?

8 COMMISSIONER ZUNIGA: Yes, enhance
9 the background, what leads us to these
10 recommendations.

11 COMMISSIONER CAMERON: Demonstrates
12 that it's a best practice.

13 COMMISSIONER ZUNIGA: Demonstrate
14 that this is a best practice.

15 DR. DURENBERGER: I have to just make
16 the comment that I was actually surprised at the
17 limited universe by which we were able to compare.
18 I guess I, having worked in the racing industry,
19 there are racinos in a lot of places. But in terms
20 of looking at states that have racing, live racing
21 with some sort of racino if you will, if that's the
22 term you want to us, and then also standalone
23 casinos that offer sports books or race books,
24 actually, it's a fairly limited universe. So, I

1 was surprised at that.

2 I had a different interpretation
3 having just been out there, because I was just on
4 the racino side.

5 MR. MURRAY: Well, we can have those,
6 Commissioner McHugh's and Commissioner Zuniga's
7 comments incorporated in here in short order and get
8 this back to you for your review on the packaging.

9 COMMISSIONER MCHUGH: I don't think we
10 need to delay a vote. I think we could have a vote
11 to approve this with those modifications if the
12 Commission thought those modifications made sense.

13 And then it's a matter of -- The themes
14 are clear from Commissioner Zuniga's and my things.
15 I'd be happy to help in proofreading whatever. And
16 like we could just move it along to the next step
17 and say this is great. It is great. It's really
18 reflective of a lot of thought.

19 And we'll simplify this process that is
20 almost, and I speak now as a layperson who has no
21 -- I'm not steeped in the industry, but it's almost
22 impenetrable to an outsider. And this will fix
23 that. But the packaging is important I think.

24 CHAIRMAN CROSBY: Is the draft that's

1 in our packets a redraft from what we last saw?

2 MR. MURRAY: I think it finally put
3 together following our talk with you --

4 CHAIRMAN CROSBY: -- yesterday.

5 MR. MURRAY: -- yesterday.

6 CHAIRMAN CROSBY: Then change 11 was a
7 further change to that?

8 MR. MURRAY: Right, edit.

9 CHAIRMAN CROSBY: Because this isn't
10 redlined and I couldn't figure out which was where
11 -- I didn't know if this was the same draft I had
12 before or not. Okay, so it's not. Then I've got
13 to look at it again. I didn't realize.

14 MR. MURRAY: Well, if I were you, Mr.
15 Chairman, I wouldn't look at this. Lets
16 incorporate these changes and then submit it to you.

17 COMMISSIONER CAMERON: I agree with
18 Commissioner McHugh, though. We do not have to
19 hold up this process. I think we all agree to the
20 substance and the changes are stylistic and for
21 clarity reasons. And that we could vote at this
22 time.

23 I understand there is a process by
24 which we have timeframes to meet. So, I don't want

1 to -- I don't think it's necessary to delay it
2 another week in order to do that. Great work.

3 COMMISSIONER ZUNIGA: Yes, I agree.

4 CHAIRMAN CROSBY: Do somebody want to
5 move acceptance of the substance of the report?

6 COMMISSIONER CAMERON: I move that we
7 accept the report with the caveat that some of those
8 changes are made to add clarity.

9 CHAIRMAN CROSBY: Second?

10 COMMISSIONER ZUNIGA: Second.

11 CHAIRMAN CROSBY: Further discussion?

12 All in favor, aye.

13 COMMISSIONER STEBBINS: Aye.

14 COMMISSIONER ZUNIGA: Aye.

15 COMMISSIONER MCHUGH: Aye.

16 COMMISSIONER CAMERON: Aye.

17 CHAIRMAN CROSBY: Opposed? All
18 right. The ayes have it unanimously. Thank you
19 very much. Great job.

20 COMMISSIONER CAMERON: Good work.

21 COMMISSIONER MCHUGH: Thank you very
22 much. Good work.

23 CHAIRMAN CROSBY: Okay. We are as
24 they say in the homestretch. Research agenda item

1 eight, I put this on here because I thought we might
2 be in position to make a decision and have a vote
3 on our research RFP. We are not. It's a very
4 complicated process. So, we'll skip that.

5 And is there any other business? Have
6 I missed anything? All right. Motion to adjourn?

7 COMMISSIONER MCHUGH: A very short
8 homestretch.

9 CHAIRMAN CROSBY: Yes, a short
10 homestretch. Motion to adjourn?

11 COMMISSIONER ZUNIGA: So moved.

12 COMMISSIONER CAMERON: Second.

13 CHAIRMAN CROSBY: All in favor, aye.

14 COMMISSIONER STEBBINS: Aye.

15 COMMISSIONER ZUNIGA: Aye.

16 COMMISSIONER MCHUGH: Aye.

17 COMMISSIONER CAMERON: Aye.

18 CHAIRMAN CROSBY: All right. Thank
19 you all.

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21 (Meeting adjourned at 3:54 p.m.)
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ATTACHMENTS:

1. Massachusetts Gaming Commission February 21, 2013 Notice of Meeting and Agenda
2. February 14, 2013 Massachusetts Gaming Commission Meeting Minutes
3. Resume of Catherine A. Blue
4. Massachusetts Gaming Commission Enhanced Code of Ethics First Edition
5. February 21, 2013 Memorandum Regarding Recommendation for Approval of a Primary Laboratory for Equine Drug Testing Services
6. February 21, 2013 Memorandum Regarding Recommendation for Approval of a Service to Provide Pari-Mutuel Auditing Services
7. Report of the Massachusetts Gaming Commission to the Senate and House of Representatives Pursuant to Chapter 194, Section 104, of the Acts of 2011, Analyzing the Commonwealth's Pari-Mutuel and Simulcasting Laws, with Recommendations as to Their Efficacy and Need to be Replaced

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SPEAKERS:

Catherine Blue, General Counsel (finalist)

Elaine Driscoll, Director of Communications and Outreach

Dr. Jennifer Durenberger, Director Racing Division

Todd Grossman, Staff Attorney

David Murray, Racing Consultant

John Ziemba, Ombudsman

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C E R T I F I C A T E

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

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

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

WITNESS MY HAND this 22nd day of February 2013.



LAURIE J. JORDAN
Notary Public

My Commission expires:
May 11, 2018