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THE COMMONWEALTH OF MASSACHUSETTS

MASSACHUSETTS GAMING COMMISSION

PUBLIC MEETING #54

CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

Gayle Cameron

James F. McHugh

Bruce W. Stebbins

Enrique Zuniga

February 28, 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: I am pleased to convene the 54th meeting of the Massachusetts Gaming Commission on February 28, 2013.

The first order of business is approval of the minutes from February 21, Commissioner McHugh.

COMMISSIONER MCHUGH: Colleagues, I circulated the minutes last night. I don't know if you've had a chance to read them. If you haven't, we can take them up next week. But if you're ready, comments are welcome and then we can approve them.

CHAIRMAN CROSBY: Did everybody have a chance to --

COMMISSIONER STEBBINS: I did. Just a quick note on page four where we talk about the preparation for Region C discussion, about halfway down the paragraph stated that it would be great if we could identify the parties that we'd like to hear from and have protocols in place.

I think about a year ago or a few months ago, we actually approved kind of a public speaking process if we decided to have a public comment

1 period in advance of one of our meetings. Just to
2 make the change that we do have protocols in place
3 at such time when we wish to use them.

4 COMMISSIONER MCHUGH: Okay.

5 CHAIRMAN CROSBY: The only comment I
6 had, Commissioner, was I couldn't personally attest
7 to whether the summary of the Racing regs. -- the
8 Racing report is accurate.

9 COMMISSIONER MCHUGH: Where are you?

10 CHAIRMAN CROSBY: On page six, it's
11 where David Murray is recounting his highlights.
12 It's probably worth having David or Director
13 Durenberger or somebody just read that through. We
14 wouldn't want to inadvertently somehow misstate.

15 COMMISSIONER MCHUGH: Director
16 Durenberger has already weighed in.

17 CHAIRMAN CROSBY: Okay, fine. Good,
18 fine.

19 COMMISSIONER MCHUGH: But that's a
20 good point.

21 CHAIRMAN CROSBY: Then I'm set.
22 Anybody else? Do you want to move?

23 COMMISSIONER MCHUGH: So, I move with
24 the change suggested by Commissioner Stebbins that

1 the meeting minutes be approved.

2 COMMISSIONER STEBBINS: Second.

3 CHAIRMAN CROSBY: All in favor, aye.

4 COMMISSIONER STEBBINS: Aye.

5 COMMISSIONER ZUNIGA: Aye.

6 COMMISSIONER CAMERON: Aye.

7 COMMISSIONER MCHUGH: Aye.

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

10 The next item is under administration.
11 And we're going to spend some time talking about the
12 schedule. Everybody knows we've been trying to
13 figure out how we can move -- how we can speed up
14 the process. And we've been working back and forth
15 with the various bidders to get information from
16 them, and working on the process ourselves. And I
17 don't know who is going to lead this discussion.

18 COMMISSIONER MCHUGH: I thought I'd
19 begin and then ask Commissioner Zuniga with whom
20 I've been working and our colleagues from PMA to
21 join in at the end. I thought I'd spend a couple
22 of minutes going through some scenarios.

23 What I wanted to do today is go through
24 a number of --

1 CHAIRMAN CROSBY: Our guests, Rep.
2 Orrall, if you can't see that you might be
3 interested in this. This will bear on some of your
4 folks' concerns.

5 COMMISSIONER MCHUGH: What I wanted to
6 do is go through some scenarios that we put together
7 to actually plot out in more detail than we have in
8 the past the sequencing that's necessary in order
9 to get to the destination we are all collectively
10 trying to reach, and focusing on the category two
11 licenses as an illustration and probably a stalking
12 horse for the category one licenses as well.

13 And illustrate in the process that we
14 really have four partners that are necessary to work
15 together to make this occur, any result to try to
16 achieve occur. The Commission is one. The
17 applicant is the second. The host community is the
18 third. And the cities and the towns are the fourth.

19 CHAIRMAN CROSBY: Surrounding.

20 COMMISSIONER MCHUGH: -- surrounding
21 communities. Those four really have to work
22 together to make this process work and any result
23 you pick achievable.

24 This is the schedule that we see every

1 week. And it's got all of the Commission's
2 activities and all of the Commission's doings
3 outlined on it.

4 On the next slide, I want to zero in on
5 just the part that deals with the category two
6 licenses. And this is the schedule that we're
7 working on right now that has an end date of an award
8 of a license on December 2. That's the date we are
9 trying to improve on. And that's the date we're
10 trying to better I think we've been talking about.

11 There are a number of key dates on this
12 chart that drive this outcome. The first is the
13 finishing of our suitability investigations by the
14 IEB, which is the end of April. And that's
15 something that's largely within the Commission's
16 control but not exclusively, because it depends on
17 us getting the information that we need to do the
18 investigation from the applicants.

19 The second key date on here is the
20 signing of the host community agreement. And on
21 this chart, it's scheduled for August 5. There has
22 to be by statute a 60-day period between the signing
23 -- actually between the request for an election
24 after the signing, between the signing and the date

1 that the host community agreement is actually
2 approved by a referendum. A minimum of 60 days has
3 to pass between those two.

4 Then there's the surrounding community
5 agreements. And they have to be executed by the
6 time the application is filed. So, the host
7 community agreement is approved by the community.
8 The surrounding community agreements are signed.
9 Then the application can be filed and we can begin
10 to consider it. That is entirely beyond the
11 control of the Commission. That is something that
12 the applicant and the host communities, and the
13 applicant and the surrounding communities have to
14 do entirely on their own.

15 The next key date is the deadline for
16 receiving the Phase-2 application and then our
17 processing of it that would lead to a December 2
18 license award. So, that's the way things currently
19 exist.

20 What isn't shown on here, and you will
21 see in the next scenarios as we talk, is that there
22 has to be a provision for dealing with situations
23 in which a host community that the Commission -- I
24 mean a surrounding community that the Commission

1 has designated as a surrounding community and an
2 applicant have a process for reaching an agreement
3 if they can't reach an agreement on their own.

4 And we've drafted some regulations
5 that are incorporated into the next scenarios that
6 I'm going to show you. But it's important to
7 understand that we can't consider as a Commission
8 the application until that process is complete.
9 That process probably if it runs its full course
10 will take another six or seven weeks. So,
11 worst-case scenario, that will extend this date
12 sometime into January. It's just not shown here.

13 So, now let's take a look at the first
14 scenario that we've done. We thought and the
15 Chairman mentioned a few weeks ago that it would be
16 aspirationally useful to think about issuing a
17 license sometime in early September. So, the first
18 scenario that we put together was what do we have
19 to do in order to make that happen.

20 So, that first scenario shows what has
21 to happen in order to make that happen. The first
22 thing that has to happen and the first thing that
23 the Commission is considered is moving the date for
24 completion of the investigations back by two weeks.

1 That again depends on whether we get the information
2 from the applicants and how we process that
3 information and how to get the supplementary
4 information that we work on. But that's a
5 realistic thing.

6 The other thing the Commission
7 controls --

8 CHAIRMAN CROSBY: So, we'd be moving
9 it back from when to when?

10 COMMISSIONER MCHUGH: From the end of
11 April to the middle of April, moving it back by two
12 weeks.

13 MR. ARVELO: We have there April 20 and
14 we are saying now April 15.

15 COMMISSIONER MCHUGH: This is now on
16 the first scenario. The other thing that we have
17 control over is our processing period. On the
18 original schedule, the current schedule this is a
19 much longer period. We think we can move this back
20 and condense it by shortening the hearing period,
21 by shortening our review period.

22 CHAIRMAN CROSBY: This is for the
23 reviews of the background checks.

24 COMMISSIONER MCHUGH: Of the

1 background checks. The IEB finishes the
2 background checks. It gives us the results. We
3 take a look at them. We have a hearing if
4 necessary. We may not have to have a hearing. But
5 in any event, even if we do have to have a hearing,
6 we think we can condense that by a significant
7 amount.

8 So, if we do that then in order to
9 achieve the early September date, the host
10 community agreements under this scenario would have
11 to be executed by about mid-May. May 17 is the date
12 that we have chosen, because that 60-day period has
13 to run. And then there has to be some time for the
14 Commission to consider the RFA-2 applications, the
15 site-specific applications as they come in.

16 The surrounding community agreement
17 has to be executed by July 15, which is the end of
18 the 60 days between the execution of the host
19 community agreement and the referendum. That's
20 time for the surrounding community agreement to be
21 executed. Then once those two steps have been
22 taken, the RFA-2 application can be filed.

23 What's new on this line is the
24 consideration of what happens if there is no

1 agreement between a community that wants to be a
2 surrounding community and the applicant. And we
3 have built in to regulations that we'll talk about
4 later today a process for doing that, a process that
5 begins when the host community agreement is
6 executed and the call for an election occurs.

7 At that point, all of the surrounding
8 communities are notified. And at that point, they
9 can begin negotiations with the applicant, letting
10 the applicant know that they want to be considered
11 a surrounding community and work with the applicant
12 to see if they can reach an agreement by this
13 deadline of July 15.

14 CHAIRMAN CROSBY: Just to make sure,
15 the applicants and surrounding communities can be
16 negotiating before that if they want to.

17 COMMISSIONER MCHUGH: They could
18 negotiate today and ideally they are.

19 COMMISSIONER ZUNIGA: That's
20 happening.

21 COMMISSIONER MCHUGH: This is
22 happening anytime along this red line here. But
23 this date, this mid-May date would begin the formal
24 process in the sense that there would be a notice

1 to the world that the host community agreement had
2 been signed, the contents of the host community
3 agreement would be available, notice would go via
4 the Commission's website to the entire world that
5 this had been done.

6 And those who were interested in being
7 surrounding communities would be put on notice that
8 now is the time to start. And here's the dimensions
9 of the project that you may want to take into account
10 in deciding whether you're a surrounding community.

11 In any event, we get to mid-July, July
12 15 and that's the time that the Commission receives
13 -- it would have to receive under this scenario the
14 category two applications. It would consider
15 those applications over the next month and a half,
16 almost two months, and then would make a decision
17 by early September.

18 Now, all of these dates indicate orders
19 of magnitude. They're not exact dates. But they
20 indicate orders of magnitude that we think are
21 reasonable. There'd be some, with all of these
22 dates some modest changes no matter what scenario
23 we approve.

24 Suppose though the surrounding

1 community and the applicant, a surrounding
2 community and an applicant can't come to an
3 agreement as to whether the surrounding community
4 is a surrounding community. Some community wants
5 to be a surrounding community. The applicant
6 doesn't think that it is a surrounding community.
7 They're at impasse. What happens then?

8 The Commission ultimately has the
9 responsibility for deciding under the statute who's
10 a surrounding community and who isn't. And we are
11 going to have regulations and we talked about those
12 regulations and described how that process is going
13 to work.

14 The statute says that we have to do that
15 after receiving and reviewing the application.
16 So, the application is filed on July 15. We take
17 a look at it. We have to have a process for deciding
18 whether some community that wants to be a
19 surrounding community is or isn't a surrounding
20 community.

21 So, our regulations that we're
22 proposing are going to say that surrounding
23 communities that want to be surrounding communities
24 have a certain amount of time to file with us an

1 application. We'll look at the application.
2 We'll listen to the applicant. We'll listen to the
3 surrounding community and then we'll decide whether
4 the surrounding community is a surrounding
5 community or not.

6 If we conclude that it's not then
7 that's over and we'll move forward on this line down
8 here without worrying about the involuntary
9 surrounding community.

10 If we conclude that the surrounding
11 community is a surrounding community then again by
12 statute the surrounding community and the applicant
13 have 30 days to work out an agreement.

14 And if they can't work out an
15 agreement, then the statute says the Commission has
16 to have protocols for ensuring -- That's the word
17 that the statute uses. -- ensuring that a
18 surrounding community agreement is reached between
19 the applicant and the surrounding community. So,
20 our regulations, regulations that we'll discuss
21 later today, has such a process.

22 Basically, what the Commission -- what
23 the draft's envisioned is that there'll be a period
24 of time for the surrounding community to file an

1 application to be a surrounding community, for the
2 Commission to decide that it's a surrounding
3 community. Then the 30 days for a voluntary
4 negotiation between the community and the
5 applicant.

6 Then arbitration, a period for
7 arbitration and protocols and procedures for that
8 arbitration to occur.

9 At the end, the arbitrator makes an
10 award and a judgment and the surrounding community
11 and the applicant either sign an agreement that they
12 negotiate themselves after looking at what the
13 arbitrator has done, or that's based on the
14 arbitration award. They can do either. But if
15 they don't do either, then the Commission will
16 consider the arbitrator's award to be the agreement
17 and move forward.

18 Then the Commission has -- And the
19 Commission then considers the application with that
20 piece added to it. And takes the two weeks to make
21 a decision and make a license award.

22 So, this shows - is an important
23 consideration to be thinking about as we move
24 forward, because it shows that once again the date

1 for the license award is not entirely within our
2 control. We can aim aspirationally for early
3 September, but unless the applicant and the
4 surrounding communities come to an agreement, there
5 has to be a process. And that process is inevitably
6 going to stretch out the award date in this case by
7 about two months, about seven weeks. So, that is
8 how that scenario plays out.

9 CHAIRMAN CROSBY: This might be a good
10 -- A very big step here is getting the background
11 checks done and approving of the applicants as
12 suitable by April 15, which I think bears on some
13 of the feedback you've had from various people
14 you've been talking to.

15 So, this is our best possible scenario.

16 COMMISSIONER MCHUGH: Right.

17 CHAIRMAN CROSBY: If everything went
18 right, this would be the scenario that we would hope
19 for. But there's been some feedback that suggests
20 that this is more than some of the bidders can
21 manage.

22 MR. ZIEMBA: I have spoken to
23 representatives from the four slots facility
24 applicants to see whether or not this September 1

1 aspirational deadline is, for lack of a better word,
2 doable by each of those different applicants. And
3 I have different reports from each --

4 CHAIRMAN CROSBY: Excuse me, is the
5 sound okay? Is the sound okay? Can you hear him?

6 AUDIO/VIDEO SPECIALIST: Yes.

7 CHAIRMAN CROSBY: So, I have reports
8 from the four applicants, which I'll give you now.

9 Plainridge Racecourse has indicated
10 that the September 1 aspirational deadline is
11 completely within reason. The same remarks come
12 from the Raynham facility. They both indicated
13 that they can meet that September 1 aspirational
14 deadline.

15 The PPE Casino application, the
16 Cordish application, they noted that they have
17 reviewed the schedule and they believe that
18 November is more realistic than September as a
19 deadline for completing the tasks necessary for the
20 Commission to award the category two license. They
21 will, of course, work with the Commission to
22 expedite the process as much as possible.

23 Then the final response from MG & E,
24 they note that in response to the inquiries from the

1 Mass. Gaming Commission to each applicant asking if
2 the targeted September 1 date for category two
3 licensure should be modified to a later date, MG &
4 E believes that it should be moved to a later date
5 since the development approval process is
6 complicated and has many requirements and calls for
7 a significant public participation.

8 Notwithstanding the above, MG & E
9 intends to meet any deadlines and requirements that
10 the Commission may set.

11 CHAIRMAN CROSBY: The essential issue
12 for those latter two parties is that they don't have
13 a site yet as far as we know?

14 MR. ZIEMBA: I think some of their
15 bigger considerations were relating to how quickly
16 they could get some of the host and surrounding
17 community agreements executed in fear of forces
18 beyond their control and how they'd get those
19 executed. Those were some of their
20 considerations. And then I believe that site
21 considerations may be considerations with at least
22 one or two of those two applicants.

23 COMMISSIONER CAMERON: Mr. Chair, in
24 discussing this matter with Director Wells, it

1 creates an issue with regard to completing the
2 background investigations. Because there are
3 qualifiers out there that have not been identified
4 as of yet, which makes it impossible to start those
5 investigations because we do not have the
6 information.

7 And the reason we don't is really that
8 those deals have not yet been put together. So, it
9 not only affects the host and surrounding
10 agreements, it affects the timeline on the
11 background investigations.

12 CHAIRMAN CROSBY: Right.

13 COMMISSIONER MCHUGH: That
14 illustrates, Commissioner Cameron's comments
15 illustrates that although this looks -- the
16 completion of the background investigations looks
17 like something completely within the Commission's
18 control, it really isn't. That just reinforces the
19 point that we made earlier. It's a collaborative
20 venture between the Commission and the applicants.

21 So, that's an outline --

22 CHAIRMAN CROSBY: Just one more
23 question. Given this best-case scenario, how does
24 that relate to the special election deadline?

1 People are asking is that feasible? A lot of
2 communities are trying to think about how does that
3 fit with this particular version?

4 COMMISSIONER MCHUGH: The special
5 election is the special election to select a
6 successor to Senator Kerry. And the question has
7 arisen could we have the referendum on the category
8 two license, category one license -- category two
9 license and that election at the same time?

10 In order to do that that's June 25,
11 you'd have to move the host community agreement --
12 complete the host community agreement process 60
13 days earlier, which would be about April 23.
14 You've have to complete the host community process
15 by the third week of April, which is seven weeks
16 away.

17 CHAIRMAN CROSBY: And you've had to
18 have all of the applicants' qualifiers qualified.

19 COMMISSIONER MCHUGH: That's right.
20 You'd have to finish the investigations. You'd
21 have to finish this process. We'd have to truncate
22 this process down here to go back to at least April
23 -- no, I'm sorry. You wouldn't have to do that.
24 This process would be all right.

1 But you've have to have all of the
2 investigations done.

3 COMMISSIONER ZUNIGA: The main reason
4 we put this here is for reference, because we have
5 heard that people may want to -- cities or towns may
6 want to have that election be at the same time.
7 It's just a milestone for illustration purposes.
8 It's not driving any of the schedule.

9 CHAIRMAN CROSBY: No. I understand
10 that. I just wanted you to explain why that is.

11 COMMISSIONER ZUNIGA: Yes.

12 CHAIRMAN CROSBY: Let's say two of the
13 category two applicants meet this schedule, which
14 two of them have said they think they can, I guess
15 there's no reason for them, if they wanted to, to
16 go ahead and have the elections on that date, right
17 -- on the special election date?

18 In other words, we can do these. We
19 don't have to do all of these at one time. If we
20 get candidate X qualified, we can let them go. And
21 they do the host community agreement. They do the
22 referendum and nobody has to wait until everybody
23 else comes along. They could then go ahead and file
24 their Phase-2 application.

1 But we just wouldn't be able to make a
2 decision until everybody else had come along and
3 caught up with the ones who were out front; is that
4 right? So, if Plainridge says they can make this
5 date or Raynham says they can make this date, they
6 could be working with their communities maybe tying
7 in their election, which would be good for the
8 communities. It saves the communities time and
9 money if they could coordinate with that date.

10 MR. ZIEMBA: That's right.

11 COMMISSIONER MCHUGH: It saves the
12 applicant too, because the applicant picks up the
13 election cost.

14 COMMISSIONER ZUNIGA: That's
15 predicated on one assumption, if I may Mr. Chairman,
16 that once the IEB find suitability, as soon as they
17 find suitability with one applicant that they make
18 the recommendations and they move forward, as
19 opposed to if they're going to find all four
20 suitable at the same time, that changes the equation
21 already there.

22 CHAIRMAN CROSBY: But from what we're
23 hearing from the applicants, according to Ombudsman
24 Ziemba, maybe our hope that we have had for category

1 two maybe non-feasible if the information doesn't
2 come in.

3 COMMISSIONER CAMERON: I think
4 there's a policy issue here, Mr. Chair. Do we want
5 to enforce hard and fast deadlines? Or do we want
6 to within reason consider extensions due to some of
7 these circumstances?

8 I think Mr. Ziemba and Director Wells
9 were intending to meet with all four in an effort
10 to ascertain more information about their process,
11 their concerns, so that we have accurate timely
12 information to consider.

13 CHAIRMAN CROSBY: Right.

14 COMMISSIONER MCHUGH: I agree. I
15 think there is a policy question here. And I think
16 that all of this discussion and looking at these
17 things is providing a foundation for making
18 decisions about deadlines.

19 We made a decision about a deadline for
20 applications, Phase-1 applications. We stuck to
21 it. We've got to move this process along. We've
22 got to move it along in a reasonable way in
23 collaboration with our partners. But we've got to
24 move it along.

1 The Governor and the Legislature are
2 already spending the license application fees.
3 And we ought catch up with them and urge our
4 colleagues and partners to catch up with them. At
5 some point, I think we have to establish deadlines,
6 not today but we need to do that.

7 COMMISSIONER STEBBINS: Would you
8 consider setting a deadline once all of the
9 suitability investigations were done? You
10 wouldn't do it in advance of that?

11 CHAIRMAN CROSBY: No. The deadline
12 would be for when you have to have all of your
13 qualifiers submitted. That's the gating mechanism
14 for us.

15 COMMISSIONER STEBBINS: Okay.
16 Right.

17 CHAIRMAN CROSBY: Right now at least
18 two bidders don't have a landowner partner yet, as
19 far as we know. That's the trigger mechanism.

20 COMMISSIONER ZUNIGA: At the earliest
21 the trigger mechanism.

22 CHAIRMAN CROSBY: Is when we have all
23 of the qualifiers. Once we have all of the
24 qualifiers, the ball's in our court unless they

1 contest our decision.

2 COMMISSIONER MCHUGH: In terms of the
3 qualification process, yes. It seems to me that
4 one might consider two deadlines. One for
5 submitting all of the qualifiers and then for the
6 RFA-2 application down, farther down the line.

7 COMMISSIONER CAMERON: If we could
8 just a clarification to that process, it is not
9 unusual, and this happens frequently in other
10 jurisdictions, for a financial investor to be added
11 or subtracted somewhere in the process.

12 So, there's been a good faith effort.
13 This is our team. This is the individuals as we
14 know it today, but there probably will be a need for
15 one or more applicants for us to conduct a
16 supplemental investigation in which we look at an
17 additional qualifier. That is not unusual.

18 CHAIRMAN CROSBY: Even after our
19 deadline?

20 COMMISSIONER CAMERON: Correct.

21 CHAIRMAN CROSBY: I agree.

22 COMMISSIONER CAMERON: So, I just
23 wanted to clarify that may be something. We're
24 prepared for that. We are intending to be

1 reasonable about all of these issues, but what we
2 can't be in a situation is we're completed with
3 everyone else and one or more just hasn't put their
4 deal together at all. That would be a situation
5 where I think we would have to consider some
6 deadlines and let people know well in advance that
7 we intend to stick with deadlines.

8 CHAIRMAN CROSBY: Yes.

9 COMMISSIONER ZUNIGA: I'd like to make
10 one point. Regardless or in addition to our
11 aspirational move of the suitability and our
12 shortening of the review period of that
13 suitability, the fact that we are moving in this
14 scenario, the host and surrounding community dates
15 earlier than anticipated, in mine mind makes the
16 scenario a little bit more likely. The scenario
17 that they won't reach a host -- I'm sorry, a
18 surrounding community agreement because they can be
19 taking as much time, steps, and thus this later
20 October date a little bit more likely.

21 CHAIRMAN CROSBY: Right. Okay.

22 COMMISSIONER MCHUGH: If there are no
23 further questions, let's jump ahead to scenario
24 two. And scenario two -- By the way, these are all

1 in your packets. They're not in the packets?

2 Okay. They will be up on the website tomorrow.

3 So, scenario two is really designed --

4 And I'm not going to go through it with the same
5 precision as I went through the last one. But it's
6 really designed to show how little wiggle room there
7 is before we get into a situation where we really
8 have to push things back.

9 Scenario two really is designed to move
10 -- The suitability investigation completion is the
11 same. The review period by us is the same.
12 There's a little dead time in here and I'll explain
13 that in a second. But what we've done is moved the
14 time for the host community agreement back two weeks
15 to the beginning of June, from mid-May to the
16 beginning of June. And therefore extended the
17 60-day period into early August, as well as the date
18 for having the surrounding community agreements
19 done by early August.

20 But this is really the important date.
21 And I'll come back to the reason for that in a
22 second. If we do that then we push back by about
23 two weeks the date that we could issue the category
24 two license. And we push back by two weeks the

1 outside date --

2 CHAIRMAN CROSBY: When you say push
3 back, you mean push out?

4 COMMISSIONER MCHUGH: Extend is a
5 better word. We extend the date for issuing a
6 license to the end of September. And worst-case
7 scenario date we extend to mid-November.

8 This is the important date, because
9 while there's no magic to August 2, it could be July
10 31, once we get into August, the idea of holding an
11 election on an issue like this may not sit well with
12 a lot of communities.

13 That's the heavy vacation period.
14 That's a period when voter turnout would diminish.
15 That's of course up to surrounding communities --
16 I mean up to host communities. But the likelihood
17 that there would be some reluctance to scheduling
18 an election then is not something that we can just
19 lightly pass over.

20 So, you really have about a week and a
21 half between the best-case scenario and this middle
22 course before you get into August. That's really
23 all I want to say about that.

24 Let's go to the third slide, if we

1 might. If we don't want to have an election in
2 August, then early after Labor Day is the next kind
3 of earliest date to have the election. So,
4 everything remains the same on this slide.

5 We have the suitability investigation
6 finish. We have our determination finished at the
7 same time. But we have the host community
8 agreement now signed in mid-July and the notice of
9 it posted. And this process for the surrounding
10 communities to be on formal notice that now is the
11 time, if you haven't already, to get going with your
12 negotiations. That's in mid-July.

13 We have the 60-day period running
14 through August and consuming August. And then we
15 have a vote in early September on the host community
16 agreement.

17 We begin to evaluate applications if we
18 get them. We have some dead time down here that we
19 don't really need we don't think. But it's there
20 because we've extended this timeline out. We have
21 then a deadline or an application deadline of
22 September 10, right after the host community
23 agreements have been approved by referendum.

24 And we process, this processing time is

1 the same. And we have a date of November 16 when
2 we could issue a category two license unless we have
3 to go through the involuntary surrounding community
4 process, which would drive that date out to December
5 22, which is later than the date we have on our
6 current chart, but earlier than the date that would
7 exist under the current scheme if we had this
8 involuntary surrounding community piece.

9 So, this a designed to show how little
10 room there really is between that first highly
11 aspirational scenario and this scenario, which I
12 suspect everyone would think they could make and
13 which even if they didn't think that they could make
14 as a worst-case scenario, the Commission could
15 think about making something that we adopt.

16 CHAIRMAN CROSBY: The good news is
17 that this is "worst-case scenario", and it's
18 basically the same deadline that we've always been
19 talking about.

20 COMMISSIONER MCHUGH: Right.

21 CHAIRMAN CROSBY: So, that's the good
22 news.

23 COMMISSIONER MCHUGH: Right. And
24 that is the good news. So, that is basically what

1 I wanted to talk about in this context. And
2 Enrique, Commissioner Zuniga if you wanted to add
3 anything or my colleagues from PMA?

4 COMMISSIONER ZUNIGA: I thought that
5 was an excellent summary. I would just point out
6 something here. That the determination of
7 suitability in this scenario is as early as late
8 May. And considerably the host community could
9 schedule the referendum, request the election the
10 next day.

11 So that these could be pushed a little
12 bit back, but what's really driving this scenario,
13 as Commissioner McHugh explained, was the desire to
14 have an election in September, not in August where
15 low voter turnout is likely.

16 COMMISSIONER STEBBINS: That's the
17 minimum requirements.

18 COMMISSIONER ZUNIGA: That's the
19 minimum. It could be 90 days. So, considerably
20 this could help from the standpoint of some
21 communities, at least, to schedule this vote as
22 early as possible.

23 CHAIRMAN CROSBY: Okay. So, that's
24 great. This is really helpful. And I hope it gets

1 all of our bidders and watchers and communities some
2 in-depth understanding of what the issues are, what
3 we're wrestling with.

4 Clearly, we're going to need the
5 cooperation of our bidders to be able to move our
6 deadline -- To move faster on category two is going
7 to take a lot of help from our bidders. And whether
8 they can make it or not is a question.

9 It seems to me, and let me just suggest
10 an approach here, that Ombudsman Ziemba and maybe
11 Director Wells talk to all of the category two
12 people, applicants, particularly the two that are
13 problematic with respect to schedule, come up with
14 a recommendation for when we should require
15 qualifiers to be in. And then we'll talk about
16 that.

17 We're balancing, as we always have
18 been, the wish to move quickly with the wish to do
19 it right, the wish to maximize quality, the wish to
20 maximize competition. And we're going to continue
21 to have that kind of tradeoff. As long as it's not
22 wildly unreasonable, I think we are all open to
23 waiting a little bit for qualifiers, but not for
24 terribly long.

1 So, if you all could come back to us
2 just as soon as possible so we could put -- decide
3 finally whether to put a stake in the ground as to
4 when qualifiers must be in that would be great.

5 And then we can deal with the second
6 question, which is not urgent, which is what is the
7 deadline for the application RFA-2.

8 COMMISSIONER MCHUGH: Right.

9 COMMISSIONER ZUNIGA: Mr. Chairman,
10 can I mention just two things?

11 CHAIRMAN CROSBY: Sure.

12 COMMISSIONER ZUNIGA: There's a
13 couple of other slides, right -- in here?

14 MR. ARVELO: Not in this version. It
15 probably will be in the one that will be posted on
16 the website. It just highlights some of the
17 challenges, some of the main drivers that we talked
18 about.

19 COMMISSIONER ZUNIGA: Yes. There's a
20 nice little presentation -- not little, because
21 there's a lot of great work that went in thinking
22 about these scenarios with the help of our friends
23 from PMA that we will post that summarize just the
24 drivers and the circumstances that make one

1 scenario possible and comparable to the others.

2 CHAIRMAN CROSBY: Okay, great. You
3 might introduce PMA just to our audience so they get
4 some credit for all of their help.

5 COMMISSIONER ZUNIGA: Yes, thank you.
6 For the record, Scott Libby and Angel Arvelo from
7 PMA, our consultants in all things scheduling at
8 this point who've been doing a great job of helping
9 us out modeling this critical path and will continue
10 doing that.

11 CHAIRMAN CROSBY: Thanks very much.

12 COMMISSIONER MCHUGH: Very helpful,
13 thanks.

14 CHAIRMAN CROSBY: Ombudsman Ziemba,
15 could you make a recommendation to us next week do
16 you think?

17 MR. ZIEMBA: Yes.

18 CHAIRMAN CROSBY: Okay, great.
19 Thanks a lot.

20 The only other thing I think to talk
21 about on the schedule is as soon as we can we are
22 going to start layering in the build out of all of
23 our major departments, the hiring plans for the
24 Investigations and Enforcement Bureau, the hiring

1 plans for Licensing, the hiring plans for all of our
2 other major departments. But particularly those
3 two that we are going to start ramping up pretty
4 soon.

5 And we need the same kind of critical
6 path chart, which means we are probably going to
7 need your guys' help some more so we can be tracking
8 the building of those departments and our internal
9 systems, our CIO systems and so forth with the same
10 degree of intensity that we have tracked this. So,
11 we will be in touch with you shortly. Thanks again.

12 COMMISSIONER ZUNIGA: Thank you.

13 COMMISSIONER MCHUGH: Thank you.

14 CHAIRMAN CROSBY: Personnel updates,
15 nothing particularly, I don't think. We have
16 started a process, just beginning a process for a
17 CIO and a CFO. And as you know, the Director of
18 Problem Gambling -- Research and Problem Gambling,
19 the Director of Workforce Supplier and Diversity
20 Development and the Director of Licensing are all
21 in the pipeline.

22 Now, we have a distinguished guest.
23 And in the interest of her schedule, if we can do
24 this, Todd and John Ziemba, I wanted to pull the

1 surrounding community agreement conversation up
2 out of order and do it now, if that's all right. And
3 maybe start off by asking Representative Keiko
4 Orrall who represents a number of the communities
5 in Region C to kick that discussion off with some
6 of her own thoughts. Then she can stick around
7 while we have that conversation. And then that
8 will enable her to go back and get back to her work.
9 Representative Orrall.

10 MS. ORRALL: Thank you, Mr. Chairman
11 and thank you Commissioners. And I appreciate you
12 taking the time and taking this out of order.

13 I do represent the communities of the
14 12th Bristol District, which include Taunton,
15 Middleboro, Lakeville and Berkeley. And the
16 community of Taunton is slated for the tribal
17 casino. The Commission -- I've been in contact
18 with Rosemary Powers who is working with the
19 Governor's office in their negotiations with the
20 Mashpee Wampanoags.

21 And she has assured me that mitigation
22 language will be included within the compact as they
23 did with the prior compact that they tried to
24 negotiate with the Tribe. My concern is with the

1 first compact, there was language that gave the
2 Commission overview regarding surrounding
3 communities and who would be considered a
4 surrounding community. And what percentage of
5 mitigation would be afforded to those communities.

6 So, I did not see that within the draft
7 language. And I just want to make sure that the
8 Commission is aware that the surrounding
9 communities are in a very different situation with
10 the tribal casino as opposed to the commercial
11 casinos. And I believe that you are aware of that,
12 but I'm here to advocate once again on behalf of the
13 communities of Lakeville, Berkeley and Middleboro
14 abutting the Taunton, the proposed Taunton tribal
15 casino, because we haven't had the safeguards that
16 have been put in place for the commercial licenses.

17 And we haven't had the preliminary work
18 done as far as what infrastructure changes, what
19 public safety impact there will be. And we haven't
20 had any money to do that. So, that's where I'm
21 asking for the Commission's help, for your
22 continued attention to the differences between the
23 tribal and commercial casinos.

24 And I don't if the language that I

1 included was sufficient, but I hope that the intent,
2 that you're clear with my intent that I'm wanting
3 to advocate for those communities that are
4 particularly affected by this casino.

5 In talking with Ombudsman Ziemba, he
6 also reiterated that you're constrained by the
7 language of the compact, and I understand that. We
8 don't have a current compact yet. And I'm under the
9 impression that it is going to be coming out soon.

10 But again, I just wanted to impress
11 that in the event that the language is also included
12 that you will have overview of the surrounding
13 communities to this tribal casino that I would ask
14 for special consideration for the communities of
15 Lakeville, Middleboro and Berkeley.

16 CHAIRMAN CROSBY: Thank you. You
17 have got issues right. We don't know exactly what
18 the deck of cards, so to speak, that we will be dealt
19 is, because we haven't seen the compact either. We
20 have expressed concern to the Governor's office
21 that we would like to be a part of that conversation
22 before anything is totally agreed to, because we
23 have our own concerns, which include how you get to
24 deal with the surrounding communities.

1 When we went through this once before,
2 the earlier compact was mostly going to be under the
3 MEPA process where the protection was going to come
4 from. And In know we've had conversations about
5 whether we could provide community mitigation
6 money. Was there a way to do that? And since we
7 don't know what the next compact has, we can't join
8 those same issues.

9 But (A) we agree with you I think
10 universally that that's a matter of importance.
11 But frankly, the big issue will be how we handle
12 Region C.

13 MS. ORRALL: Exactly.

14 CHAIRMAN CROSBY: As you know,
15 starting the 21st, at a meeting on the 21st to be
16 held in Region C, we are going to rejoin the issue
17 of whether we should continue to wait for the tribe,
18 should we open it to commercial bids? Is there some
19 other alternative, whatever?

20 If we open it to commercial bids, this
21 will all go away. And your surrounding communities
22 or prospective surrounding committees will be dealt
23 with the same way everybody else is. So, you might
24 want to -- This isn't the time or the place, but we

1 are asking for speakers --- Sorry, did I say
2 something wrong?

3 COMMISSIONER MCHUGH: Not
4 necessarily, Mr. Chairman, because there are a
5 number of scenarios that could play out if we made
6 that determination. One of which would be that
7 some kind of a compact process goes forward in
8 parallel, in which case those three communities
9 would have the same issues.

10 COMMISSIONER ZUNIGA: The same
11 issues.

12 CHAIRMAN CROSBY: At that point,
13 they'd have two things to worry about. They'd have
14 to deal with what happens if the compact -- what
15 happens if the Tribe gets the license or what
16 happens if there's a commercial license.

17 COMMISSIONER ZUNIGA: Well, even if
18 there was a commercial license, and the Mashpees
19 proceed with obtaining land into trust, they could
20 conduct gaming by their own right under that
21 scenario. This is only one of several.

22 CHAIRMAN CROSBY: There's a multitude
23 of scenarios. But there will be some big decisions
24 being made by the Commission beginning a process

1 starting on the 21st.

2 And where you and your communities come
3 down in recommending how we proceed on that is
4 probably pretty important. I don't know which way
5 you all feel. But you might want to think about
6 coming to that meeting as well and letting us know.

7 MS. ORRALL: Of course.

8 CHAIRMAN CROSBY: I know I'll see you
9 there. Anybody else?

10 COMMISSIONER MCHUGH: No. I think
11 this is very helpful. We did think about the
12 surrounding communities as you noted last time,
13 those three communities, and will continue to do
14 that. But it's helpful to have the concerns
15 reinforced as you have.

16 MS. ORRALL: Especially my concerns
17 are that where the amount that was negotiated with
18 the Commonwealth was rejected at the Federal level,
19 I feel that they're going to be going for an amount
20 that is going to be less than the 21.5 percent was
21 that they originally went for. So, that means
22 there's going to be even less money for mitigation.

23 CHAIRMAN CROSBY: Yes.

24 MS. ORRALL: But it's still, I feel

1 like it's still under the purview from the last
2 compact, it could be different with this one, but
3 under the last compact it was within your purview
4 to determine what percentage and who would be
5 awarded that community mitigation with the compact.

6 CHAIRMAN CROSBY: The distribution of
7 that money --

8 MS. ORRALL: The distribution,
9 correct.

10 CHAIRMAN CROSBY: -- would have been
11 up to us yes, between the compact.

12 MS. ORRALL: Correct.

13 COMMISSIONER ZUNIGA: And that
14 compact did create an interesting situation. I
15 don't know, again, what the new compact will have,
16 but left community mitigation for Region C to the
17 community mitigation and the purview of the
18 Commission. Whereas if you were to compare that
19 with the other two regions, there would ideally be
20 direct mitigation from the applicants. It creates
21 a disparity that you maybe alluding to from the
22 community mitigation fund at the state level.

23 MS. ORRALL: Yes, that is correct.

24 COMMISSIONER STEBBINS: In other

1 words, it puts pressure on the community mitigation
2 fund for only one region, for one region more than
3 others and that's an important issue.

4 CHAIRMAN CROSBY: Right, it very much
5 is. And that's what you identified last time
6 around. Thank you.

7 MS. ORRALL: Thank you very much.

8 CHAIRMAN CROSBY: We are going to have
9 our surrounding discussion conversation now.

10 MS. ORRALL: Can I just submit?

11 CHAIRMAN CROSBY: Sure, absolutely.
12 John as long as we're on this, John and Todd, do you
13 want to lead us through that discussion?

14 MR. ZIEMBA: Mr. Chairman, I believe
15 that what we're going to discuss are
16 recommendations regarding the protocols and
17 procedures first and then get into some of the
18 comments that we received regarding the surrounding
19 community's definition, because in many regards the
20 questions regarding some of the protocols and
21 procedures and some of the recommended procedures
22 that we are putting in place do address some of the
23 concerns that we received pursuant to our request
24 for comments on the definition. So, I'll let Mr.

1 Grossman take us through some of those
2 conversations.

3 MR. GROSSMAN: Sure. Unlike some of
4 the other language that we've recently submitted,
5 the surrounding community language you've seen
6 before and has been, of course, circulated for
7 public comment. And there were a number of
8 comments. We certainly looked carefully at all of
9 the comments.

10 Mr. Ziemba has compiled them all for
11 you to be able to take a look at in an easy format.
12 A number of the comments we have been able to
13 incorporate directly into our draft.

14 And I'll just kind of go through the
15 draft or the principles that we included in the
16 draft language and highlight some of the ones that
17 were included based upon comments we received.

18 So, the first element of the
19 surrounding community regulations discusses how a
20 community would become designated a surrounding
21 community. And we have identified three ways in
22 which that can happen. And these were largely
23 contained in the original draft that was previously
24 circulated.

1 First, an applicant in its RFA-2
2 application could designate or identify a community
3 that it believes to be a surrounding community.
4 The community then would have, in accordance with
5 the language we put together, 10 days to assent to
6 that designation. So, there would be no
7 involuntary designation. Every community would
8 have a right to decline, if for some reason they
9 wanted to, any such designation. That's the first
10 method.

11 The second method as the statute
12 contemplates directly would be a scenario in which
13 prior to the submission of the RFA-2 application by
14 the applicant, the applicant and a community
15 execute a surrounding community agreement. And
16 that agreement is included as part of the RFA-2
17 application, in which case the Commission would
18 automatically designate that community to be a
19 surrounding community.

20 And the third way that we have
21 identified, which I think will be the subject of the
22 most discussion, which Commissioner McHugh has
23 addressed in part during the timeline discussion,
24 is a situation in which after the applicant submits

1 their RFA-2 application, a community believes that
2 they should be designated a surrounding community
3 but have not been in either of the first two
4 scenarios. This provides a means by which they can
5 petition the Commission to become designated a
6 surrounding community.

7 And the methodology we have set up has
8 roots in a number of different sections of the
9 regulations, or the draft regulations that we have
10 submitted to you. And I'll go through some of those
11 points now. Most of them, of course, are contained
12 right in the draft surrounding community regs.

13 And what these say essentially is that
14 a petition by a community to be designated a
15 surrounding community must be filed with the
16 Commission no later than 10 days from the time the
17 RFA-2 application is filed. However, in
18 recognition that certainly the community needs time
19 to study the impacts of a proposed casino, to
20 receive funding to study the impacts, and to just
21 have time to contemplate the situation, we have
22 built in a number of other elements.

23 And that is that the process really
24 starts in earnest upon the execution of the host

1 community agreement between the applicant and host
2 community. At that point, we have written into a
3 different section that the applicant must submit to
4 the Commission a copy of the executed host community
5 agreement.

6 The Commission will take that
7 agreement, post it on our website along with a
8 mechanism that will allow any community that
9 believes that it may be a surrounding community to
10 be added onto our list. At the same time that
11 provides notice to each of these communities that
12 they should at least be approaching the applicants
13 to commence negotiations of a surrounding community
14 agreement, and to study whatever impacts there may
15 be.

16 To that end, in recognition of the fact
17 that a community will need funding to study the
18 impacts at that point -- This is now prior to the
19 submission of the RFA-2 application. -- we have
20 prepared for your consideration draft language to
21 amend the community disbursement section.

22 As the community disbursement section
23 of the regulations presently reads, a community can
24 only apply for funds -- Now we are talking about the

1 \$50,000 out of the \$400,000 and any subsequent
2 monies. -- can only apply for those funds by
3 submitting a letter of authorization. That is by
4 agreement of the applicant as to how those funds
5 should be spent.

6 In recognition that we are now talking
7 about an involuntary type situation, one in which
8 perhaps the applicant does not agree that this
9 community is a surrounding community, we have
10 proposed language that would allow for involuntary
11 disbursements of those mitigation funds. We also
12 recognize though that we are talking about the
13 applicant's money. So, it has to be disbursed
14 responsibly.

15 And we have proposed a standard that
16 would have to be met to the Commission's
17 satisfaction prior to the disbursements of that
18 fund. And it contains language that essentially
19 requires that the community be able to demonstrate
20 to the Commission that there is a, I believe we used
21 the term reasonably likelihood that they would be
22 designated a surrounding community. And that if it
23 is not able to get the funds, it will not be able
24 to properly study the impacts. And that will be

1 weighed against the burden of providing the actual
2 funds that will be imposed upon the applicant.

3 So, that addresses the funding element
4 that would allow the prospective communities to
5 study impacts of a proposed casino.

6 So, as the process moves ahead, now the
7 applicant calls for an election -- requests an
8 election. The host community calls for the
9 election. Now there's a 60- to 90-day period that
10 within which the host community must schedule the
11 election.

12 I mention that now that is a chunk of
13 time that the prospective surrounding communities
14 will now have to start their negotiations, to study
15 the impacts, to apply for funds.

16 That's important when we look at the
17 10-day period that we've set after the submission
18 of the RFA-2 application, which may seem like a
19 tight period. But we need to consider we really
20 need to back it up about two to three months where
21 you'd have the execution of the host community
22 agreement. Then there's a statutory 60- to 90-day
23 period, but at minimum let's say 60.

24 CHAIRMAN CROSBY: For the vote.

1 MR. GROSSMAN: For the vote. Then
2 there will be some period of time between the vote,
3 assuming it's a positive vote between that and when
4 the RFA-2 application is submitted.

5 So the total amount of time that these
6 communities would have to study the impacts and
7 submit a petition, not negotiate a surrounding
8 community agreement mind you, but just to submit a
9 petition to be designated a surrounding community,
10 would be 60 days plus whatever time between the
11 election and the submission of the RFA-2
12 application plus 10 days.

13 So, it is a substantial chunk of time,
14 which will probably be more than that, but that's
15 the shortest amount of time by which communities
16 would have to study impacts and determine whether
17 it wanted to submit a petition to be designated a
18 surrounding community.

19 After that 10-day period, we have built
20 in a 10-day period by which the Commission would
21 have to evaluate the petition and make a finding as
22 to whether that applicant -- whether that
23 petitioner will be designated a surrounding
24 community.

1 CHAIRMAN CROSBY: These are business
2 days, 10 business days or 10 calendar days?

3 MR. GROSSMAN: Calendar days. I
4 think it's good to point out how for our future
5 discussions, there is a provision in the existing
6 regs. that talks about the calculation of time.
7 And it is consistent with the Rules of Civil
8 Procedure here in Massachusetts. And with certain
9 exceptions, it's calendar days.

10 CHAIRMAN CROSBY: Okay. We're all
11 working weekends anyway.

12 MR. GROSSMAN: Especially when this
13 stuff starts to come to fruition, a lot of people
14 will be working weekends.

15 CHAIRMAN CROSBY: Right.

16 MR. GROSSMAN: So, that's 10 days
17 after the submission of the RFA-2 application plus
18 another 10 days maximum for the Commission to make
19 its finding.

20 The Commission making its finding has
21 legal significance, because that sets off a 30-day
22 period by which the community, which is designated
23 a surrounding community now has to negotiate a
24 surrounding community agreement with the applicant

1 voluntarily.

2 And at any point they're welcome to do
3 that. We certainly encourage -- The regulations
4 were designed to encourage communities to enter
5 into voluntary negotiations with the applicants and
6 to hopefully come to agreements on their own
7 volition without any interference, if you will,
8 from the Commission.

9 However, in contemplation of the fact
10 and by statute we are required to come up with a way
11 to break any deadlocks, if you will. What we have
12 proposed is that mandatory binding arbitration be
13 commenced after the passage of that 30-day period.
14 And we set out all of the mechanics of how that would
15 work, how you pick an arbitrator and all that stuff.

16 The manner in which the arbitration is
17 intended to proceed though is what we have preferred
18 to as a best and final offer scenario. So,
19 basically each side will present their best and
20 final offer. And the arbitrator essentially will
21 pick one, with some discretion baked into that as
22 well.

23 But that is intended to encourage the
24 parties to negotiate their own agreement and not

1 find themselves in a situation where an arbitrator
2 will be choosing one over the other.

3 The arbitrator will be given 20 days
4 from that 30-day date to conduct any proceedings and
5 render a decision. Then we have in another five
6 days by which after the arbitration either the
7 parties then go and negotiate their own agreement
8 or the arbitrator's report becomes binding and
9 becomes the surrounding community agreement.

10 All told, it comes out to by our
11 calculation 80 days. That's if everyone takes
12 advantage of every possible maximum timeline.
13 Eighty days from the date the RFA-2 application is
14 submitted until the time that the arbitration is
15 completed you would have a surrounding community
16 agreement.

17 So, that is essentially the process.

18 CHAIRMAN CROSBY: Before you go on,
19 are you finished on this topic? I'm sorry. I
20 didn't mean to interrupt.

21 MR. GROSSMAN: No. I think that
22 pretty much touches on all of the highlights of the
23 draft language.

24 CHAIRMAN CROSBY: This is obvious, but

1 I want to say it anyway. You said that the
2 surrounding community agreement begins in earnest
3 at the signing of the host community agreement.

4 What you're talking about here is what
5 we hope is the very infrequent and unlikely
6 situation where the applicant and the surrounding
7 community cannot come to an agreement to begin with.

8 Hopefully, we'll never have to use this
9 process once. We have to prepare for it in case we
10 do and we might, but I don't want to give the
11 impression to the bidders and the surrounding
12 community prospects that we don't expect them to be
13 out there negotiating today as Judge McHugh said.
14 And all of a sudden get everyone's focus back on the
15 host community agreement. That's not what we're
16 meaning to do here, right?

17 MR. GROSSMAN: That's right.

18 CHAIRMAN CROSBY: And Ombudsman
19 Ziemba is out there encouraging surrounding
20 communities all of the time to get moving now and
21 talking with bidders on the same topic.

22 Two questions, a scenario which I don't
23 think you actually describe, but it would fit into
24 the same thing is it maybe you've got a bidder and

1 a host community agreement -- I'm sorry, a bidder
2 and a surrounding community prospect that can't
3 agree on whether or not one is a surrounding
4 community. That's what you just talked about.

5 You might also have them agreed that
6 they are a surrounding community and not agree on
7 the terms of the agreement. You didn't actually
8 mention that.

9 MR. GROSSMAN: No, I didn't.

10 CHAIRMAN CROSBY: The process would be
11 exactly the same. But the trigger is a slightly
12 different trigger, my only point.

13 And in the way you are setting this up,
14 is the Commission bound by the arbitrator's
15 decision or can we second-guess the arbitrator's
16 decision?

17 MR. GROSSMAN: No. Consistent with
18 some of the policy discussions that took place,
19 we've set up a scenario where the Commission is
20 really fairly hands-off in the language that's in
21 the surrounding community agreements.

22 And we say we want you to go negotiate
23 it. If you can't, go to an arbitrator that you're
24 going to select. And then even after the end of

1 that you still have a small window to go negotiate
2 your own agreement if you don't like what the
3 arbitrator said.

4 So, yes. We did not include any
5 provisions by which the Commission would review and
6 approve the agreement.

7 CHAIRMAN CROSBY: Okay.

8 COMMISSIONER MCHUGH: That's designed
9 to put the incentive on the parties to deal with this
10 arbitration really seriously. There's no windows.
11 There's no doors. This is the end of it.

12 CHAIRMAN CROSBY: Right. That's
13 good. It's like baseball arbitration. You force
14 people to negotiate towards the center since you're
15 going to pick one or the other is going to win. I
16 think that's good. Okay. This is it for the
17 surrounding community stuff, right? Okay.

18 MR. ZIEMBA: We had also comments from
19 a number of folks on the definition, which we could
20 go through each one of the comments. We could give
21 you a general overview of the comments.

22 CHAIRMAN CROSBY: We've been through
23 this. I don't know. I think we've been through
24 this so many times. And this is a great job of

1 summarizing. If it isn't available on the website,
2 it will be. This is a synopsis of all the comments
3 we've got, we received from anybody including
4 bidders and individual citizens and our reactions.
5 I don't think we need to go through that again.

6 COMMISSIONER MCHUGH: It's very
7 carefully done and comprehensive.

8 CHAIRMAN CROSBY: It's a great job.

9 MR. GROSSMAN: There are just two
10 points that I'd make that I think are important to
11 note because they were comments we received from a
12 number of different individuals.

13 One is that we remove language from the
14 initial draft that precluded a right of appeal from
15 the surrounding community decision. So, we struck
16 that language.

17 The second was that we've clarified we
18 believe that when the Commission sits down to make
19 a surrounding community designation, it will
20 consider what the definition of a surrounding
21 community is. And that is to make sure that the
22 community is both in proximity and impacted and not
23 either/or or some combination of everything.
24 Those were two comments that we certainly made sure

1 that we included in here as well as some others.

2 COMMISSIONER MCHUGH: I think it is
3 worth noting that I for one don't believe that there
4 is a right of appeal, but if there is we can't by
5 regulation remove it. So, the fact that that has
6 come out is not an agreement that there is a right
7 of appeal. It's just a recognition that if there
8 is, we can't by regulation remove it.

9 CHAIRMAN CROSBY: Does the statute say
10 there is no right of appeal?

11 COMMISSIONER MCHUGH: The statute
12 says there is no right of appeal from the licensing
13 decision. This is part of the licensing decision.
14 So, that's for starters.

15 Secondly, this is in many ways a kind
16 of legislative decision from which I think there is
17 limited, if any, right of appeal. I don't purport
18 to have mastered that. It just doesn't make -- It's
19 not within our power to take away a right of appeal,
20 if one exists.

21 CHAIRMAN CROSBY: You're not really an
22 appellate court judge, you just play one on TV.

23 COMMISSIONER MCHUGH: That's right.

24 MR. ZIEMBA: Mr. Chairman, I had two

1 other comments. I noticed that I neglected to
2 include comments on -- a comment from the Town of
3 Holland. We'll revise that for what is posted on
4 the Web.

5 And the other thing I wanted to note is
6 that again what we're talking about today is going
7 to be put into the regulations that will be then
8 subject to another public hearing requirement.

9 So, all of those communities that may
10 review some of the comments that are made here today
11 and some of the decisions or draft decisions that
12 are put on the website have another opportunity to
13 comment as part of that public hearing process.

14 CHAIRMAN CROSBY: Right. Great.
15 Okay, so that's it for surrounding communities for
16 today. Lets' go back now. John, you could just
17 stay here and we'll go to your agenda. And we'll
18 come back to the regs. in a minute. We'll go to
19 report from the Ombudsman. Thank you,
20 Representative.

21 MR. ZIEMBA: Thank you, Mr. Chairman
22 I wanted to bring your attention to two items that
23 I wanted to bring attention to right now, even in
24 advance of final answers from me because there's

1 some deadlines that are quickly approaching.

2 We've been notified of potential
3 issues regarding the execution of surrounding
4 community agreements. In some communities, there
5 are provisions of local bylaws or charters that
6 relate to what types of contracts can be executed
7 by municipal officials without having to go do such
8 a thing as a town meeting.

9 For example, a particular bylaw could
10 be that no board or officer shall make a contract
11 on behalf of a town, the execution of which shall
12 necessarily extend beyond three years from the date
13 there of, except as otherwise provided by law,
14 unless specific authority to do so has been given
15 by the vote of the town.

16 We are entering into the town meeting
17 season. So, there may be a need for some
18 communities to address this issue as they go into
19 town meeting to make sure that the community has the
20 authority to enter into a surrounding community
21 agreement, which would likely exceed three years in
22 many cases, if indeed there are some of these local
23 provisions.

24 We are working with our outside counsel

1 on other thoughts about this issue on whether or not
2 there should be any further official advisories
3 from us on what communities could do in these
4 instances. Hopefully, we'll have that available
5 shortly.

6 CHAIRMAN CROSBY: Okay, great. Thank
7 you.

8 MR. ZIEMBA: But it's a good thing for
9 applicants, obviously, to take note of as well when
10 they are thinking about their timetables for
11 approvals of surrounding community agreements.

12 One other item is that we've been
13 approached with an issue regarding what
14 restrictions might there be on applicants who are
15 involved in a ballot process. Such as if they are
16 involved in putting forward advertising in support
17 of the ballot initiative or similar things.

18 So, what we have done is we've
19 contacted the Office of Campaign and Political
20 Finance. And they've given us some of the
21 parameters that would guide applicants as they
22 pursue any of those activities on whether or not
23 they'd have to establish a political committee or
24 a ballot committee. Whether or not they would have

1 to provide notices to the town clerks.

2 We have an email that we received from
3 all OCPF that outline some of those standards.
4 We'll put that on our website and give that
5 information to applicants and communities.

6 And then they should be encouraged to
7 call the OCPF if they have any further questions.
8 Obviously, we are to help as well.

9 CHAIRMAN CROSBY: Great.

10 MR. ZIEMBA: That's what I have to
11 report.

12 COMMISSIONER CAMERON: Thank you.

13 CHAIRMAN CROSBY: Okay, evaluation
14 criteria, Commissioner McHugh.

15 COMMISSIONER MCHUGH: All right, Mr.
16 Chairman, following our last discussion of the
17 evaluation criteria, you suggested some additional
18 criteria and some restructuring of the existing
19 criteria.

20 And so what I did was take those
21 suggestions and create a second version of our
22 evaluation criteria matrix. And that's what
23 everyone has before them. I was assisted as before
24 by Commissioner Zuniga in this process. So, this

1 is sort of a joint product.

2 What we've done is we still have five
3 categories. In each of the five categories, we
4 have a number of criteria, some statutory but now
5 mainly Commission criteria. This matrix still
6 includes all of the statutory things that we're
7 required to take into account, some mandatory
8 minima and others that are more normative and
9 evaluative. But it adds a lot of criteria that our
10 Commission generated.

11 Most of the major evaluation criteria
12 at this point are Commission generated. And they
13 have a statutory criteria and others as subtopics
14 within the various criteria.

15 As a result of this process though
16 what's begun to happen is that the required evidence
17 column on the right has begun to get some
18 information. And that information is designed to
19 become part of the application requirements.

20 So, the application design will flow
21 from the major topics and the major groupings. And
22 then we'll ultimately have the evidence that we
23 require to support whatever the applicant says
24 about how they are going to meet the various

1 criteria.

2 Before worrying and concerning
3 ourselves deeply though with the required evidence,
4 it's important to come to an agreement on the major
5 topics and then on the two subtopics and come to an
6 agreement on that. And then we can begin to move
7 forward with how we design the application from
8 that.

9 And then after that consider the
10 various methods for evaluating the applications as
11 a whole or the parts of the applications, and put
12 them together in a unified fashion. So, that's
13 what's before us.

14 And discussion obviously is now
15 appropriate and imperative. We are going to have
16 a full day, I think, on the 12th to really go through
17 this and immerse ourselves into it. And we still
18 have up on the website the last matrix. It will be
19 replaced with this with a request for comments on
20 it. And that has no deadlines. So, we're
21 continuing to look for comments. I've said enough.

22 CHAIRMAN CROSBY: No, it's great.

23 It's really good. Anybody? Go ahead.

24 COMMISSIONER ZUNIGA: No. Just to

1 underscore that we've only begun to populate some
2 of the areas here about required evidence. There
3 will be a lot more meat on that bone, not only in
4 this spreadsheet but of course in the form of
5 response that we eventually draft. But all of the
6 components are here and that's the reason of this
7 form at this point.

8 CHAIRMAN CROSBY: Did you have any?

9 COMMISSIONER CAMERON: No. Very well
10 done, easy to understand. You can clearly see
11 where additional populated fields will go. And I
12 just wanted to commend both Commissioners for a lot
13 of hard work here.

14 CHAIRMAN CROSBY: Yes. I had a couple
15 of things. One is purely form not substance. The
16 term subtopic and second subtopic, they're actually
17 subcriteria and not topic.

18 COMMISSIONER MCHUGH: Yes, that would
19 be less confusing. I think that's right.

20 CHAIRMAN CROSBY: Is there anything
21 for us to be careful about here? I want to ask this
22 even though I think I know the answer. But is there
23 anything -- By putting down, for example, a column
24 calling required evidence, are we in anyway setting

1 ourselves up for a problem if we end up thinking of
2 evidence that we didn't put in the list but becomes
3 important?

4 COMMISSIONER MCHUGH: I think the
5 answer to that is, like any topics, yes and no. I
6 think that if we -- And this may happen. It's
7 conceivable. -- if we get deeply into the
8 evaluation process and something like that
9 happened, I think at a minimum we would have -- I
10 think it would be troublesome. I think it would be
11 troublesome. But at a minimum, I think the cure
12 would involve or attempted cure would involve
13 reopening the process to let everybody think about
14 this newly discovered issue. And tell us what they
15 plan to do to meet it.

16 This issue happened -- The same issue
17 happened in Pittsburgh, I believe, someplace in
18 Pennsylvania, and I'm not sure that litigation
19 resulted. But it certainly left a bad taste in
20 everybody's mouth that actually what turned out to
21 be the key factor was one that had not been in there.

22 And I think that our commitment to
23 transparency and the other things that we're trying
24 to achieve here means that we have to do something

1 to ensure that this is here.

2 CHAIRMAN CROSBY: Obviously, we can
3 make a point of saying -- When we first started
4 setting out schedules, we made a point of saying we
5 are trying to give people guidance. This is our
6 best judgment. Don't take these to the bank. And
7 we can certainly do the same thing with this kind
8 of stuff, at least try to forewarn people that
9 there's that.

10 But I agree with you that if a subset
11 of either criteria or evidence came up which was not
12 on our chart, we would want to go out of our way to
13 make sure everybody had a fair shot to address it.

14 COMMISSIONER ZUNIGA: I should note
15 that some of this required evidence would be broad
16 in nature, financial projections, labor studies,
17 other types of studies. I don't believe that we
18 will be in a position to be prescriptive as to the
19 length, methodology or format of those studies.
20 So, I would hope that people would not be
21 constrained by any of those things.

22 I get your point that there may be a
23 category, kind of like a mega higher-level category
24 that we need to think about. But a lot of it is and

1 will be stipulated in regulations if it's not
2 already in the statute.

3 CHAIRMAN CROSBY: Right. And
4 Commissioner Stebbins is taking on the project of
5 making a recommendation to us for what outside
6 resources we are going to need. And he will be
7 working closely with Commissioner McHugh following
8 on this. But this also helps with that I think and
9 begins to give us a sense of what we can do
10 ourselves, where we're going to need help and so
11 forth.

12 One only substantive thing is on page
13 10 mitigation under evaluation criteria you
14 mentioned the chart has traffic. But there are a
15 host of other mitigation criteria, the big one being
16 environmental considerations and probably others
17 that I think we would want to include in there. It
18 doesn't fall in any other catchall category.

19 COMMISSIONER MCHUGH: Let me take
20 another look at that. It clearly needs to be there
21 and maybe there are other topics. The
22 classification piece is a little tricky sometimes.
23 Is something a design criterion or is it mitigation.
24 And we have a lot of environmental in the design

1 criteria. But let me take another look at it and
2 make sure.

3 CHAIRMAN CROSBY: And think of other,
4 there are other kinds of mitigation too.

5 COMMISSIONER MCHUGH: Right, right.
6 Yes, mitigation is light as a topic. There's a lot
7 of mitigation stuff that appears under another name
8 elsewhere. But let's both think collectively
9 about other mitigation things that we need to focus
10 on.

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

13 So, process wise what are the next
14 couple of steps here?

15 COMMISSIONER MCHUGH: I think that the
16 next step -- the first would be to take a careful
17 look at this and think about it, and really think
18 about it, because this is our chance to think. You
19 get so far down into these criteria that sometimes
20 you lose sight of the overall objective. Think
21 about what we each think this thing should be and
22 do. And then make sure that we've got that captured
23 here in some way.

24 And then spend the time on the 12th

1 actually thinking about both the big picture and
2 making sure that these criteria help us create that
3 picture, paint the picture.

4 And then make whatever corrections to
5 this chart we have to in order to capture that
6 painting and then move onto the evidence stage and
7 build the application. I think that's as I see it.

8 CHAIRMAN CROSBY: So, next week would
9 be the seventh. Will this be on the agenda? Do you
10 want to talk about the weighting memo? Is there
11 anything on the agenda for next week?

12 COMMISSIONER MCHUGH: There is
13 nothing necessarily -- Actually, we could begin to
14 talk next week about weighting factors. I've done
15 that memorandum, which I've circulated. We can
16 talk in generalities about that.

17 I think it's too early to be specific
18 about that, because we haven't really tied this
19 down. But we can begin to talk about it and let
20 people know what the kinds of things we are thinking
21 about. And I think that would be a useful thing to
22 do, actually. And I hope to have some thoughts from
23 outsiders by then as well.

24 CHAIRMAN CROSBY: Okay, great. So,

1 we would put that Jim's memo in the packet for next
2 week about the weighting considerations.

3 COMMISSIONER MCHUGH: Right, right.

4 CHAIRMAN CROSBY: Okay, great. This
5 is a terrific job, thanks. Preparation for the
6 Region C discussion. Again, I just wanted to
7 remind everybody that at our regularly scheduled
8 public meeting on the 21st, Thursday the 21st we'll
9 be holding it -- Do we know for sure yet where?
10 Okay, it will be in Region C somewhere at our regular
11 time.

12 And we are inviting comments. There
13 will be a regular meeting, but the major topic will
14 be how do we proceed in Region C. And we are
15 inviting comments. And we are inviting anybody who
16 wants to speak who represents an entity of some
17 sort, a public official, a representative of a
18 community organization. If you want to speak, let
19 us know.

20 We're not going to open it up to just
21 total random comments. Those will be on the web and
22 we encourage them, but we'll limit the speaking to
23 officials or representatives of entities. But let
24 us know if you want to speak.

1 And that's it. We'll have the
2 location up sometime in the next week or so for
3 people to know. We'll get back to regulation
4 review, Attorney Grossman.

5 MR. GROSSMAN: The first thing I would
6 just make note of, and I circulated earlier, is a
7 copy of the grid, which has been updated to reflect
8 the status of the Phase-2 regulations. And as
9 you'll see a large chunk of the subjects have been
10 drafted and circulated for preliminary review.
11 So, that's just the first -- the way we can keep
12 track of where we are.

13 By way of overview, I prepared this
14 memorandum for your consideration as just a way to
15 focus the discussion here today without getting
16 into the specific language that's contained in some
17 of the drafts. To just ensure that where the
18 direction we're taking with some of these
19 regulations is consistent with your understanding
20 of where you'd like to be.

21 With that said, I'll just, if I may just
22 go through some of the areas that we've covered and
23 try to address any questions. And certainly as we
24 move forward, we can make any adjustments to the

1 language. And as was previously mentioned, I think
2 bears constant repetition that these are just the
3 product of great collaboration and thought. But
4 they are intended to be submitted first to the
5 Commission and then opened to the public for further
6 comment. And can be adjusted and amended at any
7 time up to the very end, of course.

8 So, here are some of the principles
9 that we have included in the sections. We first
10 drafted language that applies to the host community
11 designation. There's not a lot in that section.
12 That's largely addressed in Chapter 23K.

13 But there were a couple of areas that
14 we thought could use a little clarification. So,
15 we have included some language addressing those.
16 And they are that first to the extent that a proposed
17 gaming establishment is situated in two or more
18 cities or towns that each shall be considered to be
19 the host community.

20 And secondly that upon request for the
21 election, the applicant shall forward a copy of the
22 host community agreement to the Commission for the
23 reason I discussed earlier in the surrounding
24 community discussion so that we can place everyone

1 on notice that the process is proceeding, and that
2 negotiations -- at least you should start thinking
3 about entering into a review of the situation. So,
4 that's it. That's a pretty quick subject.

5 We get next into the host community
6 elections, which is a related subject. Again,
7 there is a section of the General Laws that largely
8 governs that area. But there are a few areas of the
9 process that we thought would be worthy of further
10 regulation.

11 And they include areas such as
12 prescribing the time that the polls need to be
13 opened. There are some gaps in the election laws
14 whereby a city and a town could theoretically have
15 different times that polls are open.

16 So, it was recommended that we come up
17 with a set time for polling so that it's uniform in
18 all scenarios. And that we incorporate one of the
19 Commission's policy determination that the
20 election can't be called for -- not that the host
21 community agreement can't be executed, but the
22 election can't be called for until the RFA-1, a
23 positive RFA-1 determination of suitability has
24 been issued.

1 CHAIRMAN CROSBY: I don't think that's
2 what we agreed. What we agreed was that they
3 couldn't hold the election prior to the decision of
4 suitability, but not that they couldn't call it.

5 MR. GROSSMAN: Well, the only problem
6 with that is that the statute says that once it's
7 called for, it has to be held within 60 to 90 days.
8 So, I think it really would need to be tied to --
9 We have to talk about the execution.

10 CHAIRMAN CROSBY: Well, that's an
11 interesting point, but that isn't what we talked
12 about, I don't think. We might have made a decision
13 which we can't enforce, but we did make it. So,
14 we've got to rethink that.

15 Because what we had said was if a
16 community wanted to take a calculated risk, and we
17 could tell them it looks pretty good. We can't
18 promise. We're probably going to be suitable.
19 You could run a risk and set the date, particularly
20 people who are looking for June 25, because June 25
21 there's no incremental cost to set up -- not very
22 much incremental cost that you could try it and see
23 if you can make it.

24 Now what you're saying is it maybe that

1 the way the statute is written that we couldn't
2 abort the process -- they couldn't abort the
3 process.

4 COMMISSIONER CAMERON: I don't think
5 -- Mr. Grossman are you saying that it has to happen
6 within that timeframe. You didn't mention
7 anything about aborting the process.

8 CHAIRMAN CROSBY: No, we did. We had
9 said -- the marker we put down was you cannot have
10 an election until the suitability of your applicant
11 has been insured.

12 COMMISSIONER CAMERON: Correct.

13 CHAIRMAN CROSBY: We did not say
14 anything about when you call for an election except
15 by implication. And more specifically, we have
16 talked to communities and I have talked to the press
17 about if a community wanted to take a calculated
18 risk, it could. But it would be forced -- If the
19 suitability was not approved, it would be forced to
20 abort the election under our rules if they did that.

21 What Attorney Grossman is saying is
22 that may not be possible under the statute. That
23 once they've called it they have to haven it.

24 MR. GROSSMAN: Certainly, if the

1 applicant is no longer an applicant, they wouldn't
2 have to have an election. I may have misunderstood
3 what your policy decision was.

4 COMMISSIONER MCHUGH: This is mine.
5 I worked with Mr. Grossman. This is my fault. I
6 misread this. And I think we need to look at it
7 again.

8 MR. GROSSMAN: I think we do.

9 CHAIRMAN CROSBY: Okay. It's an
10 interesting point. I certainly hadn't really
11 thought about this. And I can see heads bobbing and
12 shaking in the back. So, other people are
13 thinking --

14 COMMISSIONER MCHUGH: Right. That's
15 what we did decide. And I missed this. But that's
16 why we have these discussions.

17 CHAIRMAN CROSBY: Right. That's why
18 we got many bites at this apple.

19 COMMISSIONER MCHUGH: Right.

20 COMMISSIONER CAMERON: Draft forms.

21 CHAIRMAN CROSBY: So, we'll come back
22 to that one.

23 COMMISSIONER STEBBINS: A quick
24 question under host community elections. Just

1 clarify the last part of that line, no Commission
2 approval is required. Commission approval of the
3 summary, of the language that's going to be on the
4 referendum or just to what we were talking about in
5 terms of approval of the date, approval of the
6 referendum process. What were you referring to on
7 that bottom line?

8 MR. GROSSMAN: Just that the community
9 can move forward with the election once it is called
10 for without the Commission approving it.

11 CHAIRMAN CROSBY: You're just
12 reiterating that we have no role.

13 MR. GROSSMAN: It was just to clarify
14 that point. It's not 100 percent necessary to
15 include it because I think it's omission would
16 signal that we don't have to do anything. But it
17 was a policy discussion. So, I figured it couldn't
18 hurt to say that you can just do it without any
19 further approval, i.e. we're not approving the host
20 community agreement or the summary or anything like
21 that. You can just go ahead and do it.

22 CHAIRMAN CROSBY: Right.

23 COMMISSIONER STEBBINS: I think
24 there's another issue under host community

1 elections, which again we can talk about at a later
2 date. The question being a municipality that has
3 two projects, should both of those projects be voted
4 on on the same day? Or in all likelihood in the
5 Greater Boston area there may be a project, which
6 would have host community votes in two separate
7 communities. Do we mandate or suggest even that
8 those elections be held on the same date?

9 COMMISSIONER MCHUGH: I think that it
10 is an important -- part of the reason for this is
11 to get alignment on principles so that then
12 regulations can be drafted to support the
13 principles. And so that we collectively can look
14 at the drafts and see whether they achieve the
15 principles would be helpful.

16 But I think this is a principle that we
17 need to think about. Whether we think about it
18 today or whether we put it on the table today and
19 think about it for a week. And that is if there are
20 two host community agreements, should the vote on
21 those --

22 CHAIRMAN CROSBY: If there are two
23 host community agreements in the same town?

24 COMMISSIONER MCHUGH: -- in the same

1 town, yes, should there be a requirement that the
2 election on those two host community agreements be
3 held on the same day? Or should the Commission,
4 recognizing the home-rule nature of the way the
5 State is set up, stay out of that entirely and leave
6 that up to the city where that is occurring? And
7 I think it's important to decide as a matter of
8 principle one way or the other.

9 We already did talk about, I think, and
10 I haven't been able to find it in our minutes, the
11 fact that we were not going to take a role in
12 approving the language of the summaries. That is
13 committed by statute to city and town councils or
14 requiring that certain things be in the summaries.
15 That was a home-rule discussion that we had, if my
16 memory serves me.

17 CHAIRMAN CROSBY: You're right,
18 absolutely.

19 COMMISSIONER MCHUGH: But this one we
20 haven't discussed. And we ought to at least face
21 it and decide one way or the other whether we are
22 going to do it.

23 CHAIRMAN CROSBY: My predisposition
24 is that we built up a pretty good, a pretty clear

1 track record about deferring to the communities.
2 And if an application comes to us from a community
3 and we don't feel they've done a very good job of
4 managing the process, if we feel a process hasn't
5 been really a fair process, we may take that into
6 consideration.

7 If there were two dates and one was
8 really prejudicial because it was the last day
9 before Labor Day or something -- but my
10 predisposition would be to say this is yet again
11 something that we should leave in the hands of the
12 local communities.

13 COMMISSIONER ZUNIGA: My
14 predisposition is on the other side --

15 CHAIRMAN CROSBY: Really?

16 COMMISSIONER ZUNIGA: -- with the goal
17 of creating fairness and public trust. If there is
18 such an option, I would be in a position of dictating
19 that they take place on the same day.

20 CHAIRMAN CROSBY: Did you vote in
21 favor?

22 COMMISSIONER ZUNIGA: I was a minority
23 voting on almost everything having to do with the
24 home-rule.

1 CHAIRMAN CROSBY: That's good.

2 COMMISSIONER MCHUGH: Consistency.

3 COMMISSIONER ZUNIGA: Consistency is
4 a state bureaucrat.

5 COMMISSIONER CAMERON: We're talking
6 about two host community agreements?

7 CHAIRMAN CROSBY: Basically, the
8 Springfield situation.

9 COMMISSIONER CAMERON: I understand
10 that.

11 COMMISSIONER STEBBINS: But you also
12 extend that to if one of the Boston projects carries
13 over into another community, do both of those
14 communities --

15 COMMISSIONER CAMERON: It wouldn't be
16 host. They would not be host.

17 COMMISSIONER MCHUGH: Yes, they would
18 be.

19 CHAIRMAN CROSBY: You mean
20 conceivably.

21 COMMISSIONER STEBBINS: Take Suffolk,
22 because the property boundaries extend between two
23 communities.

24 COMMISSIONER CAMERON: But there's no

1 other proposed one of the 11 applicants.

2 COMMISSIONER STEBBINS: It's a
3 somewhat different scenario, but a vote in one
4 community on the host community agreement be the
5 same day as the vote in the other community.

6 COMMISSIONER MCHUGH: I didn't think
7 about that.

8 CHAIRMAN CROSBY: It's a different
9 issue, but a similar kind of a question. Should
10 Revere be required to have its election at the same
11 time as Boston if Suffolk Downs goes forward?

12 COMMISSIONER STEBBINS: Again, just
13 for discussion purposes, I don't think I have it
14 clear in my mind which way I would come down. But
15 I can see potential prejudice in the process if they
16 both weren't voted on on the same day.

17 COMMISSIONER ZUNIGA: I think this is
18 a different issue. I would say how could you ask
19 one community to be bound by someone else, by
20 another community. Force them to get together. I
21 would put that in a different category. I would be
22 in favor of letting that be that as it may.

23 I was particularly thinking of the
24 Springfield situation and I'm thinking that they

1 ought to take place on the same day.

2 COMMISSIONER CAMERON: I can't think
3 of a scenario where they would want to have it
4 separately. Thinking of advantages,
5 disadvantages and just not sure why.

6 CHAIRMAN CROSBY: Springfield has the
7 option under the law of having not a citywide vote
8 but a vote by ward. I suppose if you were going to
9 have two -- I think the Mayor and the council have
10 said they're probably not going to do that but we
11 don't know what's going to happen. I'd be willing
12 to vote on this and just put it behind us one way
13 or the other. But I'd also be willing to wait if
14 people want to think about it some more.

15 COMMISSIONER CAMERON: I would want to
16 think about this some more. I just haven't had a
17 chance to see the scenarios and unintended
18 consequences that may be.

19 COMMISSIONER MCHUGH: I think there
20 are unintended consequences. I think it's an
21 important issue and I'm glad that Commissioner
22 Stebbins raised it. I am strongly leaning in the
23 favor of the home-rule approach with the
24 reservation that if the matter gets before us and

1 it appears that the staging was done to sandbag one
2 proposal that we have remedies at that point and
3 take that into account in evaluating what we've got
4 in front of us.

5 CHAIRMAN CROSBY: And we have always
6 said that it's pretty much up to the locals unless
7 it impedes our process or in our judgment reflects
8 on the equity and integrity of the process. So, we
9 would be reserving that right.

10 COMMISSIONER MCHUGH: Right, right.

11 COMMISSIONER CAMERON: Mr. Ziemba,
12 you have a comment?

13 MR. ZIEMBA: I was just going to note
14 that perhaps we could just reserve our rights on
15 this question, because as we know we don't know if
16 one or two applicants may proceed in that particular
17 host community. And we don't know what the
18 thoughts of that community would be. Whether or
19 not they think one election on one day may be the
20 way to go.

21 And in any event, I would imagine that
22 there'd be pretty significant time between the time
23 that some of those issues surface and by the time
24 of our next meeting or by the time that we would

1 promulgate our regulations for us to consider that
2 issue.

3 So, it may not be necessary for the
4 Commission to vote today.

5 CHAIRMAN CROSBY: I don't think it's
6 necessary to vote today, but I think we ought to do
7 it next week. I don't think we should wait until
8 we find out whether it's relevant. I think we ought
9 to have anticipated the possibility and decide one
10 way or the other.

11 If you'd like a little more time to
12 think about it, let's put it off and try again next
13 week. And if anybody has comments on it, let us
14 know. Okay, sorry for the distraction.

15 MR. GROSSMAN: No, that's relief.

16 CHAIRMAN CROSBY: Right.

17 MR. GROSSMAN: The next section, since
18 we've already covered surrounding communities
19 would be reopeners. And what we mean by that is the
20 ability of the parties or one party to force the
21 renegotiation of certain terms of an agreement, be
22 it the host community, the surrounding community
23 agreement or an impacted live entertainment venue
24 agreement.

1 And this section was drafted for
2 purposes of contemplation of a scenario in which
3 some unforeseen circumstance happens.

4 Now I think we all hope that each of
5 these agreements includes provisions that would
6 address certain circumstances that are likely --
7 not likely to occur, but foreseeable. That being
8 that a certain permit is denied or a certain permit
9 is conditioned or there's a problem with the MEPA
10 process or other environmental issues. But as we
11 all know in the life of a contract, certain things
12 happen sometimes that are entirely unforeseen.

13 So, we have drafted a provision that
14 provides a procedure in the event that something
15 like that happens. And we have conditioned the
16 opening -- This is really where I think the
17 Commission has to give a great thought. -- as to
18 level of the event that has to occur before one or
19 the Commission would allow the reopening of the
20 agreement.

21 And the reason this is important is
22 that once these agreements are entered into,
23 particularly the host community agreement, you
24 would then have an election on that agreement. So,

1 to allow a reopening has consequences.

2 And certainly the surrounding
3 community agreement and to some extent the impacted
4 live entertainment venue agreement are reflective
5 perhaps in some ways of the host community
6 agreement. So, it all is connected in some way.

7 So, this is an area that I think needs
8 very careful attention. And what we have done or
9 at least what the draft reflects at this point is
10 that in order for an agreement to be reopened, there
11 would have to be what we have a termed a significant
12 and material adverse impact caused by some event.

13 And the way we have defined a
14 significant and material adverse impact is based
15 upon a principle of contract law, which essentially
16 is what these agreements are, known as frustration
17 of purpose. And we've taken the frustration of
18 purpose as it's set forth in the restatement of
19 contracts and included it in our regulations and
20 kind of massaged it into language that we can work
21 with.

22 That being said, I think that needs
23 very careful attention by the Commission. This has
24 been set in place as a placeholder to start the

1 discussion as to whether that is at the right level,
2 whether it's too rigid or not rigid enough as to
3 whether you would allow a certain contract to be
4 reopened.

5 Most likely not to renegotiate the
6 whole contract but just a specific term, when the
7 term itself, the purpose of the inclusion of that
8 term has been frustrated by some event that
9 happened.

10 And the mechanism we employ is
11 basically the same as it would be in the negotiation
12 of the agreement in the first instance, which is
13 that once the Commission makes the finding then you
14 have a set period to renegotiate the term and then
15 go into an arbitration period. The timelines are
16 different here because time is not quite of the same
17 essence as it would be in the initial stage.

18 But those are the principles that we
19 have included here, and that's why we've included
20 this section.

21 COMMISSIONER MCHUGH: Mr. Grossman
22 and I have talked extensively about this piece.
23 And I do think we need to figure out what the trigger
24 for the reopener is. We've discussed the utility

1 of that provision of the restatement of contracts
2 that deals with frustration of purpose.

3 In my view it's a litigation breeder.
4 And much of the restatement of contracts is -- The
5 restatement of contracts is basically written for
6 judges to provide a set of guidelines for resolving
7 particular disputes.

8 It's not, I think, terribly helpful in
9 creating mechanisms for avoiding disputes. So,
10 many of the terms are flexible and incorporate
11 principles rather than setting out rules.

12 So, the question is how firm do we want
13 to make this host community agreement once it's been
14 voted on by the citizens? And what kinds of events
15 are going to allow the people to go back and revisit?
16 That's the basic principle.

17 And it seems to me that there can be
18 events that affect the applicants. Hypothetically
19 finding a ledge that you just can't build the thing
20 on, because nobody could possibly have found it out
21 beforehand, but you can't build it here. The
22 applicant has to revise the plans and the footprint
23 and everything like that. That's one kind of a
24 thing that affects the applicant.

1 Something that affects the host
2 community is a decision by one of the environmental
3 agencies that you have to go through to get permits
4 that you can't do (A). You have to do (B). But (B)
5 involves putting a new roadway where nobody
6 anticipated the roadway would go and it could have
7 a material impact on the city.

8 So, what kinds of things generically
9 describe ought to permit either side to reopen the
10 host community agreement is what we have to figure
11 out. And for all of the reasons Mr. Grossman said,
12 once we've gone through the process of voting, it
13 seems to me that that ought to be really -- it ought
14 to be really hard to reopen the process afterwards.
15 And there ought not to be a lot of wiggle room. But
16 there can be these catastrophic events that nobody
17 could possibly have thought of that do in fact
18 justify a reopener. Finding that balance is hard.

19 CHAIRMAN CROSBY: If we did nothing on
20 this and the applicant and the city, the licensee
21 and the community agreed that they needed to
22 renegotiate, could they under today's situation?

23 COMMISSIONER MCHUGH: If we said
24 nothing, there is nothing that prohibits -- Let me

1 say this. There is nothing that speaks to that
2 issue in the statute.

3 It seems to me that if we said nothing
4 that a voter or a group of voters could take the
5 position that at least without another community
6 vote, you can't change this. And there could be a
7 disagreement on that.

8 I suppose one could take the position
9 that if the parties could reopen it anytime -- Going
10 to the opposite extreme. -- they could reopen it at
11 anytime they wanted so long as there was another
12 community vote. The problem with that is by the
13 time that comes around, the Commission will have
14 evaluated competing proposals. And what emerges
15 from the new community vote maybe very different
16 from the proposal that the Commission awarded the
17 license on. So, you don't want that either.

18 CHAIRMAN CROSBY: Right. Never mind
19 if it happens two years down the road, and they lose
20 the vote, the vote doesn't pass, then what do you
21 do?

22 COMMISSIONER MCHUGH: Right, right.

23 CHAIRMAN CROSBY: If anyone wants to
24 propose solutions, please feel free.

1 COMMISSIONER MCHUGH: So, it's a meaty
2 issue. And it's not one that, frankly, I'm
3 prepared to vote on today. I'd like to think about
4 it. But I think we need to think about that.

5 CHAIRMAN CROSBY: Yes, sure. I
6 agree. Okay, great.

7 MR. GROSSMAN: The next subject was
8 the community disbursements, which I think I
9 covered most of the elements of that in the previous
10 discussion, unless there are any further comments.

11 And the next section deals with the
12 permitting requirements. This section pertains to
13 what the Commission will require an applicant to
14 submit as part of the RFA-2 application as it
15 pertains to permitting, whether it's Federal, State
16 or municipal including zoning.

17 This does not address how this will be
18 evaluated. That will be included in the evaluation
19 section. This is just what documentation or what
20 information do you want, what do you want to look
21 at?

22 And it goes through that, essentially,
23 the applicant will have to provide a chart of all
24 of the permits it believes will be required to

1 complete the project, whether it's a building
2 permit, an electrical permit, all that and
3 everything in between. It addresses the MEPA
4 process and says that you have to submit
5 documentation reflecting different stages of the
6 MEPA process.

7 Then it discusses a certification from
8 the municipality that the project as proposed
9 wouldn't run afoul of zoning ordinances or bylaws.
10 So those are kind of some of the principles that we
11 include in the first part.

12 In the second part, we basically say
13 that in addition to any conditions that the
14 Commission may impose upon a license upon issuance,
15 it also has to include these couple of conditions.
16 And they are essentially that before a conditional
17 license becomes a final license that all permits
18 have been issued and are deemed adequate. And that
19 the MEPA process has been completed.

20 So, those are the basics of this
21 permitting process. I think this definitely needs
22 some further review, but this is generally the
23 process we envisioned.

24 CHAIRMAN CROSBY: Great.

1 MR. GROSSMAN: The next section then
2 deals with impacted live entertainment venues.
3 The theory behind this was that it is very similar
4 in concept to the surrounding community
5 considerations that the Commission will have to
6 make.

7 So, it reflects that process that I
8 discussed earlier nearly entirely with one major
9 exception. And that is what exactly would
10 constitute an impacted live entertainment venue?
11 And what we set out there basically is just that the
12 Commission will consider the elements that are set
13 forth in the statute, which include the venues
14 distance from the gaming establishment, venue
15 capacity, type of performances offered by the
16 venue. We'll make sure that it meets the
17 definition, which is a nonprofit or municipally
18 owned. And consistent with one of the policy
19 determinations that the Commission made earlier, we
20 wrote in that the Commission will consider whether
21 the applicant intends to include a geographic
22 exclusivity clause.

23 So, those are all of the considerations
24 that will go into determining whether a venue is an

1 impacted live entertainment venue. Otherwise,
2 it's nearly identical to the surrounding community
3 process.

4 CHAIRMAN CROSBY: Okay.

5 MR. GROSSMAN: And finally for your
6 consideration are draft regulations pertaining to
7 capital investments. Just recently, the
8 Commission discussed whether it would just go with
9 the minimum for the capital investment set forth by
10 statute or require some other means of setting the
11 minimum.

12 My recollection was that the
13 determination was to set the minimum for category
14 one and two at 500 million and 125 million
15 respectively. So, that's what this does.

16 CHAIRMAN CROSBY: Did we discuss that?
17 I don't really remember. I remember we voted not
18 to ask for increased license fees. I don't
19 disagree with this. I just don't particularly
20 remember discussing it.

21 COMMISSIONER ZUNIGA: I think we
22 discussed it. And that we left the minimum of the
23 capital investment at the same one but defined that
24 minimum capital investment, which is what we're

1 going to get.

2 MR. GROSSMAN: So, this sets the
3 minimum capital investments at those figures. And
4 then it provides a means to calculate what the
5 capital investment is.

6 And some of the considerations are set
7 out in the statute, but most of them are ones that
8 we put into one of two categories, either that it
9 shall be included in the calculation or that it
10 cannot be included in the calculation.

11 And the one that is highlighted in the
12 statute and I think will require the Commission's
13 specific attention is whether you can include the
14 cost associated with the purchase or lease or
15 optioning of the land that the premises will be
16 situated on. It's presently included in the
17 section that says that you cannot include it in the
18 calculation.

19 And we also need to address the
20 infrastructure cost. And the way those have been
21 categorized essentially is that the infrastructure
22 contained within the boundaries of the site you can
23 include, and those that are outside you cannot
24 include.

1 So, those types of considerations and
2 the policy determinations that will require your
3 attention. For purposes of framing the
4 discussion, we have categorized them here already.
5 Certainly, they are all subject to comment and
6 further adjustment.

7 The only other area that I would
8 highlight here is the last section that talks about
9 the bonding or deposit of the 10 percent as well as
10 the return of the 10 percent of the cash deposit.

11 The first part is set by statute. It
12 says that 10 percent of the total investment has to
13 be deposited in an interest-bearing account. Or,
14 and this is set to the discretion of the Commission,
15 the Commission may require or it may allow, excuse
16 me, that the applicant secure a deposit bond
17 ensuring the 10 percent of the proposed capital
18 investment be forfeited to the Commonwealth in
19 cases of noncompliance.

20 So, we have written in that you would
21 allow the applicant either post the bond or deposit
22 the cash. That's an area that requires your
23 attention as to whether you will allow that or you
24 won't.

1 Then the other important element that
2 the statute addresses is the return of the cash and
3 when that happens. The statute says that at the
4 final stage of the construction, the applicant gets
5 the money back to finish the project. So, we need
6 to just specify when you will consider the project
7 to be in the final stage.

8 And what we've done here, it's very
9 broad and it may need further attention, is just to
10 say that (A), the applicant will have to request
11 that the monies be returned. And (B) the
12 Commission has to determine that the project is in
13 the final stage as detailed in the timeline of
14 construction. And that the Commission shall
15 consider whether the amount held in escrow exceeds
16 the amount of capital required to complete the
17 project.

18 So that was just kind of a guidepost
19 that we built in, again, to frame the discussion.
20 Because you will, as part of the RFA-2 application,
21 you will be requiring a construction timeline. So,
22 this is just a way to make sure that there's some
23 specificity as to what the final stage means and
24 that the applicant can't just decide it's way up

1 here as opposed to over there. But that will
2 require future further attention as well.

3 CHAIRMAN CROSBY: What is the thought
4 process for why land acquisition isn't included?

5 COMMISSIONER ZUNIGA: I have some
6 thoughts about that. Because there's a lot of
7 variability. There could be partners, financing
8 structures in which a partner is contributing land,
9 for example. And there could be incentives to
10 value that very different from others.

11 CHAIRMAN CROSBY: You mean
12 theoretically to drive up the value?

13 COMMISSIONER STEBBINS: Right, to
14 drive up the value, right. Fundamentally, I don't
15 see it as an investment coming from outside even
16 though somebody has to acquire it. The value or the
17 asset was already here. Perhaps that's over
18 simplistic, but I think the variability, the way in
19 which the value will change dramatically.

20 The value of land changes dramatically
21 with improvements you put on top of the land. If
22 there's nothing there, then the value is highly
23 subjective. So, for several of those reasons, I
24 think we should ere on the side of not including it.

1 There's another element to this. If
2 we were, then a proponent would have to put in 10
3 percent of that amount. So, it puts some stresses
4 into the amount that they have to deposit with the
5 Commission. So, from those two perspectives, my
6 opinion is that we should exclude it.

7 There's a similar argument with
8 infrastructure outside of the property line.

9 CHAIRMAN CROSBY: This is money if a
10 bidder has to rebuild a bridge that's outside?

11 COMMISSIONER ZUNIGA: Outside of the
12 property. On the one hand, it'll be likely, if they
13 have to do it, my guess is that would be the subject
14 of host and surrounding community agreements. And
15 quantifying infrastructure outside of the property
16 line is always tricky because there will be
17 jurisdiction questions and other things.

18 So, there is a variability element here
19 that I think is important. And to ere on the side
20 of caution, if we delineate only to infrastructure
21 that's within the property confines, that could be
22 very straightforward.

23 Now that doesn't negate the fact that
24 these projects will cost more than the actual

1 capital investment as we define it. Indeed, they
2 will likely have to spend some money outside of the
3 property lines and certainly on land.

4 But part of the approach here is to try
5 to put -- to try to minimize the variability that's
6 inherent with these two topics and treat everybody
7 equally by saying of all of this money, you will be
8 required to put in 10 percent.

9 COMMISSIONER MCHUGH: From the
10 standpoint of adding capital -- adding value for the
11 capital that you invest, that analysis makes sense.
12 I.e., the fact that you buy a piece of land for X
13 dollars doesn't add any value to that land. It's
14 just a transfer of an existing thing.

15 COMMISSIONER ZUNIGA: That's right.

16 COMMISSIONER MCHUGH: And to the
17 extent you put a building on the land, you've added
18 value to the land. So, from that standpoint, the
19 analysis and since we are looking at a value-added
20 approach to the Commonwealth that approach makes
21 sense.

22 But what if the bidder is prepared to
23 invest \$750 million but in order to do that the
24 outside the boundary improvements that are going to

1 be required are another \$250 million? And those
2 can't be taken into account at all. Therefore,
3 what happens then to the overall? And the
4 applicant can't do that? I suppose that doesn't
5 drive it down below the \$500 million.

6 But suppose it's a \$600 million
7 investment and there's another \$200 million that
8 has to be done outside in order to make it work, and
9 they can't do it?

10 COMMISSIONER ZUNIGA: I'm sorry.
11 They can't do what?

12 CHAIRMAN CROSBY: They can't do the
13 project without the other \$200 million.

14 COMMISSIONER MCHUGH: And they
15 haven't got the extra \$200 million.

16 COMMISSIONER ZUNIGA: Right, they
17 would have to demonstrate as part of their
18 application in many other ways that they would have
19 financing for everything. There's not going to be
20 --

21 COMMISSIONER MCHUGH: I understand
22 that. But we'd be in effect -- I'm using those
23 numbers. There could be an infinite variety of
24 numbers. We'd be driving away an applicant who

1 could put up a value-added facility if we allowed
2 that person to include the bridge as well as the
3 structure on the ground.

4 CHAIRMAN CROSBY: We will be driving
5 them away? What do you mean by that?

6 COMMISSIONER MCHUGH: Because they
7 couldn't afford it.

8 COMMISSIONER ZUNIGA: I don't quite
9 follow.

10 COMMISSIONER MCHUGH: Maybe I don't
11 follow it either.

12 CHAIRMAN CROSBY: Alls he's saying is
13 that if you have \$1 billion and \$250 million isn't
14 going to be counted toward your investment in the
15 Commonwealth, you're going to come into this
16 proposal saying to us I'm going to invest \$750
17 million. They're actually going to invest \$1
18 billion, but you're only going to get credit for
19 \$750 million.

20 But the next guy just because of the lay
21 of the land is going to put his full billion into
22 the site of the property. And he comes in and takes
23 credit for a \$1 billion investment. And that
24 doesn't make sense to me.

1 COMMISSIONER CAMERON: Aren't there
2 other places in this evaluation criteria where we
3 could capture that? It seems to me that there are.

4 COMMISSIONER ZUNIGA: Absolutely.

5 COMMISSIONER CAMERON: This is only
6 for the purposes of the 10 percent.

7 COMMISSIONER ZUNIGA: That is
8 precisely the case, yes.

9 COMMISSIONER STEBBINS: And for the
10 minimum investment. If you don't meet the
11 minimum --

12 COMMISSIONER ZUNIGA: That's right.
13 It's purely for the 10 percent that acts a bit like
14 a retainage in the construction industry that I view
15 as intended to make sure that an operator is not
16 under margins. That they have a little bit of
17 wiggle room and that we have a mechanism to get the
18 project done by reserving that amount until the end.

19 Now in the scenario where \$200 million
20 has been spent outside of the property line, for
21 example, part of the thought process is that that
22 would be governed by a host or surrounding
23 community agreement. And the hook there to make
24 that happen is going to be a host and surrounding

1 community.

2 When it comes to evaluating the value
3 of the project and the revenues to the Commonwealth,
4 we will clearly take that and everything else into
5 account.

6 CHAIRMAN CROSBY: So, it only pertains
7 to the 10 percent.

8 COMMISSIONER ZUNIGA: Yes. It only
9 pertains to the 10 percent.

10 COMMISSIONER MCHUGH: And to the
11 minimum capital investment.

12 CHAIRMAN CROSBY: No.

13 COMMISSIONER ZUNIGA: To the minimum
14 capital investment, because if somebody is only
15 thinking of investing \$500 million let's say, and
16 they already counted what they were going to spend
17 outside of the property line in that \$500 million,
18 then this kind of hurts them.

19 So, it's striking a bit of a balance.

20 CHAIRMAN CROSBY: The 10 percent I
21 don't care about one way or the other. I'm fine
22 with that.

23 But if you use Commissioner McHugh's
24 model, a company's going to put \$500 million in, but

1 \$100 million is going to be outside the site. We
2 would say to them you can't bid because you're not
3 investing a minimum of \$500 million? That doesn't
4 make sense to me.

5 COMMISSIONER ZUNIGA: Technically,
6 yes.

7 CHAIRMAN CROSBY: I don't understand
8 that. By the same measure that you're talking
9 about -- The land I think it an interesting point.
10 You're not increasing value in the Commonwealth if
11 you just transfer ownership of a piece of land. But
12 your \$100 million is doing the same thing for the
13 Commonwealth, whether it's going to inside the site
14 or not.

15 COMMISSIONER ZUNIGA: Actually, funny
16 we should say the original discussions Attorney
17 Grossman and I had on this regulation included a
18 third category. One set of costs that the
19 Commission may determine goes one way or another.

20 So, currently we have those that do,
21 costs that are included in the minimum investment
22 amount and those that are not. There are options
23 or scenarios in which a particular cost category
24 upon real close look could go either way.

1 But after discussing this at good
2 length that in and of itself was too murky, shall
3 I say, and we decided to lay this out in the either
4 or category.

5 COMMISSIONER MCHUGH: Substantively,
6 coming back to the Chairman's question and mine, I
7 guess, why if this person only has \$500 million --

8 CHAIRMAN CROSBY: Only needs \$500
9 million to do the job.

10 COMMISSIONER CAMERON: Right, and can
11 do the job for \$500 million, but the bridge down the
12 street, which costs \$100 million is part of the
13 five, why should we say to that entity you can't bid?

14 COMMISSIONER ZUNIGA: It's a good
15 question. I guess it's part of trying to direct as
16 much money to the destination resort as opposed to
17 their surroundings to create the best possible
18 destination casino, if you will. Whereas all of --
19 The bridge is important. It does create value,
20 etc., but may not necessarily go towards the
21 destination effect.

22 If you're in that situation, you may be
23 in a situation where too much is going to make the
24 casino feasible by transportation improvements,

1 etc., and not enough to the purpose of what we
2 wanted, which was a big destination resort. I
3 guess that's about as good as I can --

4 CHAIRMAN CROSBY: That's a legitimate
5 point. I think that's an interesting point. It's
6 sort of the same argument that I lost on about
7 whether we should increase license fees. The
8 majority view was we want the money to go into the
9 destination resort. We don't want it to go into
10 license fees. So, it's somewhat -- There's a
11 legitimate point there that's worth thinking about.

12 COMMISSIONER STEBBINS: But I think
13 Commissioner Cameron has an interesting point,
14 looking at the other evaluation criteria, how they
15 might get weighted, more job creation etc., etc.
16 based on the size of the project. I think there are
17 different ways to balance it out.

18 I don't have it in front of me, but I
19 think that section also probably we need to go back
20 and look at the definition of capital investments
21 as it's defined in the statute as well.

22 COMMISSIONER ZUNIGA: Yes. Purely
23 from an industry standard in my view is something
24 that's an asset and will be with us for many, many

1 years. So, the bridge is not an inconsequential
2 example, the bridge outside of the property line.

3 COMMISSIONER CAMERON: I always
4 envisioned that investment to be within the
5 grounds. Of course, you picked the site. So that
6 means there are other things that you have to do,
7 that's part of your decision-making. But inside
8 the walls of the resort is where I thought it was.

9 CHAIRMAN CROSBY: From everything
10 we've heard to date, and I'd say this is pretty
11 reliable, with respect to the category one license,
12 this isn't going to be an issue. Nobody's talking
13 about being anywhere close to the minimum.

14 It may well be and I don't know that
15 we've heard any numbers for the category two
16 licenses, but they potentially are so much less
17 capital-intensive that this could conceivably be an
18 issue. I don't know. But if you have an existing
19 facility. It's already there. You own the land,
20 you don't count any of that. Or you just have to
21 improve the facility and bring in some stuff. I
22 don't know where you're going to get your \$125
23 million in unless it's for stuff, the
24 infrastructure improvements outside the sites.

1 So, it could be an issue.

2 COMMISSIONER ZUNIGA: It could.

3 CHAIRMAN CROSBY: It's not going to be
4 an issue with the casinos it sounds like. But it
5 might be with the slots parlor.

6 COMMISSIONER ZUNIGA: It may or may
7 not. A large construction project will quickly go
8 in the \$100 million category but you may be right.

9 CHAIRMAN CROSBY: This is obviously --
10 This is exactly what your document was meant to do,
11 which is to flush out the issues that we need to
12 think about and discuss, whcih is what we're doing.
13 So, this is great. We'll talk about this more.
14 We'll get comments on the drafts and we'll see where
15 we come down. Really interesting conversation.

16 COMMISSIONER ZUNIGA: Fee for
17 example, the \$85 million fee I think it shouldn't
18 be included either for the same reasons.

19 CHAIRMAN CROSBY: What are we saying
20 in the regs. relative to the fees?

21 COMMISSIONER ZUNIGA: The fee's
22 excluded.

23 MR. GROSSMAN: All fees are out.

24 CHAIRMAN CROSBY: Good. We did talk

1 last week about waiting a week to think further
2 about whether we should require disclosure of
3 things of value. And we talked about it a little
4 bit last week. And we wanted to have some time go
5 by. I don't think we got any comments on that.

6 Commissioner McHugh pointed out last
7 week that there already are some requirements. But
8 it's one I would like to have us think through. As
9 you've heard me before, I go back to the cable
10 television licensing industry phenomenon that I was
11 a part of. There was tremendous pressure on the
12 license applications from all man or invested
13 interest. To get our support, we want you to do
14 such and such.

15 Some of that is proactive. Some of
16 that is part of the deal. You're making friends.
17 You're making alliances. I have no problem with
18 that.

19 But to protect the license applicants,
20 it seems to me that a fairly rigorous disclosure for
21 any requests for a thing of value or delivery of a
22 thing of value might be significant.

23 And if we're going to do it, we need to
24 do it soon because the process -- as we all know,

1 the process is going on right now. So, I'd like to
2 put that on the table to have other folks react to.

3 COMMISSIONER MCHUGH: What we have in
4 the existing regulations is a requirement that the
5 application any political or community
6 contributions that were made since the statute was
7 passed on November 21, 2011. It seems to me that
8 if we do this, and I think it's probably a good idea,
9 this being require reporting of any solicitations
10 that that could be done in the same fashion.

11 CHAIRMAN CROSBY: Done in the same
12 fashion?

13 COMMISSIONER MCHUGH: I.e., included
14 in the application, a report of any solicitations
15 for community contributions, political
16 contributions. Political contributions now are
17 off limits by applicants.

18 CHAIRMAN CROSBY: Jobs, contracts,
19 things of value.

20 COMMISSIONER MCHUGH: Things of
21 value, right, could be included in the application,
22 should be included in the application.

23 MR. GROSSMAN: Just to follow-up on
24 that the statute's section 46 and 47 of Chapter 23K

1 address this issue, part of what you're talking
2 about, which is once a contribution is made in
3 making a disclosure. What it doesn't address and
4 the regs. don't address is the second part, which
5 is if the applicant receives a request. We don't
6 require and the law doesn't require presently any
7 disclosure of the request itself.

8 And I did look back in some of the
9 policy memos that were prepared and you did address
10 that. Though I've been slightly off in some of my
11 interpretations of your policy results, I think
12 what you said in that one was that you did want to
13 include in the regs. what you're talking about now,
14 which is a disclosure of the request itself. So,
15 as discussed --

16 CHAIRMAN CROSBY: I keep bringing it
17 up. And I think we're sort of fits and starts and
18 never quite really join the issue. Does anybody
19 disagree? Does anybody think it's not a good idea?
20 I could see an argument that it's kind of
21 over-the-top, but to me it feels like -- In the issue
22 of transparency, everything above-board, it seems
23 to me it's a step in the right direction.

24 COMMISSIONER CAMERON: I would be

1 interested if any other jurisdictions have a
2 similar type of disclosure requirement. I think it
3 sounds like a good idea as well. Someone else must
4 have considered this, and are there reasons they do
5 or do not do this.

6 CHAIRMAN CROSBY: Right, plenty of
7 reasons why they do not do this.

8 COMMISSIONER STEBBINS: You're going
9 to have three pockets of evidence or facts. You're
10 going to have where an applicant has cut a check for
11 any local nonprofit or local cause. You could have
12 a category of they actually received a written
13 request from a nonprofit or any other cause.

14 But do we wind up with a third category
15 of nothing was documented, but we have the applicant
16 saying I was asked. But when we go back to the
17 person who made the request and they say hey, I never
18 did that. And then we start to get into a battle
19 of words.

20 COMMISSIONER ZUNIGA: Or along those
21 lines, we'd have to define those requests a little
22 bit perhaps. If you're invited to a fundraiser, is
23 that a request, things like that. I'm a little in
24 between as well.

1 I recognize, and we talked about this
2 and I initially have said that disclosure is great.
3 I understand that there might be an unwieldy piece
4 to this keeping track, documenting, what not.

5 COMMISSIONER MCHUGH: Under this
6 scenario, disclosure would be the end in and of
7 itself. We wouldn't have to do fact finding to find
8 out whether -- It's simply when the application
9 comes out, it says that I've been asked to do A, B,
10 C and D and to contribute to X, Y, Z. And I've made
11 the three contributions. I built a new playground.
12 I did this. I contributed to this fund. All of
13 which is perfectly permissible, but it's out there
14 in the open and it prevents all of the behind the
15 scenes stuff --

16 COMMISSIONER ZUNIGA: Allegations.

17 COMMISSIONER MCHUGH: -- right,
18 allegations. And it to some extent protects the
19 applicant from the --

20 CHAIRMAN CROSBY: -- exploitation.

21 COMMISSIONER MCHUGH: Yes, the
22 improper exploitation. And the legitimate
23 exploitation -- I mean the legitimate requests are
24 still going to be made. And there's nothing wrong

1 with that.

2 COMMISSIONER CAMERON: It would
3 deter.

4 COMMISSIONER MCHUGH: It would be a
5 deterrent.

6 CHAIRMAN CROSBY: It's not a bar,
7 obviously but it's a step in the direction. And it
8 does give the bidder a little bit of a tool because
9 everybody knows it has to be reported.

10 I would say, based on what I'm hearing,
11 let's create a presumption that there will be such
12 a reg. That we will add any request written or oral
13 for anything of value be disclosed with the
14 application. We're going to talk about this many
15 more times. There'll be comment periods and so
16 forth.

17 We will now give notice to our
18 participants that this will very likely become a
19 requirement. And it will be retroactive to the
20 beginning of the process. So, people are on notice
21 that this is something we're going to be thinking
22 about. And we'll button this up over the course of
23 the regs. drafting. Okay, good.

24 COMMISSIONER MCHUGH: Could I just

1 deal with one thing dealing with regs. before we
2 break? Mr. Grossman has done a terrific job on
3 these regs. And they are moving along. And you
4 can see from the matrix that we are making great
5 progress. And he will have more drafts that will
6 be coming out with summaries like this so we can talk
7 about it.

8 As the schedule currently exists, we
9 are planning to have a daylong meeting on March 13
10 to take a look at all of the regulations. We are
11 going to have a meeting with the consultants on
12 March 11, two days before to try to go through line
13 by line the regulations and assemble them and make
14 sure they're consistent and the like. That's the
15 current plan.

16 The current plan says, that big plan
17 that we put up there that the goal is to have the
18 regulations promulgated and effective on June 4.

19 June 4 is not an effective date. It's
20 a Tuesday. We can't have regulations published
21 except on Fridays. And Fridays have to be every
22 other Friday. So, it's either June 7 or May 24 that
23 we can have the regulations.

24 Given where we are with these regs. and

1 the matrix, the evaluation criteria and these other
2 things have to be thought through. These policy
3 questions have to be thought through by us, it seems
4 to me we could use some more time to think about this
5 while not abating the pace at which we're doing the
6 things that are within our control.

7 We can extend the date that we intend
8 to take the first formal step. That is sending a
9 notice to the Local Government Advisory Committee
10 from March 15, which drives all of those other
11 dates. It drives the March 11 date and the March
12 13 date. We can extend that to March 29, and have
13 a shot at still having these regulations published
14 by May 24. That's ambitious.

15 But in a worst-case scenario, if we
16 extend that date to March 29, the Local Government
17 Advisory Committee date to March 29, we will meet
18 the June 7 date, which is three days later than the
19 current schedule says. I recommend we do that. I
20 think the extra time would allow us to prepare a
21 better product at perhaps a savings of time, perhaps
22 losing a minimum amount of time.

23 But it would give us the time we need
24 to really go through this and do it in the fashion

1 that I think we need to do it. And think through
2 some of these principal things in the process. I
3 would recommend we just change our schedule and just
4 amend it so we move in that direction.

5 CHAIRMAN CROSBY: I think that makes
6 all the sense in the world. We hope that next week
7 we will be able to start thinking about maybe decide
8 on a deadline for requiring qualifiers be
9 submitted. And at that point, we'll be redoing
10 that chart, making a decision which of your
11 multitude of options we're going to pursue. And
12 we'll stick that change in there too.

13 One last thing before you go, I got this
14 packages that has some things in red, some with
15 track changes, some in black. What are all of
16 these?

17 MR. GROSSMAN: I'm sorry I didn't
18 explain that. Maybe I can explain that.
19 Everything in red is brand-new language that
20 doesn't exist anywhere with kind of one caveat. In
21 the surrounding community section, the language in
22 black is language that does not exist in the
23 regulations, but is the language that we circulated
24 for comment.

1 So, in the surrounding community one,
2 I left all of the black language there so you could
3 see what we had set out for public comment, and just
4 crossed out with the strike through so you could see
5 what I proposed that we take out and put in red what
6 I propose that we put in.

7 So, the surrounding community one is a
8 little different than the others.

9 CHAIRMAN CROSBY: And the same with
10 community disbursements?

11 MR. GROSSMAN: You are exactly right.
12 Actually, that is in the regulations, the black.

13 CHAIRMAN CROSBY: The black is in the
14 regulations?

15 MR. GROSSMAN: Yes.

16 CHAIRMAN CROSBY: In the previously
17 drafted regulations?

18 MR. GROSSMAN: Yes.

19 CHAIRMAN CROSBY: Okay. I get it.

20 MR. GROSSMAN: So, basically as we
21 move forward kind of the next version of the
22 surrounding community document for your review will
23 be all red, because none of it is in the existing
24 regulations.

1 CHAIRMAN CROSBY: Okay, got it. Is
2 this the totality of -- Oh, no. There's more.
3 That's right.

4 Let's take a five-minute break.

5
6 (A recess was taken)

7
8 CHAIRMAN CROSBY: Okay. We are
9 ready.

10 COMMISSIONER MCHUGH: I just talked
11 with Ombudsman Ziemba about the regulations. Two
12 things would be helpful for our partners and
13 collaborators to know. One is that anything that
14 we've talked about with respect to the regulations
15 today are at a high-level. They've been at the
16 50,000-foot level. If they want to comment at that
17 level, we would welcome those comments as well.

18 And the next draft, given the
19 scheduling adjustment we've just made, the next
20 time we actually put language in front of everybody
21 is going to be toward the end of this month when we
22 ourselves in a public session consider the language
23 that we're planning to send to the Local Government
24 Advisory Committee.

1 So, that between now and then, we'll be
2 applying the principles to the drafts via feedback
3 to Mr. Grossman and the staff individually and not
4 collaborating on coming up with draft language.
5 Then the next time this language sees the light of
6 days is when we get together and have that full
7 collaborative session.

8 CHAIRMAN CROSBY: Are you talking
9 about March 13, or are you talking about the public
10 hearing?

11 COMMISSIONER MCHUGH: No, we're going
12 to push back. Given the fact that we've pushed out
13 that we've extended the deadline for doing this past
14 March 13, we're not going to be ready on March 13
15 to have that.

16 CHAIRMAN CROSBY: So, this will be
17 March 27.

18 COMMISSIONER MCHUGH: This will be
19 likely in that vicinity someplace toward the end of
20 the month.

21 COMMISSIONER CAMERON: Rescheduled.

22 COMMISSIONER MCHUGH: Right, March 13
23 is going to be rescheduled. We may still used that
24 date for the evaluation criteria and the

1 evaluation, but not for the purpose of dealing = --

2 CHAIRMAN CROSBY: That's the 12th.

3 COMMISSIONER MCHUGH: Right, I know.

4 But if we don't finish the 12th, we can have the 13th
5 reserved so that we really do finish that piece,
6 because it's critical that we do finish the
7 evaluation piece.

8 CHAIRMAN CROSBY: Is there not also
9 the public hearing, the formal public hearing on the
10 regs. like we did last time?

11 COMMISSIONER MCHUGH: Yes, and
12 that'll be --

13 CHAIRMAN CROSBY: That'll be another
14 step?

15 COMMISSIONER MCHUGH: Yes. That's be
16 farther down the line. What happens is we will come
17 together and consider publicly the draft that we're
18 going to put into the formal adoption process. We
19 will publish that draft toward the end of the month
20 after we agree on it. And that will sit there until
21 the public hearing and we invite comment on it up
22 to the public hearing date.

23 We will have the public hearing.

24 People can come and talk to us. Then we consider

1 all of the comments that we've received up to the
2 public hearing and all of the comments we receive
3 at the public hearing, come up with revisions,
4 publish the revisions and then they'll go into
5 effect. So, that's the way that works.

6 CHAIRMAN CROSBY: Great.

7 COMMISSIONER ZUNIGA: Public hearing
8 on regulations is scheduled for May 3 at this point.

9 CHAIRMAN CROSBY: Great, thank you.
10 We are now on item six, which is the report from the
11 Director of Investigations and Enforcement.

12 COMMISSIONER STEBBINS: Do you have
13 license fee discussion? Did we get to that?

14 CHAIRMAN CROSBY: Sorry, you're
15 right. Have a seat. We'll be right with you.

16 COMMISSIONER MCHUGH: Have a seat.
17 This is going to be brief. No walk-ons here.

18 CHAIRMAN CROSBY: I forgot 5C,
19 discussion of the license fee. This was the issue
20 about whether they were going to be refundable under
21 any circumstances so on and so forth.

22 I was one of the ones who was, I think,
23 interested in this idea about whether there were
24 some circumstances. I've been pretty much

1 persuaded by Commissioner Zuniga's economic
2 analysis that the Commonwealth is going to be out
3 a lot of money by virtue of this kind of delay.

4 And Commissioner Cameron pointing out
5 that this is absolutely not the norm. And people
6 understand that that is sunk capital. And sunk
7 means sunk. So, I'm happy to kind of let that go
8 at this point. Anybody else?

9 COMMISSIONER ZUNIGA: Which is what I
10 was advocating for. And I would just point out I
11 had prepared, just make a comment that I view these
12 fees as a huge incentive for project completion, for
13 applicants to complete what they say they're going
14 to do, because the return is if they open
15 successfully. That recovers their investment.

16 And that's the genesis of signaling
17 that they are not reimbursable. The payoff comes
18 when they open and it's not easy to walk away from
19 a project like this because circumstances change.
20 It would be a tremendous incentive.

21 CHAIRMAN CROSBY: There's also a 10
22 percent down.

23 COMMISSIONER ZUNIGA: Yes.

24 CHAIRMAN CROSBY: So, I think we've

1 dealt with that. It was a nice interesting
2 conversation, now we'll move onto a couple of other
3 ones.

4 Okay, now Director Wells.

5 MS. WELLS: Yes, Sir. As to the
6 investigation status report, all 11 investigations
7 are currently ongoing with the IEB. The four
8 applicants for a category two licenses, those have
9 been prioritized and all four of those
10 investigations are moving forward at an accelerated
11 rate so that we can try and meet the deadline set
12 by the Commission.

13 Given the nature of the investigations
14 obviously, the information is confidential. We
15 wouldn't be reporting on it specifically, but that
16 is all progressing as planned.

17 CHAIRMAN CROSBY: Subject to the
18 issues that we've been talking about.

19 MS. WELLS: Correct. So, we are in
20 ongoing conversations with applicants about
21 providing additional information, supplemental
22 document requests. Also, should they be making
23 changes in the structure of their organization or
24 their financing, those have to be provided to the

1 IEB to be investigated along with the initial
2 qualifiers. Any questions on the status?

3 The second item in the IEB is the
4 discussion processing public records request for
5 applications. To clarify slightly, I wanted to
6 make sure that the Commission and the public was
7 aware we are subject to 23K 9b. So these
8 applications for licenses that's information that
9 we are receiving. They are determined by statute
10 to be public record. The language they shall be
11 public records. There's no discretion within the
12 Commission as to whether or not these are public
13 records.

14 Now we are in the process of looking at
15 all of those applications. The State Police has
16 been through all of the applications and all of the
17 qualifier applications to review them for the
18 redactions in accordance with the specimen form.

19 So, as the Commission is aware, we put
20 out the specimen form. And the applicants were
21 required to comply with that and submit a second
22 redacted copy of their application.

23 So unfortunately, what we're finding
24 is that in a great percentage of these forms, which

1 have been submitted, there are errors in complying
2 with the specifications of the Commission pursuant
3 to the specimen form.

4 CHAIRMAN CROSBY: Vis-à-vis the
5 redaction or not?

6 MS. WELLS: Correct. The greater
7 percentage of things are over redacted as opposed
8 to under redacted. I would say 75 to 80 percent of
9 the errors in the redaction form are over redactions
10 as opposed to under redactions.

11 So, the State Police have been through
12 all of those forms. By way of understanding the
13 magnitude of this process, we have 11 applications.
14 We have over 300 qualifiers and those documents, I
15 would say, average about 70 pages each. So, we're
16 talking about 21,000 pages of documents that have
17 been meticulously reviewed at this point.

18 So going forward as far as --

19 CHAIRMAN CROSBY: I just want to
20 emphasize this.

21 MS. WELLS: Yes.

22 CHAIRMAN CROSBY: 21,000 pages we've
23 had to review every page to see whether or not the
24 forms are completed and the redactions are

1 appropriate, both points, the forms are completed
2 and the redactions are appropriate, 21,000 pages.
3 That's a staggering, staggering project.
4 Staggering amount of work.

5 COMMISSIONER ZUNIGA: I will point out
6 times two because have to have the actual form and
7 the redacted forms. So, it's actually twice.

8 CHAIRMAN CROSBY: Right.

9 MS. WELLS: And my compliments to the
10 folks at the State Police who have been going
11 through this. It's tedious and it's very difficult
12 work. And they did a terrific job.

13 Unfortunately, our expectation had
14 been we'd have much fewer problems with what the
15 applicants are submitting. So, as far as going
16 forward and what to do, we need to come up with a
17 comprehensive plan of how to deal with this, because
18 now we have sheets that indicate where are all of
19 the problems.

20 They have all been noted, but they have
21 to be changed. So, we have to make some kind of
22 decisions about the process to go through this.

23 My personal feeling is that we need to
24 really have a thorough discussion and we have to do

1 some brainstorming on figuring out the most
2 efficient way to do this, because we can't be doing
3 them again, sending it back, having them come back,
4 checking them again. This could go on forever.
5 That doesn't make any sense as far as an efficient
6 use of resources.

7 So, I think we need to step back and
8 during this week, figure out a real plan of how to
9 go about so that we can let the applicants know this
10 is what complies with the specimen form. So, they
11 are on notice of how they may have erred in their
12 application and in their redaction form. And then
13 go forward from there.

14 In addition to that, in addition to the
15 specimen form, we have also received additional
16 requests for redactions. So, applicants have
17 submitted in writing to the IEB requests for
18 additional information to be redacted. So, those
19 we are taking very seriously and we are looking at
20 them one by one by one. So, we're going through all
21 of those.

22 I would note the Commission had already
23 made a general determination in creating the
24 specimen form. So, requests that I am more likely

1 to consider favorably have specific details about
2 a particular issue.

3 I'm getting some requests, for
4 example, that say well, this should be redacted
5 because it's personal and confidential. But they
6 give no reasoning why that in particular should be
7 when the Commission had already made a
8 determination that that area is not something that
9 would be subject to redaction.

10 That is less likely to get a favorable
11 ruling from the IEB as opposed to an applicant who
12 gives a specific reason why. Puts in for example,
13 this particular lawsuit has to do with a personal
14 issue and they give information why. That
15 generally receives a more favorable ruling because
16 I'm given more specific information, as opposed to
17 just trying go around what the Commission has
18 already decided.

19 So, we're going through those
20 specifically. We've been through the first
21 run-through of all those. There are a few of them
22 where we would like to do a little more research,
23 a little more legal analysis.

24 But we will then combine those

1 additional requests for redactions with the
2 specimen form. We have to combine them so we're not
3 duplicating efforts and going through it all over
4 again once we have made decisions about the
5 additional redaction requests. That's sort of
6 where we are with the process.

7 I would note just for the public's
8 information that examples of redacted information
9 in the specimen form, things that were already
10 determined should be redacted were things about
11 children, about personal finances, about personal
12 phone numbers or addresses, account numbers,
13 personal information about spouses. So, it's not
14 as if the information that was planned to be part
15 of this redacted form had really any personal
16 information that would be pushed out in whatever
17 means the Commission thought was appropriate. I
18 just want to make sure that's on the record.

19 So, that's where we are right now.
20 Given that this task of putting together these
21 forms, these applications that would be appropriate
22 for a response for a public records request is going
23 to take some time, we've deferred to the Commission
24 as to when a decision needs to be made about the

1 process by which those records would be made public.
2 Because it's not going to be this week. It's
3 probably not going to be next week. It may not be
4 the week after. This is going to take some time.

5 So, we may get individual public
6 records request for limited information. But as
7 far as public records requests for the entire
8 application, we have to be very careful about these
9 redacted versions. We cannot let any personal
10 information out. We cannot let anything out that
11 we shouldn't. So, I want to make sure that we do
12 this properly and appropriately and then we'll take
13 it from there. It's a very onerous task that we've
14 got ahead of us.

15 COMMISSIONER MCHUGH: And you're
16 performing it well. I come back to, just to jump
17 in here. I come back to what we said some time ago.
18 We published the specimen form, two specimen forms.
19 We carefully considered the contents of those. We
20 measured the specimen forms against the statute and
21 our interpretation of the statute.

22 We gave people instructions as to how
23 to redact the forms. Then we followed up with
24 instructions about how to follow the instructions

1 we gave them the first time. And we still got stuff
2 that's a mess. And we've spent two months now or
3 a month and a half doing work that is designed to
4 protect people from --

5 CHAIRMAN CROSBY: -- themselves.

6 COMMISSIONER MCHUGH: -- themselves.

7 And it seems to me that -- And we don't have that
8 time. And we don't have those resource. But here
9 we are and we're trying to do this in a responsible
10 way that allows us to be transparent and faithful
11 to what commitments we made in terms of the privacy
12 of people.

13 There is nothing in these forms that
14 can reasonably be viewed as an intrusion on privacy.
15 No matter how many times we say that, it does not
16 sink in, because the letters we get and the
17 vehemence with which we get those letters ensures
18 that people haven't paid attention to what's there
19 and what isn't there.

20 Notwithstanding that, it seems to me
21 that a lot of this is being driven by our decision,
22 which we had a perfect right to make, that we would
23 respond to public information requests by putting
24 all of this stuff up on the Internet, on the Web.

1 And a concern that quite frankly strikes me as
2 unrealistic, but a concern nonetheless that seems
3 to be widespread and pervasive that that is going
4 to bring down the world if we do that.

5 And it seems to me that there is a
6 chance that that is driving some of this other stuff
7 as well. So, while I believe that we are perfectly
8 within our rights to respond to a public records
9 request by posting the requested material on the
10 Web --

11 CHAIRMAN CROSBY: -- redacted.

12 COMMISSIONER MCHUGH: -- redacted,
13 redacted material on the Web, it seems to me that
14 in an effort to listen to what we've been hearing,
15 we've asked for comments on this. We are getting
16 comments. They're uniformly unfavorable. And
17 without backing down from the notion that we are in
18 charge of this process and are going to stay in
19 charge of the process, we have expert comments, I'd
20 recommend that we make a decision now that we're not
21 going to post these on the Web. That we will
22 respond individually to the requests when they come
23 in.

24 We can do that and come up with a

1 procedure for doing that that is not
2 labor-intensive. There are ways to do that. And
3 that will take some, one would hope, heat off of this
4 process and allow us to move forward in a
5 responsible fashion to concentrate our resources,
6 our good State Trooper resources, great people on
7 the investigations that we hired them to do.

8 So, I would put that at least on the
9 table and see the comments of others.

10 COMMISSIONER ZUNIGA: I think you
11 articulate it very well, Commissioner. I would
12 support that. I think the main focus should be one
13 of completing the investigations. And to the
14 extent that those procedures can be put in place in
15 a thoughtful and careful way, I would concur with
16 everything you said.

17 COMMISSIONER MCHUGH: I don't know how
18 you feel about it, Director.

19 MS. WELLS: I've read very carefully.
20 We've gotten written comments. I've read them very
21 carefully. I agree.

22 COMMISSIONER CAMERON: And I think
23 that if we are taking that proactive step.
24 Director, I know how much of the resources have been

1 used on this project. I think maybe a stern letter
2 that says this is the process. Here are your
3 errors. Compliance is necessary. And this would
4 really be a reflection if for the third time you are
5 not complying with the redacted application
6 specimen, this will reflect on suitability. This
7 is a negative.

8 Our regulations clearly say that you
9 have to comply with all of our document requests.
10 And this is a document request, the third document
11 request for the redacted specimens. You will be
12 out of compliance with our regulation. Just the
13 thought of asking those Trooper to do that job
14 again, because really that's what it requires.
15 You're sending us another document back redacted,
16 but we're going to have to make sure it's redacted
17 properly.

18 MS. WELLS: And that's my concern is
19 that however we do the process, if we send it back
20 to the applicant to redo it properly, inevitably we
21 have to check it because we've already seen that the
22 history that it comes back.

23 CHAIRMAN CROSBY: Director Wells and I
24 talked a little bit about the process. We don't

1 have to make this -- the public process. But I
2 totally agree, we just have to think through the
3 smartest, the most efficient way. It is irritating
4 that we've received so much crummy data with all
5 that we've said. And all it's going to do is slow
6 the process down, because we have to get this right.

7 And I agree with your
8 characterization. At the risk of restating things
9 that have been said several times, first of all,
10 this is not something that the Commission wants to
11 do. One of the perceptions that's been out there
12 is that the Commission is kind of running amuck on
13 wanting to be transparent about everything and put
14 the private information out on the Web.

15 We are required as a matter of law to
16 make these public records, as Director Wells read.
17 This unusual if not unique in the United States that
18 the legislation says that, but that's what it says.

19 It gives certain exemptions and it
20 refers to the public records law, which has certain
21 other exemptions. We have frankly interpreted
22 those exemptions as rigorously and I would even say
23 aggressively as we can on behalf of the privacy of
24 our bidders.

1 This is one area where we've not been
2 advocates of transparency. We really want to
3 protect the privacy of our bidders. We are
4 complying with the law, which was given us as
5 narrowly as we possibly can.

6 You now know it's a huge amount of work,
7 21,000 pages of which there are thousands that are
8 wrong. We don't know how many thousands, but
9 thousands. It's a very, very big job. But we are
10 not going to let these things be public while there
11 is any risk of a mistake. There is no way we want
12 to accidentally put out some information that was
13 not suppose to be put out, nor do we want to redact
14 something which law will not permit us to redact.

15 So, we're going to have to take our
16 time. And that will definitely mean that our
17 ability to comply with these information requests
18 is going to take a back seat to getting this right.

19 Having said all of that, I think the
20 Commissioner is right to put it on the Web thing is
21 just kind of like oil on the fire. So, let's forget
22 that and deal with the real issues, which is to get
23 the documents right.

24 We have said and Commissioner McHugh

1 has said it very clearly and I've said it as well,
2 we don't think there is any information that has not
3 been redacted by us that puts somebody's privacy at
4 risk, but we might be wrong. And we're open to
5 suggestions if you think there are other stuff.
6 And we will take that seriously, but not just
7 willful slovenly work. That's not going to be
8 looked on so favorably.

9 So, with all that said, I agree with
10 your suggestion that we should drop -- with your
11 recommendation that we drop the Web as a
12 dissemination medium. We on consensus on that.
13 So, I guess there's no need to vote or anything on
14 that.

15 COMMISSIONER STEBBINS: Yes.

16 MS. WELLS: So, I will continue to
17 update the Commission on where we stand with that.
18 And we will just go forward with the investigations.
19 And as public records request come in, as I expect
20 they will, we'll handle them on a case-by-case
21 basis. And then we'll figure out strategically how
22 to handle the applications.

23 CHAIRMAN CROSBY: Right, great.

24 COMMISSIONER MCHUGH: Great, thank

1 you.

2 MS. WELLS: That's all I have. Are
3 there any other questions from the Commission?

4 CHAIRMAN CROSBY: No. Thank you very
5 much.

6 COMMISSIONER MCHUGH: Thank you.

7 COMMISSIONER ZUNIGA: Actually,
8 Director Wells, it just occurred to me that to the
9 extent that complying with a specific public
10 records request causes the IEB to spend resources
11 stemming from the fact that there was unredacted or
12 redacted or crummy data, to use the Chairman's
13 words, something that we've talked about we would
14 impose those additional costs on those applicants.
15 I guess that could go without saying. But I wanted
16 to confirmed that assumption because that's also a
17 stress on our resources.

18 MS. WELLS: Sure.

19 CHAIRMAN CROSBY: Absolutely.

20 COMMISSIONER ZUNIGA: Thank you.

21 CHAIRMAN CROSBY: We'll do the work
22 but we aren't paying for it. Okay. Director
23 Durenberger of the Racing Division.

24 DR. DURENBERGER: Good afternoon, Mr.

1 Chairman, Commissioners. First, just a quite
2 administrative update to let you know that the
3 Racing Division is working with the successful
4 respondents to our two RFPs for laboratory testing
5 services and auditing software or auditing service
6 program. We're working on contract
7 implementation. So, those are in process.

8 We have our seasonal hires are 99
9 percent complete. And we are now putting together
10 a training schedule. We have a lot of new
11 personnel. We have a lot of new procedures for
12 everybody on all sides of this. So, we want to make
13 sure everybody is up to snuff and knows what the
14 expectations are so that we can make our transition
15 as seamless as possible.

16 CHAIRMAN CROSBY: Great, the two
17 opening days are what?

18 DR. DURENBERGER: April 15 for the
19 harness track, Plainridge Racecourse. And I can't
20 remember if it's June 1 or 2 for Suffolk.

21 CHAIRMAN CROSBY: June 1, a month and
22 a half later. I didn't realize that.

23 DR. DURENBERGER: Yes. As far as the
24 section 104, the pari-mutuel and simulcast law

1 project, where we are with that. The report has
2 been amended to address the stylistics suggestions
3 that you all gave us and the feedback that you gave
4 us last week. And that will be ready probably for
5 you first thing in the morning.

6 Then the actual statutory language
7 itself that we're proposing will be to you by the
8 end of the day tomorrow. Our plan is to sit with
9 you individually next week to the extent that is
10 necessary so we can kind of walk you through
11 anything. And then on Thursday, we intend to bring
12 it before you at this public meeting for final
13 approval or other suggestions. But we are ready to
14 go on that.

15 CHAIRMAN CROSBY: Great.

16 DR. DURENBERGER: Next I want to walk
17 you through our rulemaking through the Racing
18 Division. There's a whole lot of rulemaking going
19 on. So, I kind of just want to walk you through our
20 timeline so you know where we are.

21 Right now we've got the Phase-1
22 amendments to 205 CMR 3.00 and 4.00. These are the
23 ones that pertain primarily to the veterinary
24 practices and medication.

1 We've received the comments from the
2 Secretary of the Commonwealth. We've received
3 some written comments from stakeholders. We've
4 collated those. The public hearing, of course, was
5 this past Monday, the 25th where one additional
6 comment was heard.

7 And we are in the process of
8 incorporating those comments right now. The final
9 recommended version to you will be well in advance
10 of the public meeting scheduled for the 14th, so two
11 weeks from today.

12 And with your approval at that meeting,
13 then the final version would go to the register.
14 And it would be published and in effect on March 29,
15 which gives about two weeks prior to live racing at
16 the harness track.

17 So, we can have that in effect prior to
18 that. It's really disruptive, of course, for any
19 of these rules to take effect in the middle of a race
20 meet, which is why we timed it the way that we did.

21 Then we've got the Phase-2. I think
22 we've talked before about the three different
23 phases, where the Racing Division making some
24 rulemaking changes. Phase-2 amendments are to 205

1 CMR 4.00. So, they pertain primarily to the rules
2 of the running horse races, particularly in the area
3 of safety equipment standards and best practices.

4 Massachusetts actually did have a
5 number of model rules that were adopted in these
6 areas but had not been revisited since 2008. And
7 there have been some significant changes in terms
8 of standards that have been adopted and other best
9 practices. So, this is really amending existing
10 language and just a couple of new provisions.

11 We're recommending today, actually,
12 the initiation of this phase of our rulemaking
13 process. So, in your packet is a copy of a draft
14 notification to Local Government Advisory Council.

15 This phase will include a public
16 hearing scheduled for April 8 that will enable us
17 with the timeline get the rules to take effect prior
18 to live racing at Suffolk Downs. So, I believe
19 since we are initiating the rulemaking process, I
20 think last time we did this we did have to have a
21 vote on it. And Commissioner McHugh, I believe,
22 was the one who made the motion last time. But I
23 do recommend that we do that today.

24 CHAIRMAN CROSBY: Are these the

1 co-chairs of the Local Advisory Government Council,
2 is that who this is?

3 DR. DURENBERGER: Yes.

4 CHAIRMAN CROSBY: Okay. I didn't
5 understand that. You said we do need a vote? Is
6 that what you said?

7 DR. DURENBERGER: Yes. So, I
8 recommended that the Commission vote today to
9 initiate Phase-2 of our rulemaking process.

10 COMMISSIONER STEBBINS: So moved.

11 CHAIRMAN CROSBY: Second?

12 COMMISSIONER CAMERON: Second.

13 CHAIRMAN CROSBY: Any further
14 discussion? All in favor, aye.

15 COMMISSIONER STEBBINS: Aye.

16 COMMISSIONER ZUNIGA: Aye.

17 COMMISSIONER MCHUGH: Aye.

18 COMMISSIONER CAMERON: Aye.

19 CHAIRMAN CROSBY: Opposed? Okay.

20 You've got it.

21 DR. DURENBERGER: Finally, I've put
22 before you today a resolution, which is the first
23 time the Racing Division has done that. So, I'd
24 like to provide some context for you.

1 You have already approved the proposed
2 medication and veterinary practice rules that will
3 bring Massachusetts in line with much of the rest
4 of the racing industry. In addition, we've been
5 participating in a consortium type dialogue
6 regarding the implementation of the next wave of
7 industry reform.

8 And that's a consortium of
9 mid-Atlantic states that have always been together
10 and had a very strong consortium presence. And we
11 have now expanded that to include some of the
12 Northeastern states and potentially Illinois as
13 well.

14 The proposed reforms are going be
15 firmly rooted in the uniform approach to
16 medication. But we're now making a distinction
17 between therapeutic medications, so these are
18 medications that have a legitimate place in the
19 veterinary truck and in the race horse in training.
20 And those medications that have no business in the
21 race horse at all, either because of their potential
22 for abuse or because they can affect the outcome of
23 the race. So, we're now making -- the industry is
24 looking to make the distinction between them, and

1 it's a very important distinction.

2 So, the RCI board, Racing
3 Commissioners International has given preliminary
4 approval to this approach, although the language
5 for the model rule has not yet been promulgated.
6 And our understanding is that that's going to be
7 forthcoming in the next couple of weeks.

8 So, regulators from the mid-Atlantic
9 and Northeast states, we met the first week in
10 February to indicate our intent to consider and go
11 through the rulemaking process on this next wave.

12 We're meeting again, actually, next
13 week, next Tuesday to continue talking about the
14 timeline for these reforms. It's important that
15 the states do this to the extent that their
16 rulemaking process allows in concert, in lockstep.
17 And that's the purpose of the resolution.

18 One of the historical obstacles to
19 uniformity is that if one state adopts a new rule
20 well in advance of other states, and the others sort
21 of take this wait-and-see approach, what happens is
22 that we can actually create shifts in the industry,
23 in the business.

24 So, horsemen may choose to run in one

1 place and not another because of the rules that are
2 in effect. That's not really a good way to regulate
3 an industry, particularly when you have wagering
4 and coming from all different states and indeed all
5 other countries.

6 So, the thought this time is to have the
7 commissions collectively signal their intent to
8 consider the rule and go through the rulemaking
9 process as close as parallel with each other as the
10 rulemaking process allows in the individual states.

11 We note that the West Virginia Racing
12 Commission passed a similar resolution earlier this
13 week. And our understanding is that there is some
14 commitments from other states in the region that are
15 forthcoming.

16 So, procedurally, I'm not quite sure
17 do I read the resolution or does the Chairman read
18 the resolution? Or how does this work?

19 CHAIRMAN CROSBY: I think you should
20 read the resolution. And we'll see if somebody
21 will move to adopt it.

22 DR. DURENBERGER: I can do it. So,
23 the resolution would be whereas, the Massachusetts
24 Gaming Commission is committed to creating and

1 maintaining a regulatory structure that promotes
2 industry best practices in order to protect the
3 integrity of racing and to safeguard the safety and
4 welfare of its many participants.

5 Whereas, the Massachusetts Gaming
6 Commission recognizes the importance of uniformity
7 in the regulation of medication and veterinary
8 practices, particularly in the mid-Atlantic and
9 Northeast region where many occupational -- and
10 that should say licensees -- may participate in more
11 than one jurisdiction.

12 Whereas, a group of regulators from the
13 mid-Atlantic and Northeast region met at Delaware
14 Park on February 6, 2013 and will meet again on March
15 5 to discuss the principles associated with the
16 uniform adoption of medication rules, establishing
17 decision levels and withdrawal guidelines for
18 enumerated substances agreed to be of therapeutic
19 value to the horse in training.

20 Whereas, it is believed that specific
21 model rule language pertaining to such rules is to
22 be considered and potentially adopted by the
23 Association of Racing Commissioners International
24 in the coming weeks.

1 Be it resolved that: The
2 Massachusetts Gaming Commission is in agreement
3 with and committed to the effort toward uniform
4 adoption of such rules.

5 COMMISSIONER CAMERON: I agree with
6 the principles and move that we adopt this
7 resolution.

8 CHAIRMAN CROSBY: Second?

9 COMMISSIONER ZUNIGA: Second.

10 CHAIRMAN CROSBY: I agree. We are
11 very much in favor and supportive of what you're
12 doing. You know so much more about it than we do,
13 but by all accounts you are in conjunction with the
14 folks in the industry are moving Massachusetts out
15 of the Dark Ages as a regulator and into a front-row
16 position, which is where we want to be. So, I think
17 this is great.

18 And we will be continuing to encourage
19 you to tell us what we can do to continue that
20 advancement. This is great.

21 COMMISSIONER MCHUGH: I do too. And
22 the idea of a uniform set of rules throughout the
23 mid-Atlantic and Northeast region for these kinds
24 of things makes a great deal of sense from

1 everything you've said and everything you've
2 provided us to read. So, I think this is great as
3 well. And to be a leader and to be on board early
4 is important, I think. I think it's great.

5 COMMISSIONER STEBBINS: Is the
6 purpose of this resolution, I apologize if I missed
7 it, to necessarily influence your colleagues or is
8 it to influence the folks at RC to kind of keep going
9 in the direction that they're going?

10 DR. DURENBERGER: A little bit of
11 both, but it's more to avoid the situation where you
12 have -- Several race tracks in several states that
13 are all within two hours drive of each other. And
14 if the rules are different at the tracks, you can
15 actually -- you kind of make your choices about
16 where you want to participate.

17 So, some states maybe a little more
18 hesitant to adopt rules and they take the
19 wait-and-see approach. And they watch what
20 happens in another jurisdiction. And it creates
21 these islands, these little regulatory islands
22 where maybe the intentions are good and the rule is
23 good, but nobody will participate because there are
24 other places that are perhaps less onerous or other

1 requirements are less stringent. So, they may
2 choose not to race in a place that is trying to do
3 the right thing. That's not always the case. It's
4 not always the driver behind it, but that's
5 certainly the thought.

6 So, the thought is that if the
7 commissions signal their intent -- And obviously
8 we still have a rulemaking process. We'll bring
9 the rule to you. We'll look at the rule. We'll
10 decide whether or not it fits for our jurisdiction
11 and whether or not we make the recommendation to
12 adopt it ourselves.

13 But at least signaling the intent of
14 yes, this is what we're going to do. If everything
15 looks good, we're going to go forward with it rather
16 than well, let's see what so and so does first or
17 let them work out the kinks or whatever. It's just
18 an indication just to signal the intent that we
19 agree in principal with this and we'd like to move
20 forward.

21 COMMISSIONER STEBBINS: And I agree
22 with Commissioner McHugh's point about it's kind of
23 nice to be in the forefront as opposed to bringing
24 up the rear in horseracing.

1 COMMISSIONER MCHUGH: Particularly.

2 CHAIRMAN CROSBY: Then I think we have
3 vote. All in favor of adopting this resolution as
4 read?

5 COMMISSIONER STEBBINS: Aye.

6 COMMISSIONER ZUNIGA: Aye.

7 COMMISSIONER MCHUGH: Aye.

8 COMMISSIONER CAMERON: Aye.

9 CHAIRMAN CROSBY: All opposed? The
10 ayes have it unanimously. I had one question for
11 you. We all got a rather persuasive 20- page letter
12 from Engel and Schwartz on the issue of the dog
13 racing aid payments. And the issue was given to us
14 because one of the issues was would they have a right
15 to come see us. Where does that stand in the
16 process? What's happening with that?

17 DR. DURENBERGER: I thought you were
18 trying to tie it in to some of the regulations.

19 CHAIRMAN CROSBY: No, new topic.
20 Sorry.

21 DR. DURENBERGER: I received that late
22 yesterday afternoon and have not had the time to
23 actually go through it substantively.

24 CHAIRMAN CROSBY: I'm very troubled by

1 that letter. It is not ordinary for a lawyer to go
2 directly to the client when the lawyer knows the
3 client is being represented by a lawyer.

4 I've taken a quick look at the letter.
5 I haven't made up my mind whether it's persuasive
6 or not. But the letter that was sent to the law firm
7 was a letter that was designed to engage in a process
8 of document production, an invitation to look at
9 documents, an invitation to put ideas on the table,
10 an invitation to try to narrow whatever issues are
11 out there. And I don't know whether that's been
12 done.

13 But a 20-page fusillade in response to
14 that directly to the client as opposed to the
15 lawyers so that things could take an orderly account
16 is to me troubling in the first instance.

17 I simply say that. I have not had a
18 chance to look at it either. And we'll look at it,
19 we'll all look at it. But however long it takes
20 Director Durenberger to look at it and to discuss
21 it with Counsel is time that we need to take.

22 CHAIRMAN CROSBY: One thing that
23 puzzled me about it was that the lawyer who was
24 supposedly representing us was a name that I wasn't

1 familiar with.

2 COMMISSIONER MCHUGH: That's from
3 Anderson and Kreiger. We asked Anderson and
4 Kreiger to do this.

5 CHAIRMAN CROSBY: So, the name, the
6 hyphenated last name is Anderson and Kreiger?

7 COMMISSIONER CAMERON: Yes.

8 COMMISSIONER MCHUGH: That's right.
9 We've asked them to do this. We actually did
10 discuss this. And we've asked them to do this.
11 And they've been engaged in a process of trying to
12 first of all, figure out precisely what the concerns
13 were, produce documents. We got a huge document
14 request some time ago and tried to produce the
15 documents. We've invited them to come and look at
16 the documents. I don't know whether that's
17 happened.

18 DR. DURENBERGER: I've not been
19 contacted.

20 COMMISSIONER MCHUGH: So, we got a
21 huge document request. We spent a lot of time
22 trying to respond to the document request, trying
23 to organize our files so that we could respond to
24 the document request. So, there's issues there,

1 Mr. Chairman. And of course I am saying that in my
2 calm evenhanded way.

3 CHAIRMAN CROSBY: Maybe put it on our
4 blog.

5 COMMISSIONER MCHUGH: No, no. That
6 wouldn't be appropriate.

7 CHAIRMAN CROSBY: Okay, great.
8 Anything else, Director?

9 DR. DURENBERGER: No.

10 CHAIRMAN CROSBY: All right. Thank
11 you.

12 COMMISSIONER CAMERON: Thank you.

13 COMMISSIONER MCHUGH: Thank you.

14 CHAIRMAN CROSBY: The research
15 agenda, we are continuing to move as quickly as we
16 can trying to make a final decision. I believe we
17 have a schedule.

18 COMMISSIONER ZUNIGA: There is not an
19 update with schedule. There was a cost
20 clarification that we asked for which we have not
21 -- a conversation that we have not undertaken but
22 we scheduled it.

23 CHAIRMAN CROSBY: Scheduled for when?

24 COMMISSIONER ZUNIGA: We scheduled it

1 for Monday.

2 CHAIRMAN CROSBY: And we continue to
3 get -- The pool of applicants for the director
4 position for Research and Problem Gambling
5 continues to strengthen as time goes by, which makes
6 Commissioner Stebbins' job a little more
7 complicated, but it's good in the long run.

8 Okay. Then I think we are done. Is
9 there anything else, any other business
10 unanticipated? Do we have a motion to adjourn?

11 COMMISSIONER MCHUGH: So moved.

12 COMMISSIONER CAMERON: Second.

13 CHAIRMAN CROSBY: All in favor, aye.

14 COMMISSIONER STEBBINS: Aye.

15 COMMISSIONER ZUNIGA: Aye.

16 COMMISSIONER CAMERON: Aye.

17 COMMISSIONER MCHUGH: Aye.

18 CHAIRMAN CROSBY: Thank you.

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20 (Meeting adjourned at 4:22 p.m.)

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ATTACHMENTS:

1. Massachusetts Gaming Commission February 28, 2013 Notice of Meeting and Agenda
2. February 21, 2013 Massachusetts Gaming Commission Meeting Minutes
3. Massachusetts Gaming Commission Master Schedule, Category 2 License Schedule
4. Massachusetts Gaming Commission Category 1 and Category 2 Draft Evaluation Criteria Matrix
5. February 27, 2013 Memorandum Regarding Précis of Draft Phase 2 Regulations - part 1
6. Comments for Recommendations for Amendment of Surrounding Communities Definition
7. Resolution - Racing Division
8. March 1, 2013 Memorandum to the Local Advisory Government Council Regarding 205 CMR 4.00

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SPEAKERS:

Representative Keiko Orrall

Dr. Jennifer Durenberger, Director Racing Division

Todd Grossman, Staff Attorney

Karen Wells, Director of Investigations and Enforcement

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 1st day of March, 20



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