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COMMONWEALTH OF MASSACHUSETTS  
MASSACHUSETTS GAMING COMMISSION  
PUBLIC MEETING #178

COMMISSIONERS

- Gayle Cameron
- Lloyd Macdonald
- Bruce W. Stebbins
- Enrique Zuniga

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February 4, 2016 10:00 a.m. - 12:44 p.m.

MASSACHUSETTS GAMING COMMISSION  
101 Federal Street, 12th Floor  
Boston, Massachusetts

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

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4 COMMISSIONER ZUNIGA: Thank you. It  
5 is my pleasure to call to order the meeting  
6 number 178 of the Massachusetts Gaming  
7 Commission. Chairman Crosby is away on  
8 vacation and asked me to chair this today.

9 We'll begin with number two, the  
10 approval of the minutes as we normally do,  
11 Commissioner Macdonald.

12 COMMISSIONER MACDONALD: I move that  
13 the minutes of the January 7 -- excuse me, of  
14 the January 21 open meeting of the Commission  
15 be approved subject to any corrections or  
16 typographical errors or other nonmaterial  
17 matters.

18 COMMISSIONER STEBBINS: Second.

19 COMMISSIONER ZUNIGA: Any comments?

20 COMMISSIONER CAMERON: No.

21 COMMISSIONER ZUNIGA: All those in  
22 favor, aye.

23 COMMISSIONER CAMERON: Aye.

24 COMMISSIONER MACDONALD: Aye.

1           COMMISSIONER STEBBINS: Aye.

2           COMMISSIONER ZUNIGA: The ayes have  
3 it unanimously. Number three on our agenda is  
4 a matter of Wynn and Boston and the proposed  
5 agreement that was reported last week. It's a  
6 surrounding community agreement that modifies  
7 two license conditions that we imposed when we  
8 made the decision of Region A.

9           So, I'm going to turn it over to  
10 Counsel Blue or Counsel Mackey to introduce the  
11 topic.

12           MR. MACKEY: Yes. Good morning, Mr.  
13 Chairman and Commissioners. My name is David  
14 Mackey. To my left is Steve Anderson. We are  
15 from the firm Anderson and Kreiger. We were  
16 privileged to have been appointed special  
17 Assistant Attorneys General to represent the  
18 Commission in connection with the litigation  
19 over the Region A licensing process.

20           General Counsel Blue has asked me to  
21 summarize for you briefly this morning the  
22 history and some of the context behind the  
23 draft motion that is going to be presented to  
24 you later this morning regarding the agreement

1 between Wynn and Boston.

2           Very briefly background on the  
3 Region A licensing process. Today's discussion  
4 concerns the resolution of issues that have  
5 been raised by the city of Boston concerning  
6 Wynn and Wynn's proposed Region A gaming  
7 establishment in Everett.

8           In the spring of 2014, the  
9 Commission determined over Boston's vigorous  
10 objection that Boston was not a host community  
11 to the Wynn project, and instead that Boston  
12 was a surrounding community to the Wynn  
13 project.

14           Some months later in the summer of  
15 2014 after Boston did not reach a surrounding  
16 community agreement with Wynn and after Boston  
17 declined to participate in the surrounding  
18 community arbitration process under the  
19 Commission's regulations, the Commission  
20 concluded that Boston had waived its status as  
21 a surrounding community with respect to Wynn's  
22 application for a license.

23           Then following that determination in  
24 the fall of 2014, September 2014, the

1 Commission awarded the conditional Region A  
2 license to Wynn. And in the absence of a  
3 surrounding community agreement between Wynn  
4 and Boston, the Commission put in the license  
5 that it had awarded a number of mitigation  
6 provisions regarding Boston.

7 And these are in sections three and  
8 four of the conditional license that the  
9 Commission granted in September. And these  
10 include a host of issues, traffic mitigation,  
11 Sullivan Square infrastructure development,  
12 business development, jobs programs, financial  
13 benefits and the like.

14 Significantly, for this morning's  
15 purposes the license also provided that if at  
16 any time prior to the opening of the Wynn  
17 establishment, Wynn and Boston were able to  
18 successfully negotiate a surrounding community  
19 agreement that they could do so. They could  
20 submit it to the Commission.

21 And then the Commission could have  
22 the opportunity to determine whether any  
23 provisions of its conditional license that it  
24 issued back in September 2014 should be amended

1 to incorporate provisions of the surrounding  
2 community agreement.

3 So, the license award took place in  
4 the fall of 2014. It contained these  
5 provisions relating to mitigation for Boston.  
6 Then there was a lot of litigation, including  
7 litigation brought by the city of Boston  
8 challenging really virtually every aspect of  
9 the Commission's licensing proceedings with  
10 respect to Region A.

11 In particular, on January 5, 2015  
12 Boston filed suit against the Commission and  
13 the Commissioners acting in their official  
14 capacities challenging among other things the  
15 Commission's decision that Boston was not a  
16 host community; challenging the Commission's  
17 decision that Boston had waived its surrounding  
18 community status; and challenging of course the  
19 Commission's award of the license to Wynn.

20 The Commission moved to dismiss  
21 Boston's complaint on July 31. And then two  
22 months ago on December 3, 2015, the court  
23 granted the Commission's motion to dismiss.  
24 Then on December 8 it entered final judgment

1 dismissing in its entirety all of Boston's  
2 claims.

3 Boston's 60-day deadline to appeal  
4 the court's dismissal of its claims is expiring  
5 within the next several days. Boston has also  
6 filed a separate MEPA, environmental case  
7 against Wynn. And Wynn has filed its own  
8 lawsuit alleging defamation stemming from  
9 events that took place during the litigation.

10 So, weâ€™re here this morning because  
11 within the past week and pursuant to the terms  
12 of the license that I described, Boston and  
13 Wynn have now agreed on the terms of a  
14 surrounding community agreement and want to  
15 resolve all of the litigation related to the  
16 licensing proceedings.

17 So, on January 22, 2016, Wynn and  
18 Boston signed and they've now submitted to the  
19 Commission a settlement agreement and release  
20 resolving the claims and the litigation as well  
21 as a surrounding community agreement. And the  
22 surrounding community agreement is expressly  
23 conditioned on the Commission's approval to  
24 replace the provisions of the license that

1 relate to mitigation for Boston with the terms  
2 of the surrounding community agreement.

3 I'll very briefly describe for the  
4 Commission some of the provisions of the  
5 settlement agreement and release. I'm going to  
6 leave to representatives of Wynn and Boston to  
7 describe in detail and answer questions on the  
8 surrounding community agreement itself.

9 But the settlement agreement  
10 provides that Boston will agree not to appeal  
11 the dismissal of all of its claims in the  
12 licensing action. That it provides that Boston  
13 will dismiss its pending MEPA case that is  
14 currently pending against Wynn. And  
15 significantly that Boston will not file a new  
16 lawsuit against Wynn or the Commission once the  
17 Commission issues its Section 61 Findings at  
18 the conclusion of the environmental process.

19 It agrees to do so as long as by the  
20 way as those Section 61 Findings are reasonably  
21 consistent with the environmental review  
22 process that's taken place to date.

23 Boston has also agreed to release  
24 Wynn and the Commission and the Commissioners



1 from any other claims relating to the licensing  
2 proceedings that could have been brought in the  
3 earlier lawsuit by Boston but have not yet been  
4 brought.

5 In return, the settlement agreement  
6 also provides that Wynn is going to dismiss its  
7 defamation lawsuit stemming from the licensing  
8 proceedings. And that Wynn and the Commission  
9 and the Commissioners are going to release  
10 Boston from any claims that they have stemming  
11 from the licensing proceedings or the lawsuit.

12 That in a nutshell brings us to  
13 today's draft motion. And the draft motion  
14 really contains five points for your  
15 consideration. Point one is determination by  
16 the Commission to reinstate Boston as a  
17 surrounding community.

18 The second point is approve that the  
19 terms of the newly negotiated Boston/Wynn  
20 surrounding community agreement will replace  
21 sections three and four, the Boston mitigation  
22 provisions in the September 2014 license.

23 Third, to expressly and clearly  
24 reserve the Commission's authority to impose

1 additional conditions on the license when it  
2 issues it's Section 61 Findings. Fourth, to  
3 release to Boston a check currently being held  
4 by the Commission that was issued by Wynn to  
5 the city in the amount of \$1 million. It was  
6 an upfront payment described in the initial  
7 license issued in September.

8 And then lastly to authorize the  
9 Commission's Executive Director or the  
10 Commission's General Counsel to sign the  
11 settlement agreement and release on behalf of  
12 the Commission which will have the effect of  
13 releasing Boston from any claims the Commission  
14 could have brought against Boston stemming from  
15 the licensing proceedings or the litigation.

16 So, that concludes my presentation.  
17 As I said, we ask Wynn and Boston to present  
18 the particulars of the surrounding community  
19 agreement but I'm happy to take questions on  
20 other matters.

21 COMMISSIONER ZUNIGA: We may get to  
22 some questions. Director Bedrosian, did you  
23 want to say something?

24 MR. BEDROSIAN: Commissioners, I

1 will just add a couple of thoughts after  
2 listening to Counsel Mackey. This resolution  
3 while the genesis was from litigation is a  
4 little unique because it's a public resolution  
5 of public claims. And unlike a commercial  
6 litigation where the parties would resolve  
7 their differences and go their own ways, this  
8 is different.

9           This is, I would suggest more akin  
10 to a treaty. This will in part help define and  
11 clarify the relationships of the parties going  
12 forward which the parties will continue to  
13 have. So, I think everyone understands but I  
14 just want to be clear. Everyone is not taking  
15 their piece of the pie and going home. This is  
16 a new beginning with in part clarifying --  
17 helping to clarify our new relationships.

18           COMMISSIONER ZUNIGA: I think that's  
19 an excellent point, Director. And we'll hear  
20 from representatives from the city and Wynn in  
21 a minute.

22           I want to open to Commissioners any  
23 questions we may have for Mr. Mackey. That was  
24 an excellent summary, Sir. Does anybody have

1 questions?

2 COMMISSIONER MACDONALD: I have no  
3 questions.

4 COMMISSIONER CAMERON: Very clear.  
5 Thank you, Mr. Mackey.

6 COMMISSIONER STEBBINS: I'm all set.

7 COMMISSIONER ZUNIGA: I do have one.  
8 This kind of release in your opinion is not  
9 atypical of public bodies like ours?

10 MR. MACKEY: No, it's not atypical  
11 at all. No, I think Wynn and Boston have  
12 negotiated the surrounding community agreement,  
13 want to terminate all of the litigation between  
14 them.

15 So, the Commission is getting a  
16 valuable promise by Boston that it is not going  
17 to appeal the dismissal of that case and in  
18 return, we are committing not to institute  
19 litigation against Boston for any claim that  
20 the Commission might have stemming out of the  
21 licensing process.

22 So, it is really is on the  
23 litigation front, complete peace among the  
24 parties.

1           COMMISSIONER ZUNIGA: And you  
2 reviewed it since it was executed, of course,  
3 last week?

4           MR. MACKEY: Yes, we have.

5           COMMISSIONER ZUNIGA: Okay. Thank  
6 you. Let me start with representatives from  
7 Wynn to offer a presentation or comments.

8           MS. KRUM: Good morning,  
9 Commissioners. My name is Jacqui Krum from  
10 Wynn Resorts. I'm very pleased to be here to  
11 present our surrounding community agreement for  
12 your consideration.

13           First, I want to express our  
14 appreciation to the Commission for your  
15 foresight in including in our license  
16 conditions a provision enabling us to negotiate  
17 a surrounding community agreement with the city  
18 of Boston and for your encouragement in doing  
19 so.

20           It has been a long and sometimes  
21 difficult road for all of us. But we've  
22 remained committed to the project and are  
23 working on an engagement of 4000 construction  
24 workers as we sit here today. As Mr. Mackey

1 described, the majority of the surrounding  
2 community agreement contains the terms from our  
3 license conditions. The one exception is the  
4 elimination of the traffic reduction incentive  
5 payment.

6 As you are aware, the circumstances  
7 since we were awarded the license have changed  
8 over the last two years. First, as a result of  
9 our MEPA filings, Secretary Pollock has formed  
10 a regional working group to study the long-  
11 standing traffic issues in the Sullivan  
12 Square/Rutherford Avenue area.

13 We have committed \$250,000 to fund  
14 this group which is tasked with studying the  
15 area, taking into account all new developments  
16 impacting the region, developing, implementing  
17 and financing a long-term solution.

18 In addition to mitigating the  
19 impacts of our traffic estimated to cost  
20 approximately \$11 million prior to opening, we  
21 have committed to an additional \$25 million for  
22 the implementation of the long-term plan. No  
23 other private developer has committed any funds  
24 for this purpose.

1           Also, the recent package of the  
2 Federal Transportation funding bill in  
3 conjunction with the \$25 million that we have  
4 committed could be used for the implementation  
5 of a long-term solution.

6           However, the most important  
7 component of the implementation of this long-  
8 term solution is cooperation. We see this  
9 agreement and the commitments made by us and  
10 the city as a critical step towards making this  
11 a reality soon.

12           Second, over the past several months  
13 we've had many productive with the Boston  
14 Transportation Department. We have one  
15 scheduled for tomorrow as well. They have  
16 analyzed our traffic models and proposed  
17 mitigation and provided valuable input. It has  
18 been a collaborative process and we will  
19 continue to engage with the city throughout  
20 this permitting process.

21           Our goal has always been to make the  
22 traffic work. It is critical to our business  
23 and our relationship with the community. We  
24 never anticipated making the traffic reduction

1 incentive payment because we plan to implement  
2 a robust transportation demand management  
3 program which will encourage alternate forms of  
4 transportation.

5 With that in mind, we felt it was  
6 more important to commit to the certainty of an  
7 additional \$6 million and to move the long-term  
8 solution forward rather than a speculative \$20  
9 million.

10 And of course we are still  
11 responsible if our traffic solutions fall  
12 short. We have commitments to MEPA, to you,  
13 the city of Everett and now the city of Boston  
14 to monitor, report back and address any  
15 deficiencies.

16 We are anxious to move this project  
17 forward. Every day that this project does not  
18 move forward costs the Commonwealth significant  
19 tax revenue. We've estimated over \$660 million  
20 annually. We appreciate your consideration of  
21 the surrounding community agreement proposal.

22 COMMISSIONER ZUNIGA: Thank you, Ms.  
23 Krum. Questions for Ms. Krum on this  
24 presentation?



1           COMMISSIONER MACDONALD: I have no  
2 questions.

3           COMMISSIONER CAMERON: I just have a  
4 comment. Certainly, we have worked hard to be  
5 deferential to cities and licensees. We think  
6 that's the role we should play. Obviously, we  
7 monitor and make sure everyone in the  
8 Commonwealth is getting a fair shake.

9           That is an awful lot of money. And  
10 we will be watching, of course. And our staff  
11 tells us that the meetings have been productive  
12 with the working group. And everyone seems to  
13 share the same goal of making sure traffic  
14 works efficiently for the entire region, for  
15 the city.

16           So, I at this point am willing to  
17 show that deference to the city and to the  
18 licensee and approve this part of the deal.

19           MS. KRUM: Thank you, Commissioner  
20 Cameron.

21           COMMISSIONER STEBBINS: Jacqui, I  
22 had one quick question. Commitments on jobs,  
23 best efforts to recruit, hire Boston residents,  
24 spend money in Boston.

1 MS. KRUM: We've actually increased  
2 our commitment to the city of Boston in terms  
3 of vendors. So, in the Commission's -- in the  
4 license conditions, it called for \$15 million a  
5 year and we've increased that to \$20 million a  
6 year.

7 COMMISSIONER STEBBINS: I just want  
8 to make sure that it is consistent with all of  
9 your other surrounding community agreements.  
10 We're not overpromising, over-pledging dollars  
11 that have been designated for other  
12 communities?

13 MS. KRUM: No. It's the same  
14 conditions that were in our license agreement.  
15 Obviously, Everett has a preference and the  
16 city of Boston falls behind those preferences.

17 COMMISSIONER STEBBINS: Okay. Thank  
18 you.

19 COMMISSIONER ZUNIGA: I did want to  
20 give an opportunity to the city to make  
21 comments if they wished, Mr. O'Flaherty.

22 MR. O'FLAHERTY: Mr. Chairman, thank  
23 you and through you to the Commission. For the  
24 record, my name is Eugene O'Flaherty,

1 Corporation Counsel for the city of Boston.

2 I want to say it truly is a pleasure  
3 for me to be here today in front of this  
4 Commission. I appreciate all of the hard work  
5 that this Commission has engaged in since its  
6 inception. Clearly, you have been down a  
7 difficult road certainly is much as we have  
8 been.

9 I am here this morning to echo my  
10 sister's comments. I agree wholeheartedly with  
11 what she has represented to you today. And  
12 certainly, appreciate the opportunity for the  
13 record to say to you that the city of Boston is  
14 looking forward to developing a new  
15 relationship, not only with Wynn, but also with  
16 the Mass. Gaming Commission.

17 And the Mayor wanted me especially  
18 this morning to indicate to you and send to you  
19 his goodwill and also that we look forward to  
20 implementing, presumptively with your approval,  
21 what you have in front of you today. Thank  
22 you, Mr. Chairman.

23 COMMISSIONER ZUNIGA: Thank you.  
24 Comments or questions?

1           COMMISSIONER CAMERON: I certainly  
2 take Mr. O'Flaherty at his word and look  
3 forward to a productive working relationship as  
4 well.

5           COMMISSIONER ZUNIGA: Right. It's a  
6 great development from my perspective. We will  
7 take the five motions later.

8           But I did want to mention that as  
9 was being characterized here by Mr. Bedrosian  
10 this notion of a treaty, this agreement really  
11 appears to be one of going forward. It is  
12 clear that there's a lot of goodwill to make  
13 solutions happen. We believed, I personally  
14 believed that this project could be a catalyst  
15 for long-standing problems to the Sullivan  
16 Square area.

17           It's not to be the only venue to  
18 solve them, and that by itself requires a lot  
19 of cooperation among parties. And it's very  
20 positive to see that there's such goodwill and  
21 the message from the Mayor, and I thank you Mr.  
22 O'Flaherty and thank the Mayor on our behalf.

23           I do want to mention that two people  
24 not present here that were often also part of

1 the face of some of that hard work, and at  
2 times, part of the language that was out there  
3 are not here. One because he's on vacation and  
4 the other one because he retired, Commissioner  
5 McHugh. So, I just wanted to mention that.

6 Other questions or comments for our  
7 attorneys? Do we need to take each one of the  
8 five elements and discuss them by themselves?

9 MS. BLUE: You can certainly  
10 deliberate on the elements. And when you are  
11 ready you would move the motion as found on  
12 page 10 of the Commission packet.

13 COMMISSIONER ZUNIGA: Yes. It  
14 occurs to me that the easiest one is the  
15 release of the check. Let me speak to that.

16 As Treasurer, I don't know if it's  
17 cashable because it's more than 180 days old.

18 MS. KRUM: We'd be happy to reissue  
19 that.

20 COMMISSIONER ZUNIGA: But I'm sure  
21 the Wynn will be happy to reissue that.  
22 Another one would be to accept or approve the  
23 agreement that is before us, this surrounding  
24 community agreement and settlement agreement.

1 Any discussion on that fellow Commissioners?

2 COMMISSIONER CAMERON: Mr. Chair, I  
3 just think reinstating the city of Boston as a  
4 surrounding community was probably a first step  
5 before we accept the agreement.

6 COMMISSIONER ZUNIGA: That is right.  
7 We de-designated Boston at some point in time  
8 from being a surrounding community. And our  
9 process does stipulate that Wynn designates  
10 them first and then we agree to their  
11 designation.

12 And it's obvious that by them  
13 entering into an agreement that Wynn has  
14 probably designated them a surrounding  
15 community and we can accept that. Is there  
16 agreement among our Commissioners?

17 COMMISSIONER MACDONALD: Well,  
18 before a vote, as a new Commissioner and as one  
19 who was not here during the course of the  
20 licensing process of Wynn Everett, my role in  
21 this issue of approving the terms of the  
22 settlement is something which our counsel has  
23 addressed itself to.

24 And I would ask either the Executive

1 Director or Counsel to make a record of the  
2 advice which has been received by me and the  
3 Commission with regard to my role in this  
4 process.

5 MS. BLUE: For the record,  
6 Commissioner Macdonald will be abstaining from  
7 the vote on this motion.

8 COMMISSIONER ZUNIGA: Okay. That's  
9 a good clarification. Thank you. So, we'll  
10 make the motion altogether but we touched on  
11 three aspects. The fourth one was relative to  
12 the --

13 COMMISSIONER CAMERON: -- the  
14 amendment to the licensing condition.

15 COMMISSIONER ZUNIGA: Yes, the  
16 amendment of the licensing condition which  
17 agreeing to the surrounding community  
18 agreement, it effectively does. Any discussion  
19 on that front?

20 COMMISSIONER STEBBINS: Just a  
21 point. The surrounding community agreements I  
22 think as a body we've always generally left  
23 those to the discretion of our licensees and  
24 the impacted community.

1 I am pleased to see that Wynn has  
2 stepped up their commitments in a couple of  
3 areas of the new surrounding community  
4 agreement. And again, happy that the city of  
5 Boston and Wynn have resolved those issues,  
6 made it a little bit more lucrative.

7 But I've always been a little  
8 reluctant to kind of impose our position into  
9 those surrounding community agreements or host  
10 community agreements unless there was something  
11 that we deemed as pretty outrageous. And I  
12 don't think there is in this case.

13 COMMISSIONER ZUNIGA: Yes. That's  
14 an important point, I think. We have a bit of  
15 a tradition of deferring to local control much  
16 like the Massachusetts tradition has had when  
17 it comes to surrounding community and host  
18 community dynamics. And this goes along to  
19 that effect.

20 COMMISSIONER CAMERON: Other than we  
21 do have a responsibility with the entire  
22 Commonwealth with all of these projects. So, a  
23 long-term solution is certainly in everybody's  
24 best interest. As the Commissioner who looked



1 at and studied and presented mitigation, those  
2 traffic concerns are extremely serious.

3           And I, as one Commissioner, look  
4 forward to hard work to come to a solution.  
5 And I know that is not easy, but I think it is  
6 something that we will be paying attention to  
7 on behalf of the Commonwealth, the whole  
8 region. Those were the most comments we  
9 received about this project were those concerns  
10 over traffic.

11           So, I know there is a long-term  
12 working group. But I think it is everybody's  
13 best interest to really work hard to do that  
14 sooner rather later. And I know we will be as  
15 a Commission looking at those efforts, being  
16 briefed by staff. It is important. So, I just  
17 wanted to state that for the record.

18           COMMISSIONER STEBBINS: That's a  
19 good point. I think the resolution of the  
20 legal matters is going to hopefully encourage  
21 or allow that working group's work to maybe  
22 progress at a little faster rate so that long-  
23 term solutions can be reached.

24           And the city of Boston and the

1 neighborhood of Charlestown and the city of  
2 Everett and Wynn can hopefully have some  
3 considerable mitigation steps taken before the  
4 facility opens. A long-term solution is  
5 created and approved and everybody signs off on  
6 it.

7 COMMISSIONER ZUNIGA: The next  
8 obvious milestone to that effect is our Section  
9 61 Findings, which was mentioned earlier. And  
10 we look forward -- I understand that MassDOT  
11 may have just issued their Section 61 Draft  
12 Findings; is that correct?

13 MS. BLUE: That is correct.

14 COMMISSIONER ZUNIGA: We obviously  
15 have a big role in all of that. And their  
16 Secretary's certificate had a whole process for  
17 that. That of course now continues and that  
18 working group is critical as part of that  
19 certificate. So, we also look forward to that  
20 process.

21 There was a fifth element that I did  
22 want to discuss.

23 MR. BEDROSIAN: I think that's the  
24 designation of who signs on behalf of the

1 Commission, whether it's myself or Catherine.  
2 Quite frankly, I'm going to recommend it be  
3 General Counsel Blue. It's a legal document.  
4 She's General Counsel. I am a lawyer, but she  
5 is General Counsel. So, I'm comfortable. My  
6 recommendation is that she signs it.

7 COMMISSIONER ZUNIGA: On that note,  
8 I will be very happy to entertain when we move  
9 to designate General Counsel to be the  
10 signatory to this agreement on behalf of the  
11 Commission when it comes to this agreement.

12 Other comments on this or any other  
13 related matters?

14 COMMISSIONER CAMERON: Just a  
15 comment about the release. We will be  
16 releasing professionally and personally. I  
17 just wanted to state that for me that is all  
18 about the greater good working. The reason for  
19 us being appointed was to implement this in the  
20 best way possible. And I think a working  
21 relationship is the best way to do that.

22 And that is my thought on why I am  
23 willing to release at this point.

24 COMMISSIONER ZUNIGA: Yes.

1 Commissioner, I remember a comment you made on  
2 the licensing decision when we took the vote on  
3 this matter, really well to this day, where you  
4 believed and still believe probably on the  
5 goodwill of people. And I think that holds  
6 true for today and moves forward.

7 Okay. I think we are ready for a  
8 motion. Actually, before we take that let me  
9 just mention the hard work that goes on by our  
10 legal department, the Ombudsman, our Counsel.  
11 It's their job to be doing this on the Wynn  
12 side and the city. But what we've done here  
13 with all of your help is a great testament to  
14 the work that you do day in and day out. So, I  
15 personally want to thank you for all of that.

16 MR. MACKEY: Thank you very much.  
17 It was a great privilege working with your  
18 terrific in-house legal team here and the  
19 others here at the Commission.

20 COMMISSIONER ZUNIGA: Thank you, Mr.  
21 Mackey. Okay. So, if we are okay I'll  
22 entertain a motion.

23 COMMISSIONER CAMERON: Should we  
24 take them one by one?

1 MS. BLUE: No. It's one motion.  
2 You can move the motion that is found on page  
3 10, beginning on page 10 in the packet.

4 COMMISSIONER ZUNIGA: Page 10 in the  
5 packet, which is part of subsection 3(a)  
6 through (f) in the agenda.

7 MS. BLUE: It's the first three  
8 pages, I think of that section. You'll see  
9 that the motion is numbered pages one, two,  
10 three. It starts out with vote regarding  
11 litigation release and surrounding community  
12 agreement.

13 COMMISSIONER ZUNIGA: And it  
14 summarizes in good detail the discussion we've  
15 had here on the five elements that we've  
16 discussed.

17 MS. BLUE: That is correct. Since  
18 you have an abstention, it may make sense to  
19 make the record clear that you do the vote by  
20 roll call vote amongst each Commissioner.

21 COMMISSIONER CAMERON: I don't know  
22 that it's necessary to read them at length.

23 MS. BLUE: You don't need to read  
24 them into the record, no. But if you note that

1 it is the motion found on page 10 of the packet  
2 that should suffice.

3 COMMISSIONER ZUNIGA: Do you want to  
4 move that Commissioner?

5 COMMISSIONER CAMERON: Iâ€™ll move  
6 that we approve the agreement found on page 10  
7 of the packet, and we're talking about as a  
8 surrounding community agreement, a settlement  
9 agreement, a release request for amendment to  
10 license condition, request for execution of  
11 release, request for release of the check and  
12 the reinstatement of Boston as a surrounding  
13 community.

14 COMMISSIONER STEBBINS: Second.

15 COMMISSIONER ZUNIGA: Okay. Let the  
16 record show that it's the vote regarding the  
17 litigation release and surrounding community  
18 agreement as found on page 10 of the  
19 Commission's packet. Okay. Commissioner  
20 Cameron?

21 COMMISSIONER CAMERON: Aye.

22 COMMISSIONER ZUNIGA: Commissioner  
23 Macdonald?

24 COMMISSIONER MACDONALD: Abstain.

1                   COMMISSIONER ZUNIGA: Commissioner  
2 Stebbins?

3                   COMMISSIONER STEBBINS: Aye.

4                   COMMISSIONER ZUNIGA: And  
5 Commissioner Zuniga votes aye. So, the ayes  
6 have it three to one -- three and one  
7 abstention, not three to one, three to zero and  
8 one abstention. Okay. Let's take a quick  
9 break. We'll be back in maybe 10 minutes.  
10 Thank you.

11  
12                   (A recess was taken)

13  
14                   COMMISSIONER ZUNIGA: We are back.  
15 We are going to move to item number four,  
16 Administration, Mr. Bedrosian.

17                   MR. BEDROSIAN: Sure. Good news is  
18 I'll be very brief. I think calendar date  
19 tomorrow is approximately one month that I've  
20 been here, although I tell you it feels like a  
21 lot longer in a good way. People are still  
22 smiling when they see me. We'll see how long  
23 that lasts.

24                   But to get back to the heart of the

1 meeting, I am going to turn it over to Derek  
2 Lennon for a quarterly budget update.

3 MR. LENNON: Thank you, Ed. Good  
4 morning, Mr. Chairman and Commissioners. I'm  
5 joined by Agnes Beaulieu today. And we're here  
6 to do our second budget update for fiscal year  
7 2016 and our second supplier diversity update.

8 In your budget update packet you  
9 have a memorandum and three appendices. Our  
10 budget presentation will be brief today. But  
11 just as a refresher, appendix (A) is our  
12 monthly web update which shows spending  
13 compared to budget. Appendix (B) is a list of  
14 all budget amendments for this quarter. And  
15 appendix (C) is a budget to actual for each  
16 division's budget.

17 The Gaming Control Fund had FY16  
18 initial projections of \$28.3 million in  
19 expenditures and revenues of \$6.09 million  
20 requiring a \$22.2 million assessment on our  
21 licensees. FY15 balance forward \$6.16 million  
22 in revenues of which \$3.32 million was  
23 unrestricted and resulted in a corresponding  
24 reduction in the annual assessment during our



1 first update.

2 For the second quarter, we are  
3 pleased to report that we recommend budget  
4 adjustments that will result in decreases to  
5 anticipated spending by \$353,000. We're also  
6 pleased to report that FY16 licensing revenues  
7 will exceed projections. Last year licensing  
8 revenues fell short of projections by about  
9 \$600,000. And to date, we've already exceeded  
10 those projections by \$25,000.

11 The majority of the budget  
12 adjustments in your packet are zero sum-entries  
13 within divisions and the \$353,000 comes from a  
14 late start to the CMS. So, we have two monthsâ€™<sup>TM</sup>  
15 worth of \$187,000 that we didn't spend that was  
16 budgeted in. That's what is making up the  
17 majority of the reduction that we're  
18 recommending here.

19 The memo culls out three areas to  
20 watch for possible future underspending, the  
21 licensing management system, which we had  
22 budgeted \$500,000 FY16 for. We're just working  
23 on right now getting a vendor in. Very  
24 promising work that's going on right now but

1 will we be able to spend the full \$500,000, we  
2 won't know until we get the first sprint done.

3 Document management project, we set  
4 aside \$200,000 this year. We've only committed  
5 \$80,000 of it. And then the ISA for the  
6 Attorney General's office, there was a budget  
7 of \$1.9 million. To date they've spent  
8 \$700,000. However, the good side of that is if  
9 they get another investigation and they need to  
10 do additional spending in the State Police  
11 overtime, it looks like they'll have some areas  
12 within and it won't be an additional cost to  
13 our licensees.

14 We have one area that we're still  
15 tracking for a potential exposure, and that's  
16 our indirect rate. We've had numerous  
17 discussions on that, so I won't bore you again  
18 on it. But we are still working with the  
19 Executive Office for Administration to try and  
20 get that either decreased or waived.

21 So, based on this information, I am  
22 not recommending, even though we have \$353,000  
23 in reduced spending, I'm not recommending a  
24 reduction to the assessment because we still

1 have a \$1.2 million potential exposure sitting  
2 out there with the indirect rate. I'd like to  
3 figure out what that end result will be before  
4 I give money back to the licensees and then  
5 come back and bill them for another \$1.2  
6 million.

7 If you have any questions, any  
8 guidance on what we should do, I am more than  
9 willing to listen.

10 COMMISSIONER MACDONALD: I have a  
11 couple of questions but no guidance. Your  
12 report that the licensing revenues exceeded  
13 projections, Derek, do you have a sense as to  
14 what was responsible for that?

15 MR. LENNON: So, it's a few things.  
16 It's money that we were anticipating for the  
17 hires that happened in June not coming in until  
18 July down at Plainville. And then I think we  
19 were projecting about a 20 percent turnover  
20 rate in Plainville, and we are currently at  
21 around 40 percent, I think, the licensing team  
22 has updated. So, each time that's a new fee  
23 that we're bringing in. That's the majority.

24 We're actually up in the gaming

1 employee licenses and we're down under the keys  
2 and the vendors from what our projections were.  
3 So, that's where it's mainly coming from.

4 COMMISSIONER ZUNIGA: And there's a  
5 longer term project associated with that which  
6 is we will track with the help of the next  
7 version of the licensing management system we  
8 will hope to begin to track the number of hours  
9 that it takes for us to license individuals and  
10 vendors to be able to assess the true fee which  
11 is what we can assess a recovery fee, otherwise  
12 it would be equivalent to a tax. And that's  
13 not what we want to do.

14 MR. LENNON: Correct. So, for the  
15 primaries and the key executives, we set a  
16 threshold. I think it's \$1500 or \$1000 and  
17 then \$15,000. If we exceed that we're supposed  
18 to be filling for the additional cost. At this  
19 point, we've got a backlog. We're not keeping  
20 the best records.

21 But for future discussions as far as  
22 a true fee, it will help to track the hours  
23 that it takes to do service level employees,  
24 gaming employees, secondaries. So that we can

1 see if our licensing fee is correct for we are  
2 charging.

3           It's not just the hours. We do  
4 background checks. We've got the  
5 fingerprinting costs. We have the educational  
6 background costs. There are four or five  
7 different components that the IEB goes through  
8 that we are paying for right now. We're not  
9 really adding those up to see if it matches up  
10 to the fee that we're charging. I can tell you  
11 we're probably losing money on most of them.

12           COMMISSIONER ZUNIGA: Right.

13           COMMISSIONER MACDONALD: Derek, I  
14 had another question. Is my understanding  
15 correct that this category of indirect cost is  
16 basically another phrase for what would be  
17 referred to as overhead in other settings?

18           MR. LENNON: Correct. The way that  
19 the statute is written, it allows the  
20 Commonwealth to pull back for -- pull money off  
21 of federal funds and recoup the general fund.  
22 Then there was a section added that said and  
23 other funds as well that aren't state  
24 appropriated.

1           Since we are a trust fund, we're not  
2 state appropriated we get hit with that  
3 overhead indirect cost, but we don't have a  
4 state appropriation that is supposed to be  
5 recouping for.

6           So, we've gone into this a few  
7 times. As the internal piece which recoups for  
8 direct appropriations we get from the state  
9 fund. And then there's an external piece which  
10 is called the statewide cost allocation plan  
11 that takes all of the overhead services for  
12 agencies like Operational Services Division,  
13 Executive Office for Administration and  
14 Finance, the State Comptroller's office that  
15 aren't part of the chargeback and assesses it  
16 to each agency on how we use their system.

17           Our costs would have been \$32,000  
18 based on our FY15, what we used in FY15  
19 services for those. Right now, I think they've  
20 hit us for in excess of \$700,000. So, we don't  
21 have the first piece. We only have the second  
22 piece. We've paid \$700,00 for \$32,000 that we  
23 used.

24           COMMISSIONER MACDONALD: What's

1 their justification? What's their argument to  
2 justify this charge?

3 MR. LENNON: If you look at how the  
4 law is written, it says that ANF bulletin five  
5 promulgate regulations on how to do this. And  
6 any person who doesn't receive a direct federal  
7 appropriation will be just be charged a  
8 straight 10 percent overhead cost, which works  
9 out for a lot of agencies because a majority of  
10 their funding, if they're not receiving direct  
11 federal appropriations comes from the state.

12 So, they're probably using more than  
13 10 percent overhead to run that grant. For us,  
14 we get no state appropriation so it doesn't  
15 benefit us.

16 COMMISSIONER ZUNIGA: The genesis of  
17 this is perhaps a technical aspect of two  
18 different processes. Over here we are required  
19 to use MMARS, which is the mechanism that gives  
20 the genesis to a lot of what Derek is talking  
21 about in terms of the automatic charge of the  
22 indirect costs.

23 COMMISSIONER MACDONALD: And MMARS  
24 being the Commonwealth accounting system?

1           COMMISSIONER ZUNIGA: The state  
2 accounting system, right.

3           MR. LENNON: Section 57 requires us  
4 to operate as a state agency, follow state  
5 finance law and use the state accounting and  
6 personnel systems.

7           COMMISSIONER ZUNIGA: The first two  
8 elements of that are fine. They're critical.  
9 There's no argument there.

10           But the third one, using the state  
11 accounting system brings in all of these other  
12 processes that the Comptroller has for every  
13 other agency that is assumed to either receive  
14 federal funds or state funds and we get  
15 neither. And this aspect --

16           I thought myself, and this is just  
17 me as the Treasurer, as to whether technical  
18 corrections on the statute might include this  
19 topic whether it's being outside of MMARS even  
20 though it's very useful and a lot of our staff  
21 have very robust processes in using it, or  
22 simply having a permanent waiver that is  
23 explicit to this effect when it comes to this  
24 agency because we are unique in that regard.



1           Other questions relative to budget  
2 or budget adjustments? I think it's very  
3 conservative and modest what you propose. I  
4 think the report is always very helpful as you  
5 present it.

6           COMMISSIONER CAMERON: I agree. I  
7 want to commend you both for putting together a  
8 report that's very easy to follow, transparent  
9 and projections and explanations that make  
10 sense, commonsense. Thank you.

11           MR. LENNON: Thank you. I have to  
12 defer to Agnes on all of those thanks, because  
13 I just get to write the report. She does all  
14 of the hard work.

15           COMMISSIONER ZUNIGA: And by the way  
16 Agnes and her work with other directors because  
17 there is now a real effort to manage,  
18 financially manage costs and budgets by  
19 department. And that is really where the  
20 rubber meets the road by directors being aware  
21 and to plan and etc. on all of their budget  
22 items.

23           COMMISSIONER MACDONALD: I would  
24 just say that I would welcome the opportunity

1 Derek and Agnes for some private consultation  
2 with you so that I can get more familiar with  
3 the structure of the financial reporting and  
4 the conventions that we are following.

5 MR. LENNON: Absolutely. We'll set  
6 up some meetings.

7 COMMISSIONER ZUNIGA: You are not  
8 requesting a vote on this, it's just a  
9 quarterly report that we normally have?

10 MR. LENNON: Correct. And then I'll  
11 turn it over to Agnes to give an update on our  
12 supplier diversity numbers.

13 MS. BEAULIEU: Good morning,  
14 Commissioners. This second quarter we have  
15 our diversity numbers in. So far to date we  
16 have already reached and surpassed our small  
17 business benchmark, which is good news.

18 But we are still lagging behind on  
19 our minority and woman-owned businesses. We  
20 have large encumbrances out there that will  
21 cover that should those be expended, but we are  
22 also looking to reduce those in the future with  
23 some of the contracts.

24 So, therefore we are also going back

1 to the vendors we already have. We have to do  
2 some research into what their contract states  
3 as far as their diversity numbers are. Then we  
4 can include those in our costs. We can kind of  
5 piggyback. That is something that OSD has  
6 recognized this year with some of their  
7 elimination of some of their statewide  
8 contracts. But we are working hard to do that.

9           And the one benchmark that we still  
10 have trouble with is the service disabled  
11 veterans benchmark, just given their propensity  
12 to be more construction oriented than service  
13 oriented.

14           MR. LENNON: Just to clarify what  
15 Agnes was talking about, one of the areas that  
16 we had good spending what in our OPM. We had  
17 set aside I think \$700,000 this year. We tried  
18 to cut that back. We've really cut them back  
19 to about \$20,000 a month.

20           So, our contracts are written high  
21 and our benchmarks were high. We just need to  
22 go back and it, bring that in front of you once  
23 we have a final number which will revise down  
24 our discretionary budget, but it's still not

1 getting as many dollars out as we would like  
2 to.

3           So, what we have done effective when  
4 we saw these numbers coming in is we've asked  
5 Jill to sit on all of our procurements so that  
6 she can one, help us identify where we might  
7 not be reaching the right audience, and if  
8 there are vendors out there that she can bring  
9 online. Two, see if there are areas that our  
10 procurements are written poorly.

11           We had one that she asked us to pull  
12 down for catering because didn't given enough  
13 time to get a diverse pool in. So, we're  
14 pulling it down. And we're going to turn it  
15 into open enrollment to allow for one, diverse  
16 vendors as they come on to jump into this  
17 group. And two, local vendors to jump in so  
18 that we're not bringing someone from Boston out  
19 to a meeting in Springfield a caterer meal  
20 because that's all we have on our contract.

21           So, these are the areas that Jill  
22 has already made a positive impact. And we  
23 expect her to really help us going forward.  
24 This is for statewide contracts as well as our

1 own RFRs.

2           And what Agnes was talking about  
3 with the stateside contracts is subcontracting.  
4 So, we get credit if one of our statewide  
5 contractors isn't a minority- or woman-owned  
6 business. So, their ownership isn't 51 percent  
7 of either one of those categories, but they  
8 subcontract out some of their services. We can  
9 get credit for that.

10           This is another area where Jill may  
11 be able to say well, we don't have a primary  
12 vendor, but there's a secondary vendor out  
13 there that can add part of that service in.  
14 And let's connect these two vendors together.

15           COMMISSIONER STEBBINS: I applaud  
16 your good work. And Agnes, the numbers that  
17 we've seen so far, I'm happy that Jill is going  
18 to be sitting at the table and helping you out.

19           Obviously, we are trying to walk the  
20 walk and talk the talk that we ask our  
21 licensees to do, but understanding we are not  
22 buying as much stuff as they are. So, it's a  
23 different effort. It's more of an effort that  
24 needs to be required for us to try to mirror

1 what they are doing.

2 I applaud the work that you're  
3 doing. Finding local vendors in Springfield  
4 for our needs out there so as Derek as you  
5 pointed out, we're not hauling coffee out from  
6 Boston to Springfield. Depending on how Derek  
7 drives, it may still be hot by the time he gets  
8 there.

9 But finding those opportunities for  
10 those small businesses to maybe be a qualified  
11 vendor. We may not use them all the time, but  
12 we're trying to spread our limited resources  
13 around I think is admirable for the effort that  
14 you make.

15 COMMISSIONER ZUNIGA: Yes. Those  
16 are great steps. And especially when we are  
17 doing outreach, having a timeframe, a rolling  
18 basis of procurement there is always attention  
19 -- because I've sat in that role when we need  
20 to do things quickly, when something needs to  
21 be procured, there's a tendency to think of the  
22 shortest amount of time possible just to get  
23 things done. And that at times could come at  
24 the cost of some of the other outreach that

1 we're trying to do.

2 So, the steps you're taking are  
3 great. And with Jill's involvement, it's very  
4 positive.

5 COMMISSIONER STEBBINS: Quick  
6 question. You mentioned the other day New  
7 England Office Supply, I think a woman-owned  
8 business has been acquired by W.B. Mason. Do  
9 we still --

10 MR. LENNON: We lost that spend  
11 because they are not 51 percent now. If  
12 there's subcontracting going on that we can try  
13 to figure out what ability. But we lost a big  
14 spend there on the woman-owned side.

15 One of the things that Agnes has  
16 already done is switch over all of our printer  
17 cartridges to Cam Office Supply because they  
18 are a woman-owned business. So, that's getting  
19 us back a piece of that.

20 We do this at a certain cost.  
21 You're not getting the bulk rate that you would  
22 get through WB Mason or New England Office  
23 Supply, but we are recognizing that we do have  
24 a commitment to make. We're making our

1 licensees make this commitment. So, we better  
2 do the same thing.

3 COMMISSIONER ZUNIGA: Thank you for  
4 that update.

5 MR. BEDROSIAN: For the Region C  
6 update, I'm going to ask Ombudsman Ziemba to  
7 come up.

8 MR. ZIEMBA: Thank you, Executive  
9 Director. Commissioners, I have a couple of  
10 things to report on the Region C schedule. The  
11 first is that we continue with the March 31  
12 potential determination regarding a Region C  
13 award.

14 The other bit of news is that we  
15 have scheduled the host community hearing for  
16 March 1. That is scheduled out in Brockton  
17 from 4:00 to 6:00 p.m. at Massasoit College.

18 And then the final thing that I'll  
19 mention regarding the schedule is that we  
20 gained a couple of days. Neither of the  
21 parties in arbitration filed fundamental  
22 inconsistency petitions. And as a result, we  
23 have a couple of dayâ€™s savings in that regard.

24 Arbitrations are due to conclude



1 with a report on February 8. Then the parties  
2 have five days after the eighth to enter into  
3 an agreement in lieu of the report. If the  
4 parties do not reach an agreement in that five-  
5 day period, the report becomes the surrounding  
6 community agreement for that community.

7 So, we gained a couple of days  
8 because there was no need for a fundamental  
9 inconsistency petition. That is pretty much  
10 what I have to report.

11 COMMISSIONER ZUNIGA: So, the  
12 arbitrations both -- There's two arbitrations.

13 MR. ZIEMBA: That's right.

14 COMMISSIONER ZUNIGA: With remind me  
15 the --

16 MR. ZIEMBA: Easton and West  
17 Bridgewater.

18 COMMISSIONER ZUNIGA: Yes. And they  
19 have both selected arbitrators?

20 MR. ZIEMBA: Yes. They're in the  
21 middle of their arbitration. Reports are  
22 expected in the very near future. The deadline  
23 is by Monday.

24 COMMISSIONER ZUNIGA: February 8?

1 MR. ZIEMBA: February 8, yes.

2 COMMISSIONER ZUNIGA: And our  
3 hearing, you mentioned that quickly, is on  
4 March 1.

5 MR. ZIEMBA: Correct.

6 COMMISSIONER ZUNIGA: It wasn't  
7 designed in this way but happens to be primary  
8 Tuesday but Massasoit is not a polling station  
9 in Brockton.

10 MR. ZIEMBA: I don't believe so. I  
11 don't know if we've checked that with Janice.  
12 We can certainly check that.

13 COMMISSIONER ZUNIGA: It's not at  
14 the college, the conference center. Okay. Let  
15 the record show that that was totally  
16 unintended. I don't think we even put those  
17 two together.

18 MR. ZIEMBA: March 1 is the date we  
19 can issue a determination regarding the award  
20 no earlier than 30 days after the conclusion of  
21 the host community meeting. And by having it  
22 on the first, we would remain on schedule with  
23 the 31st.

24 COMMISSIONER ZUNIGA: But it could

1 be later because it's no earlier than 30 days.

2 MR. ZIEMBA: No earlier, you are  
3 exactly right.

4 COMMISSIONER ZUNIGA: Other comments  
5 or questions for Mr. Ziemba.

6 COMMISSIONER STEBBINS: John, don't  
7 we have a date where we usually go back and  
8 close the hearing?

9 MR. ZIEMBA: You are right  
10 Commissioner. If indeed the testimony isn't  
11 concluded on that date, if it gets too late in  
12 the night, we have the opportunity to schedule  
13 another concluding hearing and call another  
14 date.

15 COMMISSIONER ZUNIGA: We'll start to  
16 get a sense from the public, depending on how  
17 many people begin to sign up. They can always  
18 sign up by going to our website, Janice? And  
19 the members of the public always can send us  
20 comments by writing to us on the email box, MGC  
21 comments. As the date approaches, we will see  
22 if there needs to be a second day for the  
23 ongoing hearing.

24 MR. ZIEMBA: The hearing is actually

1 scheduled from 4:00 to 6:00, but if it is  
2 longer than necessary we would anticipate that  
3 we would go longer than 6:00.

4 COMMISSIONER STEBBINS: John, the  
5 other day we got a letter sent to the  
6 Commission from the town of Berkeley --

7 MR. ZIEMBA: That's right.

8 COMMISSIONER STEBBINS: -- asking  
9 for the opportunity to speak. I'm assuming  
10 their elected officials would also be allowed  
11 to speak at the March 1 host community hearing,  
12 if they so chose?

13 MR. ZIEMBA: Yes. Members of the  
14 public are invited to attend. They can submit  
15 their comments. We did invite them to the  
16 prior to the surrounding community hearing as  
17 well. We notified them of that date.

18 COMMISSIONER STEBBINS: Okay. Good.

19 COMMISSIONER ZUNIGA: And we often  
20 put elected officials and representatives of  
21 towns at the beginning of the hearing.

22 MR. ZIEMBA: That's exactly right.

23 COMMISSIONER MACDONALD: If I could  
24 just, I wanted to note apropos of Commissioner

1 Stebbins noting that we've received a letter  
2 from the town of Berkeley, I want to note or  
3 urge all of us to read that letter very  
4 carefully.

5 I thought it was extremely  
6 thoughtful and addresses the potential dilemma  
7 of towns in the immediate vicinity of East  
8 Taunton which would be directly impacted by the  
9 Indian casino if we were to go forward with  
10 Region C and award a license to Rush Street  
11 Gaming in Brockton.

12 The concern that they express here  
13 is that -- in substance is that if we approve  
14 the casino in Brockton, then pursuant to the  
15 compact that the Tribe has with the  
16 Commonwealth, number one, there would be no  
17 proceeds, no payments to the Commonwealth by  
18 the tribal casino but that the surrounding  
19 communities would not be and they note not just  
20 Berkeley but Rehoboth and Dighton and Freetown  
21 and Lakeville and Raynham and Norton would not  
22 be in line for mitigation funds from the tribe.

23 So, it identifies an issue that I  
24 think we all have to take very seriously into

1 account when we address ourselves to the  
2 application for the Region C license.

3 And this letter is signed by the  
4 chairman of the board of selectmen, the chief  
5 of the Berkeley Police Department, a member of  
6 the school department, chairman of the town  
7 finance committee and chief of the Berkeley  
8 Fire Department. I just want make a record of  
9 that and look forward to our deliberating with  
10 this as part of the factual record that will be  
11 before us.

12 COMMISSIONER ZUNIGA: Yes. We  
13 certainly will do that and we do that on our  
14 evaluations.

15 Let me just mention one thing to  
16 that effect, but I don't want to turn it into  
17 an agenda item that we really didn't post on  
18 the agenda. We do have Community Mitigation  
19 Fund guidelines. And we issue and revise them  
20 from time to time. We've done it on a yearly  
21 basis. So, there's eventualities that we can  
22 come back and revise depending on the actions  
23 that we take.

24 MR. ZIEMBA: Commission, I will note

1 that I'm not sure that that letter was in the  
2 packet. We'll make sure that it was added to  
3 the packets so everyone can take a look at it.

4 And you're exactly right. We do  
5 look at the Community Mitigation Fund every  
6 year to revisit situations as they arise.

7 COMMISSIONER ZUNIGA: As they arise,  
8 that's right. Okay. Item 4(d).

9 MR. BEDROSIAN: I am standing in for  
10 Ms. Wells who is otherwise engaged. She just  
11 wanted to inform the board that the IEB  
12 pursuant to delegation granted to them has  
13 granted the following temporary licenses to key  
14 gaming officials. And I will read them: Daniel  
15 Connors who is an Assistant Count Supervisor at  
16 Plainridge, Alyssa Hines who is a Surveillance  
17 Supervisor at Plainridge, John Kent who is a  
18 Lead Surveillance Supervisor at Plainridge,  
19 James Frank Hood who is a Security Shift  
20 Supervisor and Russell -- And I'm going to  
21 apologize right now. -- I think it's Lizotte, a  
22 Security Shift Supervisor at Plainridge. So,  
23 those five individuals have gotten temporary  
24 key gaming licenses.

1           COMMISSIONER ZUNIGA: Thank you.

2 This is keeping in with an authority that we  
3 delegated in the past to Director Wells.

4           MR. BEDROSIAN: Yes.

5           COMMISSIONER ZUNIGA: And part of  
6 that delegation was to provide reports to this  
7 Commission like what Director Bedrosian just  
8 did. Thank you for that update.

9           MR. BEDROSIAN: I'm going to ask,  
10 Mr. Chair, if we could move item agenda six up.  
11 While Ms. Lightbaum is here, someone else who  
12 is going be part of the presentation is not  
13 quite here yet. So, we're hoping that the  
14 timing will work out.

15           COMMISSIONER ZUNIGA: Did you want  
16 to move item 6(a) up front and do it now?

17           MR. BEDROSIAN: Yes, move item 6(a)  
18 to now, please.

19           COMMISSIONER ZUNIGA: To now. Just  
20 one second. I know Michael wanted me -- Okay,  
21 keep going? We have to take a technical break  
22 for a video.

23           MR. BEDROSIAN: This works out even  
24 better.



1           COMMISSIONER ZUNIGA: Let's go to  
2 item 6(a) then and take the matter of Penn  
3 National Gaming nondisclosure agreement, which  
4 is before us in the packet.

5           General Counsel Blue, do you want to  
6 introduce?

7           MS. BLUE: So, Commissioners, I'd  
8 like to ask Deputy General Counsel Grossman to  
9 come up and discuss the agreement that's in the  
10 packet.

11           Just by way of background, we did  
12 come before you previously with a general list  
13 of items that we might want to look at. And we  
14 discussed whether those things should be  
15 confidential or not.

16           This is an actual agreement prepared  
17 in accordance with that conversation. So, I'll  
18 let Deputy General Counsel Grossman brief you  
19 on that. And then we can determine whether you  
20 want to consider it and vote on it.

21           COMMISSIONER ZUNIGA: Okay. Counsel  
22 Grossman.

23           MR. GROSSMAN: Thank you and good  
24 morning. In furtherance to our conversation at

1 your last meeting, we prepared this draft non-  
2 disclosure agreement for your review and  
3 consideration. There are a couple of new items  
4 that have been added to it. All of the  
5 information is in your packet.

6 Plainridge Park Casino has requested  
7 two additional items be placed on the list of  
8 items that would be covered by the agreement.  
9 I think they are wholly appropriate to include.  
10 We have in fact included them on the list. It  
11 is on the bottom of page two number 26 and  
12 number 27.

13 They relate to the inventory of  
14 sensitive locks and keys, as well as an annual  
15 report as to their compliance with RFA-2  
16 conditions. So, those have been added to the  
17 list for your consideration, as well as the  
18 applications that Plainridge submitted in  
19 support of those requests.

20 Otherwise, I am happy to discuss any  
21 particular provisions of the agreement if that  
22 would be helpful.

23 COMMISSIONER ZUNIGA: It might be  
24 helpful to summarize the process that leads us

1 to this, because we've had a couple of  
2 different discussions. To highlight the fact  
3 that both you and the legal department and the  
4 IEB have been involved in the initial request,  
5 and this is the result of conversations that  
6 went back-and-forth a little bit and is  
7 therefore an agreement that you've reached. Is  
8 that a fair statement?

9 MR. GROSSMAN: That is fair. This  
10 is our recommendation to you as far as requests  
11 made by Plainridge Park Casino. The request  
12 was made pursuant to our regulations, which  
13 allow them to petition for a nondisclosure  
14 agreement for certain categories of information  
15 specifically and this comes from Chapter 23K  
16 that any information that they consider to be a  
17 trade secret or detrimental to the gaming  
18 licensee if it were made public may be covered  
19 by a nondisclosure agreement at the  
20 Commission's discretion.

21 They have submitted applications to  
22 have all of the items contained in this draft  
23 agreement covered. We have reviewed them as a  
24 staff. We've consulted with the IEB to get a

1 better understanding as to what information the  
2 IEB actually looks at and receives information  
3 on. We've applied our judgment to it.

4 This is all viewed through the lens  
5 of the public records law. This is essentially  
6 an exemption to the public records law that was  
7 carved out by the Legislature in Chapter 23K  
8 for the Commission to utilize.

9 The process itself that has led us  
10 here, as I mentioned, came through these  
11 applications. We've looked at them, made these  
12 recommendations. We believe that they do fall  
13 into the category of either a trade secret or  
14 it would be detrimental to the gaming licensee  
15 if this information were made public.

16 So, we are recommending to you that  
17 their petitions be approved and that ultimately  
18 we enter into this written agreement with them.

19 Once that happens, any information  
20 they submit to us moving forward that falls  
21 into any of these categories would be marked by  
22 them confidential NDA so that we know it's  
23 subject to this agreement. We would certainly  
24 go back and look at any documents they've

1 already submitted to see if they fit into these  
2 categories.

3           And so if we were to receive a  
4 public records request for any of this  
5 information, and this is all covered in this  
6 agreement, we would deny the request and cite  
7 the exemption to the public records law and  
8 withhold that documentation from public  
9 disclosure.

10           Notably though in the agreement, we  
11 do say that the fact that we enter into this  
12 agreement does not prevent the Commission from  
13 making use of this information in any way; nor  
14 does it prevent us from sharing this  
15 information with other gaming jurisdictions as  
16 we commonly do in the course of  
17 interjurisdictional investigations and the  
18 like. And to the extent any of the information  
19 gets subpoenaed or something of that nature, we  
20 also cover how that would be handled.

21           So, that's a snapshot of how we got  
22 to this point. Ultimately, we are asking that  
23 the Commission approve of the execution of this  
24 agreement. And I would also note that we need

1 to decide who will formally execute this  
2 agreement, whether it's the Chair or it's  
3 delegated to the Executive Director or General  
4 Counsel or otherwise.

5 COMMISSIONER ZUNIGA: Thoughts?

6 COMMISSIONER CAMERON: I see we've  
7 had a chance to review this. We understand it.  
8 Clearly, there are reasons for it. I see no  
9 reason we cannot delegate the execution to the  
10 Executive Director.

11 COMMISSIONER ZUNIGA: Other thoughts  
12 or questions for Mr. Grossman?

13 COMMISSIONER MACDONALD: I have a  
14 question, Mr. Grossman. Have we received any  
15 objections from any media outlets or other  
16 groups or individuals with regard to this  
17 specific request for a nondisclosure agreement  
18 being executed or ask to our policy with regard  
19 to nondisclosure agreements?

20 MR. GROSSMAN: I am not aware of  
21 any. Certainly, these specific requests, with  
22 the exception of these last two, have been in  
23 the public record for a couple of weeks now.  
24 And I'm not aware of any objections.

1           COMMISSIONER ZUNIGA: There is also  
2 a number of topics here that overlap a little  
3 bit with requirements that come from Penn but  
4 this also applies to the two other licensees  
5 that we have because they are public companies.

6           So, there's a number of requirements  
7 in terms of SEC disclosures and timing and  
8 information that is contained therein that we  
9 have to be deferential to that. But where it  
10 applies it's included here.

11          COMMISSIONER CAMERON: Then the last  
12 two items that were added are security-related  
13 and certainly the importance to keeping that  
14 information confidential, it goes without  
15 saying.

16          MR. GROSSMAN: We have made efforts  
17 to make this as narrow as possible. To the  
18 extent any requests received were overly broad,  
19 we'd ask that they be narrowed. And we've made  
20 them specific to security, surveillance,  
21 internal controls, financial documentation and  
22 things of that nature that really do need to be  
23 maintained in confidence.

24          COMMISSIONER ZUNIGA: Including

1 personal information or personal identifying  
2 information, and where applicable we will  
3 continue the practice that we've done, which is  
4 if we have a record in our possession that has  
5 an element that is redactable, we can redact it  
6 and present it to the public if it's in  
7 accordance with all of these other  
8 requirements. Okay. Do you need a vote or  
9 other questions?

10 COMMISSIONER STEBBINS: Yes. I've  
11 got one final question. Just looking number  
12 16, the voluntary self-exclusion list. That's  
13 a list maintained by us. Is it also maintained  
14 by our licensees? I know we would not want to  
15 make that information available.

16 MR. GROSSMAN: The answer is, I  
17 believe, we are the only ones who maintain the  
18 list. They have access to the list.

19 Number 16 though is intended to  
20 apply to any report that would contain the name  
21 of an individual on the list. So, if someone  
22 was observed in the casino when they were not  
23 supposed to be because they were on the list  
24 and their name appeared in the report, we would



1 redact their name.

2 COMMISSIONER STEBBINS: Okay. Thank  
3 you for that clarification.

4 COMMISSIONER ZUNIGA: You need a  
5 vote to approve this agreement?

6 MS. BLUE: Yes.

7 COMMISSIONER ZUNIGA: I've reviewed  
8 the versions prior to this and the information  
9 herein, I think, it all applies and is  
10 appropriate and has been the result of good  
11 work that leads us to this place.

12 COMMISSIONER STEBBINS: Do you need  
13 a vote for the whole thing?

14 COMMISSIONER ZUNIGA: We need a vote  
15 to approve the agreement.

16 MR. GROSSMAN: To approve the  
17 agreement.

18 COMMISSIONER MACDONALD: So moved.

19 COMMISSIONER STEBBINS: I would just  
20 -- We're amending the motion to authorize the  
21 Executive Director to sign on behalf.

22 COMMISSIONER ZUNIGA: Very good.

23 All those in favor with that motion?

24 COMMISSIONER CAMERON: Second first?

1                   COMMISSIONER ZUNIGA: I'm sorry,  
2 yes. Second, is there a second?

3                   COMMISSIONER CAMERON: Second.

4                   COMMISSIONER ZUNIGA: All those in  
5 favor to approve the nondisclosure agreement as  
6 presented with the amended delegation to the  
7 Executive Director for signature, aye.

8                   COMMISSIONER MACDONALD: Aye.

9                   COMMISSIONER CAMERON: Aye.

10                  COMMISSIONER STEBBINS: Aye.

11                  COMMISSIONER ZUNIGA: The ayes have  
12 it unanimously.

13                  MR. GROSSMAN: Thank you.

14                  COMMISSIONER ZUNIGA: Thank you, Mr.  
15 Grossman. We're going to take a quick break,  
16 just a five-minute break. It's a technical  
17 break. We will be back in five minutes.

18

19                                 (A recess was taken)

20

21                  COMMISSIONER ZUNIGA: We are back.  
22 We left for a break. We are on number five on  
23 the agenda, the Racing Division, Dr. Lightbaum.

24                  DR. LIGHTBAUM: Good afternoon.

1           COMMISSIONER ZUNIGA: Good  
2 afternoon, introduce your guests, please.

3           DR. LIGHTBAUM: We have Steve  
4 O'Toole, Director of Racing for Penn National  
5 with us here today. Bill Abdelnour, Bob  
6 Bogigian, and we also have representatives from  
7 the Standardbred Breeders Association, Nancy  
8 Longobody and President Ed Nowak. We have a  
9 full agenda today on racing.

10           So, the first thing on the agenda is  
11 we have a few parts of our regulations that we  
12 would like to update through the emergency reg.  
13 policy. As an ongoing project, we are updating  
14 the entire horse racing regulations but that  
15 project is a little lengthy it won't be done  
16 before the meet opens up again.

17           So, there are a few things that we  
18 felt were important to go ahead and address  
19 right away. These are all bringing our regs.  
20 in accordance with the RCI regulations. And  
21 especially on the medication issues as the  
22 testing and research progresses, there are  
23 changes in the medication rules.

24           So, this is just kind of a natural

1 procedure that more information has come out  
2 and they're updating the regulations. I have  
3 talked to both horseman's organizations and  
4 they are on board with these changes.

5 With the emergency regulation  
6 procedure, there will be some time for them  
7 make public comments if they want also, but I  
8 don't anticipate much on it.

9 First of all, we're looking at the  
10 anabolic steroid update. Stanozolol is one of  
11 the anabolic steroids that was allowed. It had  
12 a concentration level. And now it is no longer  
13 on the market. So, that one is being  
14 eliminated. So, we're just taking that out of  
15 both the harness and thoroughbred regulations.

16 And the other one is Nandrolone.  
17 There is now a limit in that drug in the urine  
18 of stallions. So, we've added that and made  
19 the language clear on which sex these levels  
20 apply to. Again, that's in both the  
21 standardbred and thoroughbred regulations.

22 The next one is changing the  
23 Ketoprofen level, which is basically a  
24 nonsteroidal anti-inflammatory. It's sort of

1 along the lines of like aspirin.

2           Again, we have threshold limits on  
3 that drug. It was 10 nanograms per milliliter,  
4 and they've updated that to two nanograms per  
5 milliliter, which keeps it in the area where it  
6 can't be given closer than 24 hours to the  
7 horses. So once again, that's being changed  
8 both the standardbred and thoroughbred  
9 regulations.

10           As a side note, we publish a guide  
11 for the veterinarians and the trainers every  
12 year. And in that guidelines it's always been  
13 the two. So, we'll certainly make note in that  
14 that the reg. has been changed, but as far as  
15 what the horsemen have been doing and what  
16 they've been told would be safe that that  
17 really doesn't change because it's always been  
18 two in the recommendations. So, there was a  
19 discrepancy there that we're correcting.

20           The last one is the helmet  
21 regulations. In the standardbred regulations,  
22 it just originally was back to the original  
23 regulation which just left it up to the judges.  
24 Obviously, at this point our judges would refer

1 to whatever the RCI recommends. So, we're just  
2 putting that into the reg. So that it is clear  
3 that whatever they come up with as the  
4 standards for helmets will be what we would go  
5 with.

6           Again, weâ€™ll make sure everybody is  
7 aware of that ahead of time. Talking to some  
8 of the drivers, it sounds like they already do  
9 that anyway. There's limited helmets in the  
10 harness industry and they all are to these  
11 standards.

12           Then again, in the thoroughbred  
13 industry we had already updated the regs. so  
14 that it didn't just say upon the recommendation  
15 of the stewards, it actually had the models  
16 from RCI. But again, things change and  
17 companies come up with different standards and  
18 that type of thing. Some may go out of  
19 business and that not be available.

20           So, RCI did update them to have more  
21 versions available. And with talking with  
22 legal and all, we thought at this point they  
23 are always going to be the experts on this  
24 issue so that we would defer to them.

1           Instead of just updating this rule  
2 to whatever new helmets were up to code, and  
3 possibly having to do this every few years,  
4 whatever, we would just go ahead and put it  
5 right in the regs. that whatever RCI is  
6 recommending is what we are going with. So,  
7 hopefully that'll eliminate having to come  
8 back.

9           COMMISSIONER ZUNIGA: Questions for  
10 Ms. Lightbaum?

11           COMMISSIONER CAMERON: As you all  
12 know, we worked hard to bring our racing  
13 division to follow best practices in the  
14 industry. And RCI certainly are the experts.  
15 And keeping up with the medication changes, the  
16 helmet safety requirements I think is really  
17 important. And I'm glad we're doing it in a  
18 timely manner.

19           And I also want to commend Dr.  
20 Lightbaum for her effective communication.  
21 Sometimes if these things are not communicated  
22 ahead of time, there are some hard feelings,  
23 and people who may not have taken the time to  
24 read. So, I know that is something Alex does

1 really well. Heads up, we are changing, want  
2 you to be aware. So, that is a positive piece  
3 of making change.

4 I certainly agree with the  
5 recommendations and think this is a good thing  
6 for us to do.

7 COMMISSIONER ZUNIGA: How often do  
8 these medication updates happen just for my  
9 edification?

10 DR. LIGHTBAUM: RCI usually has  
11 updates in general on their rules every year.  
12 And they have a much easier process than we do  
13 for updating their regulations.

14 A lot of times we are almost a year  
15 behind. On the helmets, they just came out  
16 with this in December. So, we are right on the  
17 money there. But it is to be expected that  
18 there will be maybe every year one or two  
19 things that have been updated.

20 COMMISSIONER ZUNIGA: But there's  
21 obviously even though we would be enacting  
22 these regulations in emergency there's plenty  
23 of time for the stakeholders, the horsemen to  
24 comment before the next racing season.



1 DR. LIGHTBAUM: And we tried to pick  
2 a few things that were important but that were  
3 also pretty noncontroversial. There's other  
4 things in the regs. that we'll have to sit down  
5 and iron out. But these seemed very suitable  
6 for the emergency regulation process.

7 COMMISSIONER STEBBINS: Doctor, do  
8 you have an idea of how many other  
9 jurisdictions follow -- when RCI makes changes  
10 how many of them? Regardless of where you're  
11 going to race, you're following the same set of  
12 rules.

13 DR. LIGHTBAUM: Right. I don't have  
14 an exact number off the top of my head. RCI is  
15 doing a new push this year to get a few  
16 jurisdictions that haven't adopted these issues  
17 to come on board. And we're already considered  
18 one of the commissions that has come on board  
19 because of what we've done so far

20 They understand that these updating  
21 every now and then takes a little bit of time.  
22 That's one of their main initiatives for this  
23 year is to try to get the states that aren't on  
24 board, on board with these regs.

1           COMMISSIONER STEBBINS: Do you need  
2 a separate vote on the drugs and one separate  
3 vote on the helmet?

4           DR. LIGHTBAUM: I'll defer to  
5 Catherine.

6           MS. BLUE: Yes. If you could vote  
7 both of the drug changes together and then both  
8 of the helmet changes together that would be  
9 good.

10           What you're voting is to authorize  
11 us to promulgate these on an emergency basis  
12 and then to take them through the normal  
13 promulgation process after that.

14           COMMISSIONER MACDONALD: There will  
15 be an opportunity for comment?

16           MS. BLUE: Yes, there is. Just for  
17 the folks that are watching us, because these  
18 are racing regulations they have a longer  
19 timeframe.

20           So, we'll have the normal process  
21 where we have a hearing and we solicit comments  
22 as we always do. But these have to go to the  
23 Legislature. And the Legislature has 60 days  
24 in which to review and provide comments to us

1 as well.

2 That's why the need for an emergency  
3 basis now so we have them in place for the  
4 beginning of the meet. But the whole process  
5 will be the normal process that we go through  
6 plus the 60 days.

7 COMMISSIONER ZUNIGA: That's a  
8 peculiarity of long tradition, I guess, long  
9 history of the racing regulations. You  
10 mentioned two sets because there's a regulation  
11 for standardbred and thoroughbred. We're  
12 updating both regulations on both medication  
13 and helmets.

14 MS. BLUE: Yes. Because of the way  
15 our regs. are set up, we divide them between  
16 thoroughbred and standardbred. So, there's two  
17 medication regulation changes and then there's  
18 two helmet regulation changes, yes.

19 COMMISSIONER STEBBINS: Mr. Chair, I  
20 would move that the Commission adopt on an  
21 emergency basis and begin the formal regulatory  
22 promulgation process for 205 CMR 3.29(5)(a)(3),  
23 205 CMR 3.29(8)(b), 205 CMR 4.52(5)(a)(1) and  
24 205 CMR 4.52(8)(b).

1           COMMISSIONER ZUNIGA: The motion is  
2 made. Is there a second?

3           COMMISSIONER CAMERON: Second.

4           COMMISSIONER ZUNIGA: Any other  
5 discussion? All those in favor, aye.

6           COMMISSIONER MACDONALD: Aye.

7           COMMISSIONER CAMERON: Aye.

8           COMMISSIONER STEBBINS: Aye.

9           COMMISSIONER ZUNIGA: The ayes have  
10 it unanimously.

11           COMMISSIONER STEBBINS: Mr. Chair,  
12 I'd also move that the Commission adopt on an  
13 emergency basis the appropriate change to 205  
14 CMR 4.11(6)(c)(7) the helmet regulation and ask  
15 that we begin the formal promulgation  
16 regulatory change process.

17           COMMISSIONER ZUNIGA: Does that also  
18 include --

19           MS. BLUE: There's another helmet  
20 regulation in 205 CMR 3 --

21           COMMISSIONER STEBBINS: I'm sorry.  
22 I'll amend that motion to include 205 CMR  
23 3.11(5).

24           COMMISSIONER CAMERON: Second.

1           COMMISSIONER ZUNIGA: Any further  
2 discussion? All those in favor, aye.

3           COMMISSIONER MACDONALD: Aye.

4           COMMISSIONER CAMERON: Aye.

5           COMMISSIONER STEBBINS: Aye.

6           COMMISSIONER ZUNIGA: The ayes have  
7 it unanimously.

8           MS. BLUE: Thank you.

9           DR. LIGHTBAUM: So, now I'll turn it  
10 over to Steve O'Toole to give a presentation on  
11 the past year at Plainridge.

12           COMMISSIONER ZUNIGA: All right, Mr.  
13 O'Toole.

14           MR. O'TOOLE: Thank you, Alex.  
15 Before I get started, I'd just like to thank  
16 the Commission for giving us the opportunity to  
17 give you this update for last year.

18                   Last year was a transitional year  
19 for us. It was an arduous year for us working  
20 through -- actually the last year and a half  
21 working through construction and racing and  
22 simulcasting as well. I think you made an  
23 outstanding decision putting in Alex charge of  
24 racing this past fall.

1 I've worked with Alex for about 25  
2 years now. We've each had different hats on at  
3 different times but we've always got along.  
4 And she's always been very accessible and I  
5 think she does a great job.

6 She knows the issues that face the  
7 New England horsemen both on the standardbred  
8 side as well as the thoroughbred side. She  
9 knows the characters, if you will, as they say  
10 at the altar for better or for worse. But she  
11 knows them all, and as Commissioner Cameron  
12 pointed out, knows how to communicate with them  
13 directly. I think you did a good service to  
14 the racing industry by giving her that  
15 position.

16 I'd also like to mention Doug  
17 O'Donnell as another good asset for me  
18 personally on the accounting side of the  
19 business, which many people don't understand.  
20 It's a very tough process understanding the  
21 takeout rates and the things that go along with  
22 simulcasting. He does a good job.

23 He's actually formed some great  
24 relationships at Penn corporate with Ken

1 Hutchinson. As a matter of fact, we were on a  
2 conference call yesterday with Sportech, our  
3 totalizer company. And there's an update  
4 coming to our tote system.

5 And I mentioned that we'd want to  
6 reach out to the Gaming Commission to let them  
7 know about the update. And they said that Doug  
8 had already called and had spoke to them about  
9 it. So, I just want to commend them for what  
10 they do for racing. And it doesn't go  
11 unnoticed.

12 Today I have with me Billy Abdelnour  
13 who you're familiar with as the director of the  
14 Horseman's Association and Bob Bogigian who you  
15 are also familiar with. And the horsemen are  
16 lucky to have these guys doing the work that  
17 they do, because they are volunteers and they  
18 do a great job at what they do.

19 Going back, actually, I haven't  
20 really given you an update since the  
21 groundbreaking at the casino, but as I  
22 mentioned for the last year and half since  
23 March 14, 2014 when the groundbreaking ceremony  
24 happened at the property, we actually opened

1 two live race meets before the casino opened in  
2 June 2015.

3 It had its challenges. It was an  
4 arduous process. I wrote on the notes for the  
5 presentation construction and renovations and  
6 under that I put logistics. It was really more  
7 like gymnastics. There was a lot to do with  
8 getting races off, getting them off on time,  
9 working with the Penn crew and the Turner crew  
10 that were there on-site for the construction.

11 We had a lot of coordination which  
12 the horsemen were very good at working around  
13 and the construction team was very good about  
14 working on them as well.

15 Customers, Mike McGrew and Jack  
16 Rauen from the Penn construction team were very  
17 aware that we had customers coming in and out,  
18 and tried to make the process as painless as  
19 possible for those customers. And I have to  
20 give credit to our customers as well, which I  
21 made comments to Commissioner Cameron and  
22 Chairman Crosby time and time again that our  
23 customers were very understanding. And we  
24 always took the time to thank them for their



1 understanding.

2           At the beginning of 2015, we went  
3 with a different totalizer company. We had  
4 United Tote, which is a very good tote company.  
5 However, Sportech has an agreement with Penn  
6 National for all of their racetracks.

7           As a matter of fact, the conference  
8 call that I was on yesterday had all 12  
9 properties on there discussing issues, tote  
10 issues and things like that. So, it's good to  
11 have the other properties to weigh in on things  
12 they experience, they see as well as a uniform  
13 contract for all of the properties.

14           But because we had United Tote, on  
15 December 31, 2014 we needed to switch over and  
16 start New Year's day 2015 with a new totalizer  
17 company. So, we had at the end of business  
18 that night remove all of the United Tote  
19 machines, bring in the Sportech machines. That  
20 transition went very well. And the next day we  
21 were open for business just like nothing had  
22 happened. The only thing the customers noticed  
23 was that they were punching tickets on  
24 different machines.

1           However, the outs tickets which are  
2 uncashed tickets that became a bit of a hurdle.  
3 We came up with a procedure because we did not  
4 have United Tote terminals to electronically  
5 cash those tickets. We had to manually cash  
6 those tickets when customers presented them.

7           So, I worked with Doug O'Donnell and  
8 made the Commission aware of how we were going  
9 to do that manually and not do it  
10 electronically. And it actually worked out  
11 very well. We were pretty nervous about it,  
12 but it worked out very well. Everything  
13 matched up.

14           Because you have one year to cash  
15 those tickets, so then on January 1 this year  
16 whatever the final number was that was uncashed  
17 after we manually subtracted and did all that  
18 work manually that would be the outs number for  
19 the 2014. It went well. Doug was out last  
20 week and we finalized all that. So, we have  
21 the number for the outs. And they've been  
22 verified. It went a lot better than I actually  
23 thought it was going to go.

24           One other issue that we had as far

1 as challenges for the changing over with Penn  
2 National was International Sound.  
3 International Sound does all of the TV  
4 production for the live racing as well as  
5 timing and photo finish. We did that in-house  
6 in years past.

7 So, International Sound comes in  
8 with all of their state-of-the-art equipment.  
9 As a matter of fact, it's HiDef. We're  
10 broadcasting in HiDef. It's very good  
11 transmission. And they have a lot of toys that  
12 weren't available to us in the past.

13 So, one of the things was we had six  
14 or seven employees in that department that were  
15 going to be displaced. Other than the one or  
16 two employees that did not want to work the  
17 following season, there's two of them I think  
18 in the security department over in the casino  
19 right now. They hired -- International Sound  
20 hired one. So, they went to work for  
21 International Sound. But anyone who wanted to  
22 work had employment when International Sound  
23 came in and took over.

24 So, we're pretty proud of that that

1 no one was displaced because of that bringing a  
2 contractor in to do that work. And  
3 International Sound can definitely keep up with  
4 the industry standards much better than an in-  
5 house operation can. So, we really like the  
6 way that that went.

7           As I was talking about International  
8 Sound, they have an interactive judge's video  
9 replay system that a few of you have seen. I  
10 know Commissioner Cameron has seen it where the  
11 judges can operate that, talk to the drivers  
12 pretty much like an NFL football team does on  
13 Monday morning when they do the Monday morning  
14 quarterbacks.

15           If there's issues out on the  
16 racetrack, they can bring the drivers in,  
17 discuss those issues, run the film back for  
18 them, go over any issues that they think that  
19 they have. It's been a really nice tool for  
20 them to use. And I know the judges have  
21 commented many times how much like that.

22           Around the replay system, we redid  
23 the judges' stand for a little bit more comfort  
24 for the judges through the construction effort.

1 New timing and photo finishes also supplied by  
2 International Sound. As I mentioned, it's all  
3 on HD, HiDef.

4 All of our in-house televisions are  
5 all HiDef televisions on our first floor live  
6 racing area that we use for simulcasting as  
7 well. We have a food outlet there. It's  
8 called Trackside. We have 88 40-inch HiDef TVs  
9 surrounding the area.

10 Those TVs are centrally controlled  
11 by one of our racing services managers. And  
12 they can control them walking around, looking  
13 at the TVs. If they're in the office, they can  
14 have the tablets controlled by a tablet that's  
15 remote. So, they can take care of any of the  
16 customer's needs if they want to see a certain  
17 track in a certain area of the building.

18 We try to display all of the tracks  
19 in an equal manner so that all of the tracks  
20 get bet on. Sometimes a customer likes to have  
21 a little bit of a different format. And we try  
22 to accommodate them as best we can without  
23 interrupting any other customers.

24 On the second floor simulcast

1 theater, we have 150 individual Carrels. And  
2 they've all been outfitted with 22-inch  
3 flatscreen HiDef TVs. That's working out well.  
4 Those customers have a menu that we produce  
5 every day for which channels the tracks are on.

6 And they can change it themselves to  
7 whichever tracks they want to bet on. And we  
8 also have a food outlet up there that's open  
9 every weekend. And that's called the Mountain  
10 Skipper.

11 The outside racing apron was  
12 completely redone with 100 fixed seats and a  
13 new winner's circle. We added what was sorely  
14 needed at our facility, a new racing  
15 administration building for the regulatory arm  
16 as well as our racing secretary and the judges.

17 This building serves the purpose of  
18 horsemen and Alex and her team, my racing staff  
19 doing business in a very comfortable manner.  
20 Licensing later in the presentation, I'm going  
21 to mention over 1000 pari-mutuel licenses or  
22 racing licenses that were issued, occupational  
23 licenses.

24 All of those licenses get processed

1 in that building. It's very handy for the  
2 horsemen, the owners and everyone to have their  
3 to pull up there, get licensed to do whatever  
4 business they have to do with Alex or with my  
5 team.

6 Because the casino just before June  
7 started a new website, our old website was  
8 taken down and we now have a racing tab on the  
9 casino website. It's done very nicely. And we  
10 have our live schedule, our simulcast schedule  
11 is always up there and refreshed every month  
12 with all of the tracks that we take.

13 There's a horseman's information  
14 page. That page includes things like overnight  
15 sheets, condition sheets, stall applications,  
16 W-9s, purse request forms. We also have a  
17 horseman's guide. It's 35 pages long that can  
18 be downloaded from that site.

19 That gives -- The guide kind of  
20 gives all of the guidelines that Penn National  
21 has as a corporation throughout its racetracks  
22 as well as property specific guidelines that we  
23 ask our horsemen to follow. So, that's a guide  
24 for them. I know that the racing division has

1 a guide as well for what they expect from the  
2 horsemen. So, it's kind of along the same  
3 lines as that.

4 We also have for our customers on  
5 there -- David Koepp at corporate, he's the  
6 simulcast manager for all of the tracks. He  
7 puts out a newsletter that's called the  
8 Starting Gate. And that's available for  
9 download as well. It gives all the tracks with  
10 big races coming up, when tracks are opening,  
11 little tidbits about other tracks, if there's a  
12 big carryover coming out and what they are. He  
13 keeps that pretty well updated for us.

14 Also on the website, you can watch  
15 our live racing streaming on the day of the  
16 race. That comes out very well with the HiDef  
17 equipment. That was a must for Mr. Abdelnour  
18 because he likes to go home and watch the  
19 replays as well.

20 So, you can watch those at any time.  
21 The previous days races you can go on there,  
22 you can go on there now and watch races from  
23 last year as well as real-time. So, the  
24 horsemen, the owners, the owners that can't



1 make it to the track on a certain day, they  
2 like that feature.

3 As far as the economic impact of  
4 this past season, it is very difficult for me  
5 to explain -- It's very easy for me to explain  
6 the economic impact, but it's very difficult  
7 for me to compare 2015 with '14 with '13 with  
8 '11. It's really been a roller coaster in  
9 racing.

10 Also, these are the numbers for  
11 2015. It was a good year. \$13 million is a  
12 good year for total handle on our live racing.  
13 We have done in the \$20 million range in the  
14 past. However, it really depends on days that  
15 you're racing, who's taking your signal, the  
16 number of days that you race. And every year  
17 has been different as we go back in time.

18 There were days when we raced 14  
19 races. Back in the early 2000s, we'd race 14  
20 races a day. So, obviously we're going to do a  
21 lot more than if we have a nine-race card. So,  
22 even down to the number of races that we offer  
23 on that day.

24 The handle this year was strong. It

1 was much stronger than last year, but we raced  
2 weekends to stay off of the construction last  
3 year and we don't go to as many outlets. So,  
4 our on-track handle was about the same.  
5 However, our export handle was about half of  
6 that because the outlets just weren't taking  
7 us.

8           So, it's apples and oranges. So, I  
9 just wanted to show you what we did last year.  
10 Let you know that that was a fairly strong  
11 number but we can do better. And I'm sure that  
12 we will do better going forward.

13           COMMISSIONER ZUNIGA: On that note,  
14 Mr. O'Toole, the export was lower because of  
15 the transition element?

16           MR. O'TOOLE: Actually, the  
17 transition didn't bother the export at all.  
18 So, the large number, the on-track really held  
19 steady even with all of the construction and  
20 everything. The export number was down simply  
21 because two of the days that we raced were  
22 Saturdays and Sundays. Saturdays and Sundays  
23 in racing, all of the tracks race. On other  
24 weekdays --

1           COMMISSIONER ZUNIGA: Oh, you faced  
2 competition more.

3           MR. O'TOOLE: A lot of competition.  
4 And some tracks just don't have enough capacity  
5 with their television. They might have 30  
6 channels. There's about 60 tracks that you can  
7 take on a weekend. That's why the export  
8 number was low last year.

9           This year was much better. We raced  
10 Mondays, Tuesdays, Thursdays last year. That's  
11 more of a niche for our product at this point  
12 in time. We expect that our product will get  
13 better, and we might look for other niches.  
14 But right now that's where our product is most  
15 acceptable nationwide.

16           COMMISSIONER ZUNIGA: Weekdays.

17           MR. O'TOOLE: Yes.

18           COMMISSIONER MACDONALD: And this  
19 export category, does that correspond with the  
20 simulcast.

21           MR. O'TOOLE: The simulcast business  
22 that we do in-house?

23           COMMISSIONER MACDONALD: Yes.

24           MR. O'TOOLE: Do you mean as far as

1 its strength?

2 COMMISSIONER MACDONALD: I'm just  
3 curious and I'm the new guy on the block. I'll  
4 put it another way. What does this item export  
5 reflect?

6 MR. O'TOOLE: When we race live, our  
7 signal goes to other racetracks, to other OTBs  
8 and they can bet on our product. And it's  
9 comingled with our pools.

10 So, all of that money is comingled.  
11 That's the total handle number, the \$13  
12 million. The \$12.6 million came from other  
13 sites into our pools. And similarly, when we  
14 take other tracks, we simulcast other tracks  
15 into our facility and our customers wager on  
16 those that's called import for the other  
17 tracks.

18 So, our money goes to those tracks  
19 and it goes to their handle. It reflects in  
20 our handle when we report our simulcast handle  
21 but it gets co-mingled at the track that's  
22 sending the signal. Not sure if I answered  
23 your question. It's a two-way street.

24 COMMISSIONER MACDONALD: I think I

1 understand it.

2 MR. O'TOOLE: When I had mentioned  
3 about Doug O'Donnell earlier, the  
4 reconciliation between the tracks is enormous.  
5 You have to reconcile on a daily basis all  
6 these transactions going back and forth.

7 We also experienced after the dust  
8 had settled that we were getting more customers  
9 to the facility. Customers coming back that  
10 were maybe inconvenienced that didn't like  
11 having to put up with the construction or  
12 whatever. We did see an uptake in our customer  
13 base as well as new customers, new faces that  
14 the casino brought in.

15 I'm extremely proud of my team that  
16 worked there daily in customer service with  
17 teaching these new customers about racing and  
18 how to bet.

19 We'll have many customers come down  
20 from the casino, look around and want to know  
21 what's going on. Our managers always take time  
22 to explain the product to them. They made a  
23 how to bet guide, just a three-page pamphlet  
24 that they could read and go through. They'll

1 walk them through it as well.

2 For our live racing this is a  
3 program page. I know it's far away, but you  
4 can see there's a lot on the program page.  
5 USTA has a program page where it's a little bit  
6 simpler where it stars and it really tells what  
7 each column is.

8 There's not as much information on  
9 that racing sheet, but it's very easy for  
10 someone to figure out that in this particular  
11 case there's a lot of stars on this horse and  
12 this horse but not so many on another horse.

13 So, if they want to make a wager, be  
14 semi-informed and feel good about their pick,  
15 they can use this tool. It has been very  
16 effective for the newbies on the block. And  
17 they seem to appreciate it. And we give them  
18 away for free. So, they're always coming back  
19 to get them because they like that aspect of  
20 it.

21 We have 60 full- and part-time  
22 employees that work in racing. The racing  
23 licenses, as I mentioned earlier, 1081. That's  
24 a very strong number. That reflects the people

1 that are involved with the racing, with our  
2 racing meet. We issued 410 1099s to owners,  
3 trainers and drivers. Those are for purse  
4 checks.

5 Moving onto the purses that are  
6 paid, again, it's an apples and oranges  
7 comparison. The purses for 2015, total purses  
8 were over \$4.2 million. \$3.6 million of that  
9 was for overnight events. Overnight events are  
10 our everyday races that we have on our live  
11 days.

12 The Mass. Sire Stake Races was about  
13 \$640,000. Those increases, 50 percent and 325  
14 percent are comparison to 2014. Going back to  
15 2013, we paid \$1.7 million in overnight purses  
16 in 2013. Penn National took over January 1,  
17 2014. Before that season we entered an  
18 agreement with our horsemen. In that  
19 agreement, we agreed to overpay purses for the  
20 following year to stabilize the industry.

21 So, in 2014 even though we didn't  
22 earn \$2.4 million for the purse account through  
23 simulcasting and live racing, we paid \$2.4  
24 million per our horseman's contract. That

1 really helped stabilize the industry. It got  
2 money into the horseman's pockets to operate in  
3 2014. Then in 2015 when the Race Horse  
4 Development Fund money started flowing in, the  
5 purses rose throughout the course of 2015.

6 So, what I did was I gave you some  
7 comparisons of what it meant for the average  
8 trainer or the average driver. And you can see  
9 that in 2013, I think trainer -- If we just  
10 skip over the drivers. The drivers is  
11 impractical because we had a driver this year  
12 make over \$400,000.

13 In 2013, there was no trainers that  
14 earned over \$100,000. And if you skip ahead  
15 two years, there were 13 trainers that earned  
16 over \$100,000. That really spreads the money  
17 out. The trainers hire the groomers. The  
18 trainers pay the feed companies and everything.  
19 That's really -- When I put it together, I was  
20 surprised. When I put this slide together, I  
21 was surprised that there were that many that  
22 benefited from the higher purses.

23 COMMISSIONER ZUNIGA: Mr. O'Toole,  
24 have you seen trainers come back or is it still



1 a transitional -- or an increase in the number  
2 of trainers?

3 MR. O'TOOLE: There's increased  
4 interest, and I was just going to get to that  
5 point. These numbers are all good, but they  
6 are not New York and they're not New Jersey  
7 numbers yet. Hopefully, maybe someday they  
8 will be those kind of numbers.

9 There's a lot of interest. And the  
10 people that have raced with us over the course  
11 of the last 10 years, six years, they're  
12 feeling strong. They're feeling good and  
13 they're all back. We do have some interest in  
14 people coming in.

15 But I think there is an opportunity  
16 through the Race Horse committee that may  
17 reconvene and revisit the split. We totally  
18 support the horseman's efforts. Billy and Bob  
19 and his team are working on that.

20 These numbers aren't -- they're not  
21 New York numbers. They're not New Jersey  
22 numbers, but they are good. They are good  
23 numbers for the people that we have now.  
24 Hopefully, in the future we'll see a little bit

1 more.

2 Next year, the purse account is  
3 estimated to be a little bit over \$5 million.  
4 So, there will be another increase next year  
5 because of the payback period. Because we  
6 increased purses early, there was a take back  
7 on that. And next year, it looks like it will  
8 be about \$5 million.

9 So, there will be another step,  
10 another level, if you will, next year. But 105  
11 days, 115 days that we're looking at, that's a  
12 lot of work. That's a lot of work for these  
13 guys. And we fully support their effort at the  
14 Horse Race committee to see if they can get --  
15 squeeze a little bit more out of that.

16 COMMISSOINER ZUNIGA: Understood.

17 COMMISSIONER CAMERON: Mr. O'Toole,  
18 just so you know, and I'm not sure you're aware  
19 but I know that we were working to get a full  
20 committee. And itâ€™s been brought to my  
21 attention that that is the case now that the  
22 appointments from the Governor's office and the  
23 Treasurer's office have been made.

24 So, we will be working toward

1 getting a meeting with the committee and  
2 looking at all pending issues.

3 MR. O'TOOLE: That's good news. I  
4 know the horsemen were looking forward to it.

5 COMMISSIONER CAMERON: They  
6 mentioned it to me once or twice.

7 MR. O'TOOLE: Some of the highlights  
8 from the racing season itself. We dedicated  
9 \$125,000 of purse money to eight late closing  
10 series. An early closing series is for stake  
11 horses that are born. When they're born,  
12 they're staked and that's early. You have to  
13 make a lot of payments throughout a couple of  
14 years. That's called an early closing event.

15 Late closing events are something  
16 that you do on-the-fly. A lot of them have  
17 pay-ins. This one didn't. Allâ€™s you had to do  
18 was nominate. There was no fee to nominate.  
19 And it's a series, a series of two races, three  
20 races and a final. Finals went for 10 or 12.5  
21 which were nice.

22 And it can spread purse money around  
23 because a lot of time the lower level horses  
24 race for the bottom purse all of the time. And

1 through these types of events, those lower  
2 level series -- horses that compete in that can  
3 earn more money than they would if there was no  
4 series available, if there was no competitive  
5 tournament for them per se.

6 As I mentioned, we had 10 races with  
7 purses over \$10,000. That's the first in many  
8 years where we were up at the \$10,000 level for  
9 our upper classes. And that'll be a little bit  
10 higher next year. And as I mentioned, 105 race  
11 days that's the longest harness meet in  
12 Massachusetts for at least the at least the  
13 last 18 years. Of course, we're tackling 115  
14 in 2016.

15 COMMISSIONER ZUNIGA: Then 125 in  
16 2017, right.

17 MR. O'TOOLE: 125, yes. There was  
18 one other event that happened at the track I  
19 didn't list. I'm going to let Bill elaborate  
20 on that. But it was a collaborative effort  
21 between management, the horsemen, the breeders  
22 put on horseman's new owners seminar. A  
23 representative from the USTA came out. And  
24 I'll let Billy talk about that one.

1 MR. ABDELNOUR: Good afternoon. My  
2 name is Bill Abdelnour. I'm an owner, trainer,  
3 driver and also a director of the Harness  
4 Horseman's Association of New England. 2016 as  
5 was mentioned is probably going to be  
6 considered a rebuilding year for us. We are  
7 truly grateful for this Commission, Penn  
8 National, Dr. Lightbaum for helping us in  
9 bringing harness racing back stronger than  
10 ever. I feel we can do it.

11 One of the things that Mr. O'Toole  
12 mentioned was the owner's seminar which I can  
13 take a moment and just explain. The United  
14 States Trotting Association conducted this  
15 owner's seminar in cooperation with Penn  
16 National, with owners, trainers, drivers and  
17 representatives from the breeding program. It  
18 was conducted in October, this past October and  
19 we had a full house.

20 It was actually a wonderful turnout  
21 and very responsive. The purpose obviously was  
22 to expose these prospective investors in every  
23 aspect of harness racing.

24 We had trainers, drivers, owners

1 speak. We answered a slew of questions. This  
2 whole thing was culminated with a tour of the  
3 barn, which obviously went over pretty big  
4 because it brought them right back behind the  
5 scenes to see exactly what goes on in the barn  
6 area.

7 Conducting this seminar was Ellen  
8 Harvey from the United States Trotting  
9 Association who came from Ohio to do this.  
10 Like I said and I think Steve mentioned, it was  
11 a collaborative effort.

12 It wasn't just Ms. Harvey. It was  
13 Penn National. It was owners, trainers,  
14 drivers, breeders, representatives from the  
15 breeders program. And we touched upon just  
16 about every imaginable aspect of harness  
17 racing.

18 If you are going to invest your  
19 money, you might as well know what you are  
20 investing in. As I said, it culminated at the  
21 very end with a tour of the barn. Needless to  
22 say, it was a huge success, something I think  
23 we are all very proud of.

24 I'd just like to reiterate one thing

1 that I stated earlier, and that is the horsemen  
2 and women are truly grateful for the  
3 cooperation of all parties. We look forward to  
4 working with Commissioner Cameron on the Race  
5 Horse Development committee. Thank you.

6 COMMISSIONER CAMERON: Thank you.

7 COMMISSIONER ZUNIGA: Thank you, Mr.  
8 Abdelnour.

9 MR. O'TOOLE: Thanks, Billy. Last  
10 year, we set 10 track records over our  
11 racetrack. Our racetrack is a very unique  
12 racetrack within the harness industry, not  
13 unique because it's our harness track and not a  
14 thoroughbred track, but it's very unique within  
15 our own industry because of its design.

16 And it's problematic at times  
17 because of the banks that we have and the size  
18 of the track. But when it's maintained and  
19 it's fast -- It's a fast track.

20 More than a fast track though, it  
21 keeps horses sound. We don't have many  
22 lameness issues over this track. And I'd just  
23 like to mention that since the Gaming  
24 Commission has awarded the license to

1 Plainridge, prior to Penn National and after,  
2 there has not been one catastrophic breakdown  
3 over our racetrack. And very minimal number of  
4 horses are put on the vet's list due for  
5 lameness issues over the track.

6           Like I said, it's very problematic  
7 track when weather hits it, when we get a storm  
8 and rain like we did last night, as a matter of  
9 fact -- Even though we're not racing right now,  
10 my track crew is putting the track back  
11 together this morning so it'll be ready for  
12 March 1 when the horsemen roll back in.

13           But when that track is good, it's  
14 one of the best tracks in the country. It's  
15 very forgiving turns, because they're wide  
16 sweeping turns and the bank on the track is  
17 very good and very conducive to speed.

18           So, we're proud of our track and it  
19 shows. Last year, all of the stars represent  
20 the 10 track records. As well as the 10 track  
21 records -- Now the breeders are going to tell  
22 you that they're doing such a fine job with  
23 their program that the quality is up in the  
24 breeding program. They shattered six track



1 records last year with their horses.

2           It wasn't all the track. They  
3 really have bred some nice horses over the past  
4 few years, the Hambiltonian winner, as you're  
5 all aware of, a few years ago. So, they're  
6 doing their part. They're going to try and  
7 take credit for that, but I'll take a little  
8 bit on that one. But six out of eight, they  
9 have eight stake records available, and six of  
10 them got broken last year.

11           MR. ABDELNOUR: I can assure this  
12 Commission my name is not on that list.

13           MR. O'TOOLE: We also had -- At the  
14 end of the season, we had the USTA district  
15 nine Board of Directors met at Plainridge,  
16 another collaborative effort with the horsemen  
17 and the breeders. We all held our annual  
18 meetings that day. So, it was a long day.

19           It actually started for the USTA  
20 Board of Directors at 2:00 in the afternoon.  
21 We had a banquet afterwards, an awards banquet.  
22 I brought some of the programs from the night  
23 that you can look at.

24           We invited Commissioner Cameron to

1 speak. She did a fantastic job. Everyone  
2 really appreciated her coming. And the most  
3 asked question of the night is when is the Race  
4 Horse Development committee going to be  
5 convened like she said. But it was a very good  
6 night. We had over 200 attendees, honored 16  
7 horses, had one recognition award for a long-  
8 standing USTA Board of Director from the  
9 district.

10           The USTA is made up of 12 districts.  
11 We're district 9. What the USTA Board of  
12 Directors do is throughout their meetings take  
13 up any actions that the membership of that  
14 district want to bring before them, as well as  
15 go over rule changes at the USTA.

16           There are 10 proposed rules changes.  
17 And at the end of February, we will take those  
18 rule changes to the full board out in Columbus  
19 and vote on those rule changes. If they fly,  
20 they fly. And they adjust the USTA rule  
21 changes which are adopted by your regulations.  
22 Wherever there isn't coverage with the  
23 Massachusetts regulations, the USTA rules kick  
24 in.

1                   COMMISSIONER ZUNIGA: I'm curious  
2 Mr. O'Toole, USTA board members come from all  
3 different states, I suspect?

4                   MR. O'TOOLE: USTA, every district  
5 -- the district 9 which we are a part of is the  
6 New England states. So, the long-standing  
7 member that we recognized that night, he is  
8 from Rhode Island just over the Massachusetts  
9 border. He's been a Massachusetts guy.

10                   The trainer -- Right now, the board  
11 consists of, and it's not just horsemen,  
12 thereâ€™s track representatives on it as well.  
13 Representatives from Maine are Fred Nichols who  
14 is at the Penn National Bangor property, Don  
15 Marine who is a breeder in Maine. Heâ€™s the  
16 chairman of the board. Tim Powers is a  
17 veterinarian from Maine. George Ducharme, who  
18 trained Royalty for Life, the Hambiltonian  
19 winner in 2013, he is on the board. And I'm on  
20 the board representing Plainridge.

21                   COMMISSIONER ZUNIGA: What do your  
22 colleagues think about the Plainridge upgrade  
23 now?

24                   MR. O'TOOLE: Many of our horsemen

1 do come down from Maine to race with us. They  
2 are thrilled. They are thrilled. Penn  
3 National has two properties in the district  
4 Bangor and Plainridge. And then the third  
5 racetrack is Scarborough Downs. Then there are  
6 a lot of fairs in Maine as well.

7 Don Marine who Commissioner Cameron  
8 got to meet, he's a legislator as well in  
9 Maine. They are thrilled that we didn't drop  
10 off the bar for New England and concentrate the  
11 racing in Maine because that's where it would  
12 have fallen to.

13 COMMISSIONER ZUNIGA: Very good.

14 COMMISSIONER CAMERON: Mr. O'Toole,  
15 just a couple questions. First of all, I just  
16 want to commend you and your staff for really  
17 overseeing the transition. Transitions are  
18 difficult. And I think this went pretty  
19 smooth.

20 Everybody cooperated as you pointed  
21 out. Patrons were patient knowing that a  
22 better product and the facility looks great, I  
23 know a little work on the infield but it really  
24 looks nice.

1           I was honored to be at the dinner.  
2   That's a great banquet facility room. Folks  
3   from all of New England were I think pleased  
4   and proud to see it. So, I think the  
5   transition itself was very well done.

6           Secondly, just a couple of things  
7   that were brought to my attention that night  
8   and also in other meetings that I've had with  
9   horsemen and others. There was talk about some  
10  advertising for racing as part of casino  
11  advertising. Is this something, conversations  
12  you've had with Penn National about  
13  advertising?

14           MR. O'TOOLE: The marketing team at  
15  Plainridge is responsible for the advertising.  
16  And from time to time we've been worked in and  
17  out of the advertising campaigns especially on  
18  the radio.

19           When we did advertising we targeted  
20  -- When we did advertising just for racing, we  
21  targeted the sports shows. That was taken into  
22  consideration. And we were tagged in some of  
23  that. Unfortunately, when a big car give away  
24  is happening and the casino needs to push,

1 those tags go away and new tags come in.  
2 That's an effort on my part that I have to do a  
3 little better at in keeping the marketing team  
4 aware that we need to get re-introduced into  
5 those commercials.

6 But we do have -- And marketing  
7 cooperates. They cooperate with us fully. And  
8 right now we are promoting the live meet coming  
9 up. These are around the building promoting  
10 the racing for next year, which begins on April  
11 11. We are doing what we can. We probably do  
12 need to do a little more and it's my job to  
13 keep on top of that.

14 COMMISSIONER CAMERON: Thank you.  
15 Also, this one has been mentioned several times  
16 in various meetings and certainly at the dinner  
17 in December, the sign coming into the facility.  
18 Talk about maybe getting a part of the sign  
19 that really does feature racing. I know it's  
20 been brought to your attention. It's been  
21 brought to my attention. Is that another thing  
22 you're working on?

23 MR. O'TOOLE: When that was brought  
24 to my attention, we had like two weeks left in

1 the meet, in our live meet. I think that is  
2 something that I'd like to try to get in for  
3 the start of the next meet. I've just started  
4 to have those conversations.

5 There's two panels on the pylon sign  
6 as you drive into the property. That's going  
7 to be my effort to try and get something up  
8 there for our upcoming meet.

9 COMMISSIONER CAMERON: When someone  
10 mentions it to me, I just like to follow up if  
11 I can so I have good information for people.  
12 I'm not surprised you're working on it.

13 Also, the room, the upper room with  
14 all the glass overlooking the track, there was  
15 some talk about maybe using that to view  
16 racing. Any ideas on a way to utilize that,  
17 because it's a great view of the track from the  
18 upper level.

19 MR. O'TOOLE: Yes. Since the  
20 renovation of the clubhouse, what we used to  
21 call the clubhouse to an all-purpose banquet  
22 facility, there may be some clashing dates  
23 where there's a banquet.

24 However, we do have a nice divider

1 in that room that the room can be divided. My  
2 goal is to get that room set up for viewing of  
3 our live racing. I've had customers that are a  
4 little bit older, like to sit down in that type  
5 of atmosphere with a tiered view of the racing.

6 It's my job to figure out how to  
7 make that happen with that tiered view. It's a  
8 furniture issue. It's a seating issue. I have  
9 to figure that out and figure a way to make  
10 that happen. I haven't come up with a solution  
11 yet. I'm running out of time but I'm going to  
12 make my best effort to come up with something  
13 for that.

14 COMMISSIONER CAMERON: Just so  
15 you're aware, you mentioned the new racing  
16 building which is terrific. Our employees  
17 really have a professional first-class work  
18 environment, which is always important.

19 And we did order -- Alex was part of  
20 this, Janice Reilly. -- big signs, kind of  
21 Gaming Commission, Racing Division so that when  
22 people arrive at the building they'll know  
23 they're at the right place. And it just adds a  
24 level of professionalism.



1           And we also are working on some  
2 posters and some materials inside the building  
3 as well, the conference room in particular.  
4 So, I just wanted you to be aware that that's  
5 something we're doing on our end to help with  
6 all the good work that Penn and your staff have  
7 done to make it a better product. So thank  
8 you. This was a great presentation, exciting  
9 numbers.

10           MR. O'TOOLE: Yes. We're getting  
11 there. I have one more slide and that's for  
12 some of the things that you've mentioned. Some  
13 of the things you've mentioned aren't on here  
14 but a couple of them are.

15           These are our new projects for 2016.  
16 The paddock building renovations that's going  
17 on as we speak. As a matter of fact, I think  
18 Lance in his presentation last week commented  
19 on how much we've been spending in Mansfield.  
20 That's probably the reason why because a lot of  
21 the materials, the lumber and everything that  
22 came from the Home Depot in Mansfield.

23           We're going to have a ship in barn  
24 this year for our ship in horses, which is

1 sorely needed. We probably should have done  
2 that in the past. I heard loud and clear the  
3 wishes of our ship-in horsemen. And we're  
4 going to take care of that.

5 The racetrack infield that's a work  
6 in progress. However, the reason for kind of a  
7 not very attractive infield is because of the  
8 construction and the stormwater drainoff,  
9 everything on the property goes to the infield  
10 to be repurposed, watering the track, for all  
11 of the irrigation on the property.

12 So, they are out there working right  
13 to the very end of that project. We didn't  
14 know what we were going to be left with, now we  
15 know what we're left with.

16 As soon as the weather breaks, which  
17 actually it's kind of broken on off-and-on all  
18 winter long here -- I don't know when the last  
19 time you were at the property was, I know a few  
20 weeks ago but I don't know if you noticed the  
21 loom is out there for looming and seeding. And  
22 as soon as the weather breaks and we can be  
23 confident we can be out there and not be in the  
24 muck, we're going to be taking care of that.

1           We're also working on having a one  
2 day a week, an interactive host for live  
3 racing, kind of like an MC. Actually, the  
4 fellow that we're talking to is a comedian,  
5 interacting with the crowd, kind of joking  
6 around, trying to get them on TV, interviewing  
7 some customers as well as horsemen. Try to  
8 make little bit show out of the racing product.

9           We are working on an event day with  
10 a signature race for the property. Penn  
11 National has done this at other properties  
12 where they have the Penn Mile at Penn National.  
13 Sam Houston just had a big day. So, we're  
14 working on that trying to be sensitive with the  
15 purse money and not make it a national event  
16 just yet, but something that the local horsemen  
17 at least for this year can participate in.

18           Also, we are going to try to roll  
19 out direct deposit for the purse checks this  
20 year to make it more convenient for the  
21 horsemen.

22           The last three items there obviously  
23 will need your approval when the time comes.  
24 But we are looking at a new wager. Some of the

1 wagers, some of the more modern wagers, I  
2 think, there are a few of them that are in our  
3 regs. that we can do. Other more exotic wagers  
4 may need your approval.

5 But we are looking at some type of a  
6 carryover. They've become very popular.  
7 There's a pick five, pentafecta that you have  
8 to pick the first five.

9 COMMISSIONER ZUNIGA: Pentafecta?

10 MR. O'TOOLE: Pentafecta where you  
11 pick the first five. And if no one picks it,  
12 it gets rolled over. to create a jackpot,  
13 similar to a progressive in slot machines.

14 We are working furiously right now  
15 to have our racing rewards integrated with the  
16 Marquee card so that a customer in the casino  
17 can use the same card at the Sportech  
18 terminals. Hopefully, we'll be rolling that  
19 out soon. I believe there's a provision that  
20 any changes to ACSC needs to be approved by the  
21 Commission. So, before we roll that out, we'll  
22 be coming back to you for that.

23 And Sportech has a mobile app. So,  
24 theyâ€™re really keeping up with the times. And

1 we'd like to roll that out. The mobile app is  
2 something that can be used only on property on  
3 your phone and it'll integrate with the system  
4 when you're on property. However, if you have  
5 one of our ADW accounts, account deposit  
6 wagering accounts, you'll be able to use that  
7 mobile app anywhere because it'd be like making  
8 a telephone call.

9 We also have a few other capital  
10 improvement projects that we'll be announcing  
11 hopefully soon after we get the approvals to  
12 proceed with those. We have a lot of exciting  
13 things coming up and I think we made a nice  
14 step this past year with the product.

15 COMMISSIONER CAMERON: Thank you.

16 MR. O'TOOLE: Thank you.

17 COMMISSIONER ZUNIGA: That's a great  
18 report Mr. O'Toole. Comments or questions?

19 COMMISSIONER STEBBINS: Good news.

20 COMMISSIONER ZUNIGA: Very good  
21 news. Just about everywhere from the handle,  
22 capital improvements, the quality of the HiDef  
23 and things like that looks like you really are  
24 making a lot of progress in the right direction

1 as you mentioned. Even though it's a  
2 transition year to some degree, we look forward  
3 to the next year being in the same direction.

4 MR. O'TOOLE: I think Billy put it  
5 best when he said this year will be a  
6 rebuilding year. We had the transitional year,  
7 now the rebuilding year, one step at a time.

8 COMMISSIONER ZUNIGA: Right. Ms.  
9 Lightbaum.

10 DR. LIGHTBAUM: Thank you very much  
11 Steve.

12 MR. O'TOOLE: Thank you.

13 COMMISSIONER ZUNIGA: Thank you  
14 everybody. The next item on the agenda is --  
15 are we on 5(c)?

16 COMMISSIONER CAMERON: We are.

17 COMMISSIONER ZUNIGA: Standardbred  
18 breeders video and we have another set of  
19 guests. Will you introduce yourselves for the  
20 record?

21 MR. NOWAK: Good afternoon. And  
22 thank you again for allowing us to come before  
23 you today. My name is Ed Nowak. I am  
24 President of the Standardbred Owners of

1 Massachusetts. I'm an owner. I'm a breeder.

2 And our organization has been  
3 appointed on an annual basis by the Racing  
4 Commission or now the Gaming Commission to  
5 manage the breeding of standardbreds in the  
6 state of Massachusetts as well as the racing of  
7 these staked horses in this Mass. sire stakes  
8 program.

9 It was as Mr. O'Toole and Mr.  
10 Abdelnour said, it was an interesting year for  
11 us and a transitional year when you consider  
12 that I believe the casino opened on June 24.  
13 We ran our sire stakes races beginning in  
14 September for four straight weeks.

15 The income received from the casino  
16 allowed us to more than triple the purses for  
17 our sire stakes program this year. In 2014, we  
18 ran 16 preliminary legs and then eight final  
19 races for less than \$200,000. This year we ran  
20 24 legs, preliminary legs and eight final races  
21 for nearly \$640,000.

22 So, the effect that the income from  
23 the Horse Development Fund is extremely  
24 dramatic and encouraging.

1           We have taken some steps in order to  
2 encourage breeding in the state. Mr. Abdelnour  
3 said that we worked with the horsemen and the  
4 track and the USTA on a new owners program  
5 which he said was extremely successful and it  
6 was. And we talked about owning and the idea  
7 breeding in the state.

8           This year as of December 1, we have  
9 65 broodmares entered in the program, which  
10 represents a 16 percent increase over last year  
11 and a 47 percent increase over the broodmares  
12 that were eligible in 2014.

13           So, one of our objectives is to  
14 continue to increase the movement of broodmares  
15 into the state of Massachusetts by December 1  
16 of the breeding year, which then allows their  
17 foals to be eligible for the Mass. sire stakes  
18 program as well as the sire stakes program in  
19 the state in which they were bred. So, that is  
20 gaining excitement.

21           At the Harrisburg sale in October,  
22 it's the largest standardbred sale in the  
23 country. It goes for a week or 10 days. They  
24 sell everything from broodmares to yearlings to



1 two-year-olds in training, all kinds of  
2 standardbred harness racing horses. And we  
3 were able to get large posters set up all  
4 around the sale barn extoling the virtues of  
5 foaling your mares in Massachusetts because we  
6 now have an actual legitimate sire stakes  
7 program where money can be made.

8           You can breed in Delaware. You can  
9 breed in New York or Pennsylvania or Maine, but  
10 if you get your mare into Massachusetts by  
11 December 1 of the year the mare was bred you  
12 become eligible also for the Mass. program,  
13 which is a great incentive to bring more and  
14 more horses in.

15           And I think we are starting to see  
16 that right now with, as Steve was talking  
17 about, the number of track records that went  
18 out. We had six, just in our little sire  
19 stakes, six track and stakes records to see  
20 which I know had a lot to do with the track but  
21 it also had a lot to do with the quality of  
22 horses that we're starting to see, which has  
23 been the objective for the beginning.

24           What we're hoping would start

1 working is actually working. We anticipate  
2 that next year we'll probably be racing for the  
3 same, about the same amount of money. It'll be  
4 a year's worth, or 12 months as opposed to  
5 three and a half monthsâ€™ worth of income from  
6 the casino.

7 As other casinos come online, it  
8 will do nothing but totally increase and  
9 encourage more breeding in the state which  
10 affects our blacksmiths and our hay and grain  
11 people and the tractor suppliers and it just  
12 goes on and on. So, we hoped was going to  
13 happen from the very beginning seems to be  
14 happening.

15 One other thing that we did is we  
16 commissioned a short video on the breeding  
17 program in the state of Massachusetts. And we  
18 showed it at the annual meeting to rave  
19 reviews, I'm just surprised we're not hearing  
20 cons. But we'll see what you think. Alex, as  
21 part of our what is the SOM all about and what  
22 is breeding in Massachusetts all about if we  
23 could cue the video.

24

1 (Video played)

2

3 DR. LIGHTBAUM: We are done now with  
4 their presentation. We will move onto the next  
5 item, the agenda item, which is to approve the  
6 SOM, Standardbred Owners of Massachusetts as  
7 the recognized group to do the standardbred  
8 sire stakes program.

9 This is one of the unusual things in  
10 our regs. The thoroughbred group is actually  
11 mentioned by name in the regulations but the  
12 standardbred group isn't. So, this is just a  
13 standard procedure that we've got through for  
14 years having them recognized.

15 COMMISSIONER CAMERON: I'll make  
16 that motion, Mr. Chair.

17 COMMISSIONER ZUNIGA: There's a  
18 motion, Commissioner.

19 COMMISSIONER CAMERON: I recommend  
20 that this Commission approve the request of the  
21 Standardbred Owners of Massachusetts, Inc. to  
22 be recognized as the group of representative  
23 standardbred breeders to administer the  
24 Massachusetts standardbred breeding program and

1 the sire stakes races for 2016.

2 COMMISSIONER STEBBINS: Second.

3 COMMISSIONER ZUNIGA: All those in  
4 favor, aye.

5 COMMISSIONER MACDONALD: Aye.

6 COMMISSIONER CAMERON: Aye.

7 COMMISSIONER STEBBINS: Aye.

8 COMMISSIONER ZUNIGA: Thank you.

9 COMMISSIONER CAMERON: Excellent  
10 job, thank you.

11 COMMISSIONER ZUNIGA: The ayes have  
12 it unanimously.

13 COMMISSIONER CAMERON: Love the  
14 video.

15 COMMISSIONER ZUNIGA: Many of those  
16 shots are from Plainridge.

17 MR. NOWAK: Yes.

18 COMMISSIONER ZUNIGA: Except just  
19 with the Hambiltonian, perhaps. Very nicely  
20 done.

21 MR. NOWAK: Thank you.

22 COMMISSIONER ZUNIGA: Is there  
23 anything else on the racing?

24 DR. LIGHTBAUM: That completes the

1 Racing Division's section.

2 COMMISSIONER ZUNIGA: Thank Ms.  
3 Lightbaum and everybody. We did take care of  
4 item six previously. Are we done with that  
5 item. Is there any other business before us?

6 MR. BEDROSIAN: I'm not aware of  
7 any.

8 COMMISSIONER CAMERON: Move to  
9 adjourn.

10 COMMISSIONER ZUNIGA: That motion  
11 has been made. Is there a second?

12 COMMISSIONER MACDONALD: Second.

13 COMMISSIONER ZUNIGA: All those in  
14 favor, aye

15 COMMISSIONER MACDONALD: Aye.

16 COMMISSIONER CAMERON: Aye.

17 COMMISSIONER STEBBINS: Aye.

18 COMMISSIONER ZUNIGA: We are  
19 adjourned. Thank you.

20

21 (Meeting adjourned at 12:44 p.m.)

22

23

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1 ATTACHMENTS:

2 1. Massachusetts Gaming Commission February  
3 4, 2016 Notice of Meeting and Agenda

4 2. Massachusetts Gaming Commission January  
5 21, 2016 Meeting Minutes

6 3. Massachusetts Gaming Commission Vote  
7 Regarding Litigation Release and  
8 Surrounding Community Agreement

9 4. Massachusetts Gaming Commission February  
10 4, 2016 Memorandum Regarding FY16 Second  
11 Budget Update with attachments

12 5. Massachusetts Gaming Commission Region C  
13 Estimated Category 1 Timeline

14 6. Massachusetts Gaming Commission  
15 Investigations and Enforcement Bureau  
16 February 4, 2016 Memorandum Regarding  
17 Temporary Key Gaming Employee Licenses  
18 Issued

19 7. 205 CMR 3.29, 205 CMR 4.52, 205 CMR 3.11,  
20 205 CMR 4.11

21 8. Plainridge Park Casino 2015 Season Racing  
22 Update Presentation

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- 9. Massachusetts Gaming Commission January  
29, 2016 Memorandum Regarding Standardbred  
Owners of Massachusetts Recognition
- 10. Plainridge Park Casino Nondisclosure  
Agreement

1 GUEST SPEAKERS:

2 David Mackey, Esq., Anderson & Kreiger

3 Eugene O'Flaherty, Esq., Corporation Counsel  
4 city of Boston

5 Jacqui Krum, Wynn Resorts

6

7 Steve O'Toole, Plainridge Park Casino

8 Bill Abdelnour, Harness Horseman's Association

9 Ed Nowak, Standardbred Association of  
10 Massachusetts

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16 MASSACHUSETTS GAMING COMMISSION STAFF:

17 Agnes Beaulieu, Finance & Budget Office Manager

18 Ed Bedrosian, Executive Director

19 Catherine Blue, General Counsel

20 Todd Grossman, Deputy General Counsel

21 Derek Lennon, CFAO

22 Alex Lightbaum, DVM, Director of Racing

23 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 7th day of February, 2016.

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