

THE COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION
PUBLIC MEETING #106

COMMISSIONERS

Gayle Cameron

James F. McHugh

Bruce W. Stebbins

Enrique Zuniga

February 6, 2014, 9:30 a.m.

BOSTON EXHIBITION AND CONVENTION CENTER

415 Summer Street, Room 160

Boston, Massachusetts

1 COMMISSIONER MCHUGH: Good morning.
2 It's 9:30, and I'm happy to call to order
3 public meeting number 106 of the Massachusetts
4 Gaming Commission.

5 Chairman Crosby is out today on
6 vacation, a well-deserved vacation. So, the
7 four of us will proceed with the day's
8 business, the first component of which is the
9 minutes of two meetings, January 22 and January
10 23. Both are in the book. And I would deal
11 with them seriatim as we usually do.

12 So, I'd ask if there are any
13 comments about the meeting -- about the minutes
14 for January 22, which was the presentation by
15 Mohegan Sun and Wynn Massachusetts.

16 COMMISSIONER STEBBINS: No comments.
17 Move to approve the minutes of January 22.

18 COMMISSIONER CAMERON: Second.

19 COMMISSIONER MCHUGH: All in favor,
20 aye.

21 COMMISSIONER CAMERON: Aye.

22 COMMISSIONER ZUNIGA: Aye.

23 COMMISSIONER STEBBINS: Aye.

24 COMMISSIONER MCHUGH: The ayes have

1 it unanimously. The January 23 minutes
2 combined both the presentation by Blue Tarp
3 Redevelopment and the Commission's business
4 meeting that followed that presentation. So,
5 are there any comments about the contents of
6 those minutes?

7 COMMISSIONER CAMERON: Move to
8 approve the January 23 meeting minutes.

9 COMMISSIONER STEBBINS: Second.

10 COMMISSIONER MCHUGH: All in favor,
11 aye.

12 COMMISSIONER CAMERON: Aye.

13 COMMISSIONER ZUNIGA: Ayes.

14 COMMISSIONER STEBBINS: Aye.

15 COMMISSIONER MCHUGH: The motion is
16 carried unanimously. That brings us to the
17 second item on the agenda, which is the Legal
18 Division has several matters or at least one.
19 So, I will turn it over to General Counsel
20 Blue.

21 MS. BLUE: Thank you and good
22 morning. You have in your package today what
23 we are referring to as the Omnibus suitability
24 decision. And the purpose of that decision is

1 to put in one place all of the individuals and
2 entities that have been found suitable through
3 all of the suitability hearings that we've
4 held.

5 It is in draft form. It is for your
6 review. We have checked the list against the
7 decisions, but would like the opportunity to
8 check it one more time.

9 Once a decision is entered, the goal
10 would be to allow the Licensing Division to use
11 that as reference as they are approached for
12 licensing by employees or particular entities
13 or other vendors.

14 COMMISSIONER MCHUGH: We have built
15 into the regulations that if you have been
16 qualified and if you then apply for certain
17 kinds of gaming licenses, you start with an
18 update from the qualification. So, this is an
19 important part of facilitating that process.

20 MS. BLUE: That's correct.

21 COMMISSIONER MCHUGH: Anything else?

22 MS. BLUE: No. It takes the same
23 form as our other suitability decisions. It is
24 just specific to this use and it contains all

1 of the entities and individuals. So, if it
2 meets with the Commission's approval, we will
3 put in final form and we'll circulate it for
4 Commission signature.

5 COMMISSIONER MCHUGH: Any comments
6 or discussion about that?

7 COMMISSIONER CAMERON: No.

8 COMMISSIONER ZUNIGA: No. I think
9 it's a good approach. And I think it's a job
10 well done too.

11 COMMISSIONER MCHUGH: We have
12 usually done these, just for those who are
13 familiar with this, we've done the suitability
14 decisions following -- in writing following
15 deliberations as we're permitted to do. But
16 this alerts everybody to the fact that we're
17 doing this. There's a complete list of all of
18 the qualifiers here. And this is a public
19 record of that.

20 So, I take a motion, I think, to
21 approve this document as it currently exists
22 and then we can sign it have it promulgated if
23 there is a motion and it passes.

24 COMMISSIONER CAMERON: I move that

1 the Omnibus suitability decision as prepared by
2 the legal staff be approved.

3 COMMISSIONER STEBBINS: Second.

4 COMMISSIONER MCHUGH: All right.

5 Any discussion? All in favor, aye.

6 COMMISSIONER CAMERON: Aye.

7 COMMISSIONER ZUNIGA: Aye.

8 COMMISSIONER STEBBINS: Aye.

9 COMMISSIONER MCHUGH: All opposed?

10 The ayes have it unanimously. There's another
11 item on the agenda, Ms. Blue. Are we going to
12 deal with that one this morning?

13 MS. BLUE: Yes. This is the
14 monitoring and preopening regulations. They
15 are not in your package. But what we do have
16 is a draft of these regs. These are the
17 regulations that would detail the kinds of
18 activities and reporting that licensees have to
19 provide the Commission between the time of the
20 award of the license and the time that the
21 facility actually opens.

22 So, they're in a format that we've
23 discussed before, more high-level, sort of
24 general. What we will do is we will circulate

1 them to the Commissioners after this meeting.
2 We will put them in the package for the 20th.
3 But this is the very first initial draft, so
4 there's a lot of discussion and conversation
5 that we'll have about them until we get them
6 into a format where we're ready to put them
7 through the process. So, we should have those
8 to you by the end of this week. And then they
9 will be in the package on the 20th of February.

10 COMMISSIONER MCHUGH: All right.

11 COMMISSIONER ZUNIGA: Do any of
12 these regulations intend to allow for
13 monitoring after the opening of operations or
14 it's purely for the period of after award and
15 prior to opening?

16 MS. BLUE: It is all preopening at
17 this point. We will have to have monitoring
18 regs. for after the opening as well.

19 COMMISSIONER ZUNIGA: We will have
20 time to do that?

21 MS. BLUE: Yes.

22 COMMISSIONER MCHUGH: All of those
23 regulations would deal with the construction
24 period through and up to the opening. So, that

1 won't start for at least 30 days.

2 MS. BLUE: A little while, a month.

3 MR. DAY: Commissioner Zuniga, I
4 think the point that you mentioned is
5 appropriate. Because there are -- We will have
6 a full set of regulations that will deal with
7 internal controls and machine specifications
8 and all the different regulatory requirements
9 we have to have.

10 But there are some specifics that
11 will probably need to go forward from the
12 monitoring process. So, I think it is
13 important as we move forward, we'll look to
14 make sure we bring those along with the rest of
15 the process.

16 COMMISSIONER ZUNIGA: Do we
17 anticipate that we might have to issue these
18 regulations in an emergency basis if we can
19 find ourselves 30 days from now having to think
20 about that?

21 MS. BLUE: We may want to consider
22 that. I think it depends on how quickly we
23 arrive at a draft that we want to move through
24 that process. So, a lot of that I think will

1 depend on the discussion we have next week.

2 But if we need to, we can certainly consider
3 doing it on an emergency basis.

4 COMMISSIONER MCHUGH: The discussion
5 we have in two weeks, right?

6 MS. BLUE: Yes.

7 COMMISSIONER MCHUGH: Any other
8 questions or thoughts, comments about that
9 aspect of things? All right. Thank you very
10 much, Ms. Blue.

11 That brings us to item four on the
12 agenda, Administration, Executive Director Day.

13 MR. DAY: Thank you very much,
14 Commissioner McHugh. I could have made a
15 mistake, but I think when I was listening to
16 the news weather forecast last night, it said
17 something about this year we are already at
18 about double the amount of snow that Boston
19 usually receives. I probably have the actual
20 statistic wrong, but I think the point of the
21 forecast is it's been a pretty good winter so
22 far.

23 COMMISSIONER MCHUGH: Yes, it has
24 been. Before you arrived we had snow deeper

1 than Robert Parish was tall one year. So, we
2 are in much better shape this year.

3 MR. DAY: Anyway, I appreciate the
4 experience. I am glad to have the opportunity.
5 The weather has been enjoyable.

6 COMMISSIONER CAMERON: Spoken from
7 someone from Montana.

8 COMMISSIONER STEBBINS: Trying to
9 make you feel at home.

10 MR. DAY: At any rate, I had a
11 couple of items I wanted to note just as a
12 general update. Of course, the Commission
13 knows, we were able to pull off our first
14 quarterly, all staff meeting which helped to
15 keep our whole unit informed. And we
16 anticipate doing that every quarter as we move
17 forward.

18 We have selected candidates for our
19 human resources business partner or human
20 resources assistant and Accounts Payable fiscal
21 specialist. So, those two candidates we've
22 selected and we will put them through the
23 background. We've also got about nine other
24 recruitments in process. It has to the light

1 desktop support person. We've got assistant
2 directors for our IEB both in financial
3 investigations and of course our gaming agent
4 units along with some other positions that we
5 are moving forward with.

6 I've been working on developing and
7 preparing information for the two legislative
8 proposals that the Commission approved to move
9 forward with. One to do with the extension of
10 the repeal of the pari-mutuel and simulcast
11 statutes. And the other dealing with the
12 gaming winnings withholding tax.

13 We also did receive and are
14 reviewing four responses for the RFR project
15 for monitoring services. So, we anticipate at
16 first glance are four very good proposals and I
17 anticipate making a decision, I think, around
18 the first of next month, a final decision and
19 recommendation to the Commission.

20 COMMISSIONER MCHUGH: That's
21 monitoring for the construction of the
22 licensees?

23 MR. DAY: That's correct. So, the
24 regulations that we're talking about and of

1 course our timing we really do want at some
2 point to have input from the successful
3 contract group on those regulations. So, I
4 think we'll probably be able to bring those two
5 things together.

6 COMMISSIONER MCHUGH: Great.

7 MR. DAY: Thank you. And the next
8 is the Internet Gaming forum. And as I think
9 the Commission is aware of, the Commission has
10 been planning to hold a public forum. This
11 should be under -- Actually, it was tab 4b, but
12 we did provide, I think, an updated version as
13 well with just a couple of minor changes.

14 We are planning to hold a public
15 forum to discuss Internet Gaming. Commissioner
16 McHugh is providing the lead on the forum and I
17 have been assisting him. As Commissioner
18 McHugh has described, we are planning a program
19 because within weeks, the Commission will be
20 issuing a single slots license permitted by the
21 Expanded Gaming legislation and two of the
22 three authorized casinos a few months after
23 that.

24 In that context, we think that it

1 would be helpful to have a public discussion
2 about Internet Gaming. I need to emphasize,
3 not to advocate or propose its implementation
4 or how it should be implemented, but to simply
5 acquaint the public with the existence and the
6 potential impact on the lottery and the brick-
7 and-mortar facilities that we will have been
8 licensing at this point.

9 We'll have a number of speakers from
10 other jurisdictions as well as some from
11 Massachusetts. The topics are what are the
12 Internet Gaming and social gaming? And
13 demonstration and discussion of Internet games
14 in a comparison to social gaming.

15 So, the idea is to establish a basic
16 familiarity for folks about exactly what we are
17 talking about and do some discussion about what
18 social gaming is. Because as this discussion
19 moves forward, there is always a lot of
20 discussion about social gaming and how it may
21 or may not impact actual gaming providers. So,
22 it'll be good to have that difference.

23 Then there'll be a discussion about
24 the status of Internet Gaming nationally and

1 around the world, plus a discussion about the
2 legal status of Internet Gaming in
3 Massachusetts itself. So, again, form that
4 groundwork understanding.

5 Risks to Internet Gaming, money
6 laundering, problem gambling and verification.
7 Geo verification in particular will be a topic
8 that we'll discuss with the panel.

9 Then challenges and successes of
10 Internet Gaming in Nevada, Delaware and
11 Canadian provinces. So, we anticipate a real
12 interesting discussion there as that group has
13 either established a form of Internet Gaming or
14 is in the process of doing so. So, it will be,
15 I think, helpful for us.

16 Then the Massachusetts Lottery will
17 be talking to us. And the topic assuring
18 continued success for a billion dollar asset in
19 a changing environment. And then we hope to
20 conclude or plan to conclude with a discussion
21 entitled Lottery, Internet Gaming and casinos,
22 peaceful coexistence.

23 So, we've had a great response to
24 our request to come and speak to us. And we

1 know for sure that that schedule is going to be
2 full and looking forward to the discussion.

3 We anticipate we may have a few
4 minor changes in the document that we have
5 distributed to you and some shifting in
6 presenters, but we are recommending approval of
7 that agenda. Thank you. Commissioner McHugh,
8 did you have anything?

9 COMMISSIONER MCHUGH: Thank you.
10 We've been working together on this and I'm
11 very excited about it. I think it's going to
12 be fun. I think it's going to be highly
13 informative.

14 One thing that is not on there and I
15 just note that and we'll note that at the
16 beginning of the program itself is the kind of
17 game playing that doesn't look anything like
18 casinos. There's monetized versions of various
19 other kinds of games out there. We're not
20 going to cover that.

21 I read though the other day, and
22 maybe you saw it, a sort of War of the Worlds
23 game that exists. In this game, people can
24 build spaceships. And they've got laser beams

1 and you can go shoot other spaceships. You can
2 either do that, build your spaceship by getting
3 money inside the game or you can pay real money
4 to somebody who's got a spaceship and buy that
5 person's spaceships.

6 Apparently, about two weeks ago,
7 there was a battle in this game that involved
8 4000 people across the world who had paid a
9 total of \$340,000 for the various spaceships.
10 All but one of the spaceships was blown up
11 eviscerating, vaporizing \$330,000 of the
12 \$340,000.

13 So, there's a world out there that's
14 not regulated by us that we're not going to
15 regulate that we're not going to talk about in
16 this forum. But it might be worthwhile -- I
17 don't want to plan another forum, but it might
18 be worthwhile sometime down the road to think
19 about that piece.

20 In England I know and maybe in some
21 other European countries and maybe James Kilsby
22 who is going to speak here can talk to us a
23 little bit about that, regulation of that kind
24 of gaming is also being proposed. Because when

1 you think about the amount of money that is
2 involved there and the potential for mischief,
3 it's a fascinating topic.

4 But we're not going to get into
5 that. I just thought I'd throw that out as a
6 little addition. But we'll define what social
7 gaming is and what the parameters of social
8 gaming are as we begin to talk about it.

9 COMMISSIONER CAMERON: Was there a
10 monetary reward for that one spaceship that
11 eviscerated?

12 COMMISSIONER MCHUGH: No.

13 COMMISSIONER CAMERON: It was just
14 the act of playing the game?

15 COMMISSIONER MCHUGH: I think the
16 victor had now, either had the \$340,000 or only
17 had the original 10 and the rest was discarded,
18 didn't exist anymore. There is no value for
19 that money that had been invested.

20 COMMISSIONER ZUNIGA: Right, because
21 as soon as you get something in return, that
22 could be deemed gambling.

23 COMMISSIONER MCHUGH: Except it may
24 be a game of skill as opposed to a game of

1 chance. This is a huge diversion, but it's
2 going to be a short meeting so it's a space
3 filler. It's interesting, right?

4 COMMISISONER STEBBINS: I think we
5 need a field trip or an actual setup to see how
6 this works.

7 One issue that I was looking for in
8 the agenda and I thought it would be under
9 verification, which I guess now is more about
10 location verification is age verification and
11 making sure there aren't underage players
12 participating in this.

13 COMMISSIONER MCHUGH: That's a gap
14 that we have right now. We'll try and fill
15 that gap with somebody from one of the invited
16 people who have some knowledge of that. I
17 think we'll be able to fill that gap. But you
18 are right that is another piece of this. It's
19 a little bit easier piece, I think, and less
20 complicated than the geo location stuff. But
21 you're right, we ought to cover that.

22 COMMISSIONER STEBBINS: I had a
23 chance to chat with Mr. Martino the other day
24 and he mentioned that he's looking forward to

1 coming up and being part of the panel in the
2 afternoon. So, looking forward to it.

3 COMMISSIONER MCHUGH: That's the
4 director in Maryland, a very thoughtful guy.
5 We're looking forward to having him and all of
6 the others as well.

7 MR. DAY: Well, it is an interesting
8 area because it goes with the identity
9 verifications. So, we may be able to bring
10 that in with some of the speakers that we've
11 got lined up.

12 It's getting more sophisticated with
13 each development. And I know the providers
14 have the ability to go out and verify different
15 sources of identification that are just
16 available to the public as well be able to
17 check on what your age is and whether you
18 really are the person.

19 In the end, of course, it's virtual.
20 So, the lower the risk, but being able to
21 actually for sure ensure it is very difficult.

22 Commissioner McHugh, the concept of
23 the spaceship battle, it'll be interesting to
24 see how those various games make it or not to

1 the actual gaming forum at some point in some
2 form. I wouldn't be surprised as we look
3 forward to how the industry develops in some of
4 that change.

5 COMMISSIONER MCHUGH: Right. That
6 would be fascinating. There are a lot of slot
7 machines now that have games, those kinds of
8 games as part of the -- that you can play as
9 part of the reward for hitting a certain
10 sequence of slots. And it's not too far to
11 take it to that next level. It'll be really
12 interesting.

13 There is, as a final word, there's
14 significant legislative interest in this topic.
15 So, we're reaching out to legislators to invite
16 them to come. And I anticipate that there will
17 be some in attendance. And that's a group that
18 we would like to have participate in and think
19 about this topic as we move forward as well.
20 So, I think it will serve that function very
21 well.

22 Do we need to have a vote or an
23 affirmation that this is a good agenda?

24 MR. DAY: I do think that would be

1 appropriate, yes.

2 COMMISSIONER MCHUGH: So, is there a
3 motion to approve this agenda with such
4 tinkering as is inevitable between now and
5 then?

6 COMMISSIONER STEBBINS: Move to
7 approve the Internet Gaming forum final agenda
8 subject to additional tinkering as presented in
9 the packet.

10 COMMISSIONER CAMERON: Second.

11 COMMISSIONER MCHUGH: All in favor,
12 aye.

13 COMMISSIONER CAMERON: Aye.

14 COMMISSIONER ZUNIGA: Aye.

15 COMMISSIONER STEBBINS: Aye.

16 COMMISSIONER MCHUGH: The ayes have
17 it unanimously.

18 MR. DAY: Thank you, Commissioners.

19 If we could move to the next topic that I've
20 got this morning, which I think is under tab
21 4c. Commissioners saw these two items before.
22 I believe it was on the 29th of January.

23 At that point, we had quite a bit of
24 discussion. And we took them back and made a

1 number of changes. What this is is two
2 documents really. The first one is an outline
3 of the planned schedule for the licensing and
4 award process for the Category 2, the slots
5 license at the end of this month. And the
6 other document is really a template for the
7 Commissioners to use in preparing their reports
8 and binders for presentation during that
9 period.

10 What I'd like to do is just review
11 the outline, if I might, the process outline
12 and comment on a few of the changes or items
13 that were clarified as the discussion began.

14 First, on the left-hand side under
15 timing you will see the schedule is to begin on
16 Tuesday, February 25th. Previously, we had
17 been talking about it on Monday the 24th. But
18 our plan now is actually to begin that on
19 Tuesday the 25th.

20 Each Commissioner shall prepare a
21 binder which documents their view. And each
22 Commissioner can elect to rate all, some or
23 none of the questions. That was
24 clarification. And then a further

1 clarification that criteria shall be rated with
2 an overall provisional rating for the category
3 and each applicant.

4 A copy of the binders will be
5 released prior to each Commissioner's report.
6 On day one, we moved that up and that
7 information will include an outline of the
8 related law. We had that later on in the
9 process, and we thought that makes more sense
10 to get that information up before we actually
11 begin the presentations.

12 The reports will begin on Tuesday,
13 February 25 with Commissioner McHugh with
14 building and site design. Followed by
15 Commissioner Zuniga with finance, Commissioner
16 Cameron with mitigation, Commissioner Stebbins
17 economic development and Chairman Crosby
18 overview of the project.

19 On day two what we anticipate, we
20 just really simplified it and said on day two
21 we're anticipating reports and discussion will
22 continue with an award date on the fourth day,
23 which would be the end of the week, the 28th.
24 That's anticipated. And then a final

1 clarification would be that the process I've
2 outlined may conclude earlier depending on the
3 discussions and deliberations.

4 Is there any further question on
5 that or have we appropriately captured what the
6 Commission is planning at this point?

7 COMMISSIONER MCHUGH: I had one
8 question. And that is I thought that at some
9 point we had discussed the possibility or the
10 desirability of making a decision subject to
11 the conditions unique to the applicant.

12 In other words, we'll have a set of
13 standard conditions. Those are out for comment
14 now. But there will be some conditions,
15 perhaps not many, that are applicable only to
16 the specific applicant. And making an award
17 subject to those conditions and allowing a
18 short period of time for a response to make
19 sure that the applicant both understands and
20 accepts those conditions.

21 And then making the final decision
22 -- not making the final decision but the
23 confirming the decision that we made or making
24 a slight adjustment if it were necessary to

1 meet some reasonable concern that the applicant
2 had.

3 MR. DAY: Correct. That's my
4 understanding as well. And that really has a
5 lot to do with where the flexibility at the end
6 of the process so the Commission can kind of
7 move forward as you get to your decision.

8 I think we also talked about the
9 possibility of making a decision effective on
10 the 28th. We don't have that particularly in
11 the line because it's kind of hard to determine
12 which direction you might have to go when you
13 get there.

14 COMMISSIONER MCHUGH: Okay.

15 MR. DAY: We can add it.

16 COMMISSIONER MCHUGH: My only
17 concern is that if we do that and have
18 promulgated this without some kind of an
19 advisory narrative, somebody might say we're
20 not doing what we planned to do.

21 I think the risks of that are small.
22 I think they may be inconsequential. But it
23 may be worthwhile to put at least a footnote in
24 here saying that that's what we intend to do.

1 What do others think about that?

2 COMMISSIONER ZUNIGA: That was my
3 understanding as well from what we discussed
4 last meeting, with the understanding that there
5 could be no additional conditions, again
6 specific, or that those conditions would be
7 such that they could be accepted right away.

8 So, the period of turnaround between
9 the decision and the award could be negligible
10 or not, obviously. So, I think we should
11 emphasize that with a footnote at least to make
12 it clear.

13 COMMISSIONER MCHUGH: We build in
14 some amount of time, a short amount of time
15 because we want to do this, but enough time to
16 work through any last-minute little wrinkles
17 that might pop up.

18 COMMISSIONER CAMERON: So, the award
19 is based on the acceptance of the conditions by
20 the applicant?

21 COMMISSIONER MCHUGH: Right.

22 COMMISSIONER ZUNIGA: Or
23 understanding or acknowledging.

24 COMMISSIONER MCHUGH: I think an

1 acceptance. We'd have to have an understanding
2 that these were the conditions. But it is
3 conceivable that in creating a condition we
4 might have overlooked something that was
5 reasonable for the applicant to say I really
6 can't do that. Or I can do that but it'll work
7 a lot better if I did it this way or something
8 like that.

9 They could come back to us within
10 that very short period of time and we could
11 have a discussion as to whether we wanted to
12 modify that condition. Then once that was
13 done, confirm the award.

14 That discussion would go on between staff
15 and the applicant, not between us and the
16 applicant. It would just be a discussion about
17 the terms of the condition. Does that make
18 sense?

19 COMMISSIONER CAMERON: Yes, it does.

20 MR. DAY: If it will work, we can
21 make that addition maybe even in brackets on
22 day one, day two right under continuation of
23 Commission reports.

24 COMMISSIONER MCHUGH: As long as

1 it's in there someplace to say that that's what
2 we are contemplating. Then when we do it,
3 nobody will be caught by surprise.

4 MR. DAY: I've got the notes on kind
5 of the thoughts we are talking about. I'll
6 consult with Ms. Blue and we will come up with
7 something to insert there.

8 COMMISSIONER MCHUGH: Undoubtedly,
9 right.

10 MR. DAY: Anything else?

11 COMMISSIONER ZUNIGA: The way the
12 outline is laid out, gives us maximum
13 flexibility, which is great. However, I was
14 thinking about the length -- I am still trying
15 to figure out just how long it is going to take
16 us, my group to present the finance section.
17 What level of discussion it might entail, I
18 hope it's a good one and a healthy one, etc.

19 Would it be better for us to
20 generally stipulate that the first day will
21 include maybe up to two presentations from two
22 teams, let's say. Then the next two or three
23 are for the day after and hence? And if we
24 finish before the day is gone then we can all

1 go back to think about it and think about those
2 presentations, etc.

3 Or are we really thinking we may be
4 done with all of the presentations on day one,
5 which is what this outline suggests could
6 happen.

7 MR. DAY: We built it ultimately for
8 that maximum flexibility, because we've had a
9 lot of discussions about how long the reports
10 might take. I think probably the prevailing
11 thought is more likely something like building
12 and site design would take the morning, finance
13 part of the afternoon. The Commission have
14 discussion, probably break.

15 Part of the conversation has been it
16 may get a little bit -- What would the word be?
17 -- aggressive it may be. But it depends on how
18 long the Commissioners want to present and
19 listen to reports during that period and may
20 need a break to think about it and come back
21 and take it on the next day.

22 Because of the topic variability and
23 the different complexities to each of the
24 topics, we thought it would be hard to actually

1 predict, and look like it was a restriction for
2 the Commissioners. They could take that time
3 they felt necessary. Fellow Commissioners
4 could discuss as they wanted and ask questions.
5 And then you could move on.

6 So, you could move on as fast as
7 that you're comfortable with that process and
8 wouldn't be hindered by particular restrictions
9 one way or the other, other than by Friday.
10 That's the thought. We can make that change if
11 you would like us to.

12 COMMISSIONER CAMERON: I like the
13 flexibility. I think it should move at the
14 speed that's appropriate. We may have two done
15 in the morning and start the third one that
16 same day. But I do like the ability to move it
17 according to how fast the conversations
18 proceed. And we can't predict that.

19 COMMISSIONER MCHUGH: The only thing
20 we can predict is how long each of our
21 presentations will last. We certainly could do
22 that to the extent that it was helpful once the
23 presentations are made, just give people a
24 heads-up and we can fine-tune the schedule

1 based somewhat on that. Although, we don't
2 know how long the discussion is going to take
3 of the presentations. So, I think the maximum
4 flexibility would be the best.

5 In that regard though, I know we've
6 talked about this before, but why are we
7 starting Tuesday instead of Monday? I'm
8 thinking about what you said. And I'm also
9 thinking about putting in some space for the
10 applicant to think about, if necessary, it may
11 not be necessary but again thinking about
12 flexibility, think about the individual
13 conditions and get back to us.

14 We wouldn't allow more than 24 hours
15 for that. And it might happen in five minutes.
16 So, that really is a question. Why are we
17 starting on Tuesday?

18 MR. DAY: The thought process there
19 was general idea that probably the reports
20 would take two days as a reasonable
21 explanation. Then from there it would still
22 allow flexibility for the consultation we're
23 talking about. And the thought process would
24 still add one full day. And then the

1 Commissioners would be ready to make the award
2 on the final day.

3 I think there was a lot of
4 discussion about taking the entire five days
5 and how to make sure that time was filled to
6 get to the decision.

7 COMMISSIONER CAMERON: I know I
8 originally had concerns about how long this
9 would take and Tuesday should be enough time.
10 Another thought, and I know it was Commissioner
11 McHugh who said, look, if we arrive at a
12 decision on Thursday, there would be no issue
13 announcing the decision, but yet it wouldn't be
14 effective until Friday which would cover us.

15 So, with that added bit of
16 information, I don't know that it actually
17 matters if we started Monday or Tuesday.
18 Because say for example we were able to get
19 through in three days, and I'm not saying that
20 would be the case, but with the ability to say
21 not effective until Friday, I think, for me
22 anyway that solves the issue of really getting
23 to a decision and not being able to announce it
24 until Friday, which I thought was somewhat

1 problematic. With the ability to say here's
2 the decision not effective until Friday.

3 MR. DAY: Thank you, Commissioner
4 Cameron. The other thing that would make that
5 not starting to Tuesday helpful though would be
6 the concept of there's a plan that the
7 Commissioners will share each other's binders.
8 So, that they allow that process of reviewing
9 it. That additional day may actually save time
10 in the schedule at the end to provide -- We
11 actually don't know how that will work out, how
12 the reports will all be ready and when they
13 will be in and when they will be available for
14 review.

15 COMMISSIONER CAMERON: That makes
16 sense.

17 COMMISSIONER MCHUGH: Let's just
18 test this to make sure. It makes sense to me
19 too. But let's just test it. Supposed we go
20 through this schedule and on Friday at one
21 o'clock we finally come to a decision. It's an
22 engaged process and we first come to a decision
23 Friday at one o'clock. And we say X is the
24 chosen applicant subject to the conditions A,

1 B, C and D specific to X. What do we do then?

2 We want to allow X time to think
3 about those and get back to us. Maybe X doesn't
4 like that. X will undoubtedly be in the
5 room. We could take an hour break and see if X
6 has any problems. But maybe X does have a
7 problem that is a legitimate problem and would
8 take a little time to work out between staff
9 and X.

10 Under this schedule and that
11 scenario, how do we deal with that? Allow the
12 weekend to pass and then come back? It's
13 unlikely and that's always a possibility.

14 MR. DAY: Commissioner McHugh, I
15 think that possibility could happen regardless
16 of how many days that you end up, even if
17 there's five days. If the Commissioners aren't
18 able to get to a decision until the end of the
19 process, you're still going to have that
20 problem.

21 But you are as you're making the
22 decision or would make the award subject to the
23 conditions, acceptance of the conditions. It
24 seems like to me that process could take place.

1 Once the licensee would have to comply, so it
2 come back early that next week. At least the
3 decision has been made.

4 COMMISSIONER MCHUGH: Is everybody
5 comfortable with that?

6 COMMISSIONER ZUNIGA: Yes.

7 COMMISSIONER STEBBINS: I want to go
8 back to the issue that we talked about
9 especially as it would relate to specific
10 conditions and this notion of the applicant and
11 the staff maybe going off and working something
12 out. I'm a little hesitant about that. Maybe
13 it's just the devil's in the details.

14 But we've always conducted ourselves
15 in an open and transparent process. And to
16 have at some point that conversation or
17 discussion come back and be between the
18 applicant and the Commission I think is
19 healthy. As opposed to turn of the mics. The
20 audio is muted. And we come back and everybody
21 is holding hands and saying this is great and
22 we're ready to go forward.

23 Seeing what give-and-take is behind
24 that review and acceptance of specific

1 conditions I think is healthy to have at some
2 point back in front of the five of us. Again,
3 maybe the devil's in the details of how it gets
4 -- the mechanics of that.

5 COMMISSIONER CAMERON: I think if
6 there were any modifications, it would have to
7 come before us.

8 COMMISSIONER STEBBINS: Okay.
9 That's what I expect.

10 COMMISSIONER CAMERON: If not, it
11 would be exactly what we proposed.

12 COMMISSIONER STEBBINS: I just don't
13 want that to be lost.

14 COMMISSIONER MCHUGH: I agree with
15 Commissioner Cameron. I think the point is
16 essential. What would happen would be the
17 staff and the applicant would talk about the
18 applicant's concerns and possible solutions to
19 the concerns in an advisory capacity.

20 Then we would have the same
21 discussion in public. If we made up our mind
22 that we wanted condition X, I would really want
23 to have a dialogue with the applicant as to why
24 to condition X wasn't acceptable and why the

1 other one is preferable.

2 COMMISSIONER STEBBINS: That was my
3 assumption, but I wanted to be clear.

4 COMMISSIONER MCHUGH: I think that's
5 essential to be clear.

6 MR. DAY: So in the end, the
7 applicant comes before the Commission.

8 COMMISSIONER MCHUGH: That's right,
9 to report we accept or we accept with this
10 modification. And we say the modification is
11 fine and now we're done.

12 COMMISSIONER ZUNIGA: Or the
13 modification is not and we go back again.

14 COMMISSIONER MCHUGH: Right, or we
15 move on.

16 MR. DAY: We'll work that into the
17 outline so it's there.

18 COMMISSIONER MCHUGH: Great.

19 MR. DAY: Any other changes to the
20 outline? That brings me to the template.

21 COMMISSIONER ZUNIGA: We concluded
22 that we will start on Tuesday.

23 MR. DAY: That's my understanding.
24 Let me just make a couple of general comments.

1 Report template follows the evaluation report
2 and the word process outline.

3 For the most part, the template is
4 blank. So, it's quite a bit different than the
5 last draft you saw. It does have example
6 criteria and questions from one of the areas,
7 one of the categories just to demonstrate what
8 that might appear like.

9 The report sections are
10 introduction, overall provisional rating,
11 criteria rating, review detail and appendix.
12 Behind that portion, so on pages five and six,
13 you will find the provisional rating form is
14 included and a criteria rating sheet just to
15 provide that template for the Commissioners.

16 So, most of these documents have
17 some bold writing but are for the most part a
18 blank, depending on each of you to fill them
19 in. Hopefully, they are adaptable at this
20 point.

21 I think the big question, one of the
22 questions was is the concept of questions and
23 the decision is up to the Commissioners as to
24 whether or not to rate each one of the

1 questions on this portion. We thought probably
2 having those questions in the report would be
3 helpful informational wise for the rest of the
4 Commissioners but not necessarily -- there's
5 not necessarily a plan that the Commissioners
6 will actually rate each question. It's totally
7 up to the Commissioner.

8 COMMISSIONER MCHUGH: Is that last
9 comment, Mr. Day, directed at the question list
10 on page three? In other words, we list all of
11 the questions there just to show everybody what
12 the questions were but we would not necessarily
13 rate each question.

14 MR. DAY: Yes, Commissioner McHugh,
15 that's the idea. Still have the list of them
16 here but not necessarily a rating. That would
17 be at each preference of the Commissioners.

18 COMMISSIONER ZUNIGA: And the idea
19 is to do a crosswalk between the questions and
20 the criteria and its ratings; is that a fair
21 statement?

22 MR. DAY: That is my understanding,
23 yes.

24 COMMISSIONER ZUNIGA: In my case,

1 which fits the template just fine, there are
2 questions that will appear in several criteria
3 because we gleaned information for example
4 financial information to answer and rate a
5 couple of different aspects, financial strength
6 as well as projected cash flows, for example,
7 which is fine. It's just questions will appear
8 under our criteria a couple of different times.

9 COMMISSIONER MCHUGH: Yes.

10 MR. DAY: You will also notice that
11 under the provisional on page five, the overall
12 provisional rating, there's an introductory
13 section. That has a short description. This
14 description, decide the approach to review and
15 weight the criterion.

16 I think that is some of the concept
17 as to how the Commissioners approached and
18 whether some of the question were just a yes or
19 no and not considered, whether there's a
20 combination of those questions and those kinds
21 of things. I think that's part of the idea of
22 that section.

23 COMMISSIONER MCHUGH: All right.

24 Any comments or thoughts or questions about

1 that? There's flexibility here for everybody
2 within an essentially standardized format.

3 MR. DAY: We'll make those changes
4 we discussed and then we'll be ready to go.

5 COMMISSIONER MCHUGH: Great. All
6 right. I don't think we need a vote for that.
7 We've got consensus. This is a work in
8 progress. We're just going to take the next
9 step in its evolution. This is essentially how
10 we are going to proceed with that rating
11 process. The next item, Director Day.

12 MR. DAY: The next item, I'd like to
13 suggest that the Commission for -- I think what
14 will help for purposes of discussion if we
15 might want to review item E, the cost
16 assessment regulation draft first and combine
17 item D with that discussion as appropriate.

18 They relate to each other and I
19 think some of the facts or some of the
20 proposals and the regulation itself may
21 stimulate some further discussion about the
22 whole ballot initiative issue.

23 COMMISSIONER MCHUGH: All right.

24 MR. DAY: If that would be

1 acceptable, I'll go forward in that process.
2 That regulation that's proposed is under 4e.
3 Tab 4e there is a red strikeout version and
4 then there's a clean copy for the ability to
5 read the entire regulation.

6 The Commission has previously
7 considered much of the language that's
8 proposed. It also requested public comment on
9 much of the language. We are now proposing an
10 amendment to an existing regulation 205 CMR
11 121. We recommend -- Excuse we amend or add
12 sections to the regulation including assessment
13 fees, fiscal year, annual budget and
14 reconciliation. We will have one assessment
15 process and the proportional sharing will be
16 based on approved positions.

17 I'd like to note a few sections as I
18 move forward just to comment on them. I assume
19 the Commissioners will either stop me as we go
20 or wait until we get to the end and come back
21 and provide what corrections or input that you
22 need at that point.

23 I'd like to start right with section
24 121.01. You might note that staff is

1 recommending that the amendment strike the term
2 non-refundable. And essentially just real
3 briefly these are not as we looked at it, don't
4 seem to be specifically provided for in
5 statute. And may actually send the wrong
6 message as we move forward through the end of
7 the process in issuing the licenses.

8 I might add too as we go forward
9 just a note to have it out there generally is
10 staff is going to recommend that this move
11 forward as an emergency regulation. And I will
12 call on my fellow counterpart over here,
13 Catherine, to talk about that as soon as we get
14 to the end of this part of the presentation.

15 So, back to the regulation, the
16 basic fees have not changed. The same thought,
17 and that's as we move forward in section
18 actually passed section two into section three,
19 \$600 per slot. The annual assessment and the
20 Public Health Trust fund are basically still
21 here. As we go through the language, you will
22 note that the fees are proportional to the
23 number of approved or projected gaming
24 positions.

1 And also if you move to the end of
2 section 3(b), and that adds any other fees
3 amended and required by the Commission to
4 provide as much flexibility.

5 As we continue to talk about this
6 regulation, I wanted to touch back on that term
7 of flexibility again. As we redrafted this
8 regulation, given everything that's going on
9 relative to the awards issuance and the license
10 and who ultimately is going to receive them, we
11 attempted to make this regulation as flexible
12 as possible to anticipate situations that may
13 occur and still provide for a steady stream of
14 funding for the Commission.

15 If you quickly go to 121.02, payment
16 of fees, the Commission may provide that the
17 license fees, and those are the fees that are
18 the \$25 million, \$85 million be paid on an
19 installment basis.

20 It goes onto clarify the slot fees
21 will be assessed on July 1. It clarifies that
22 the annual assessment will begin in 2015 and is
23 based on the difference between projected
24 revenues and Commission may allow payment in

1 more than one installment there as well. We'd
2 begin the Public Health Trust fund with fiscal
3 year 2016.

4 If you move forward, in the event it
5 also clarifies enforcement action for failure
6 to pay down in section seven. And in 121.03,
7 establishes the Commission's fiscal year as
8 July 1 through June 30. Then provides for the
9 development and approval of the Commission's
10 annual budget based on cost revenue and
11 estimates sharing.

12 It also in paragraph one in 121.04,
13 Commission annual budget paragraph one, it
14 includes cost as amounts necessary to make
15 transfers pursuant to section 93 of Chapter 194
16 to make sure the Commission has the ability to
17 include in its costs where it's budget
18 repayment of any funds in that case.

19 It provides for quarterly monitoring
20 of the budget if the Commission determines
21 projected costs will exceed projected revenue.
22 Commission may revise the original estimates.
23 And in the end in 121.05 provides for a
24 reconciliation process with the appropriate

1 bill, credit or refund at the Commission's
2 discretion.

3 In summary, the regulation describes
4 a budget and funding process the Commission
5 will use as well as we move forward. As the
6 Commission is preparing to make a licensing
7 decision around the end of February, the
8 remaining time in our opinion does not allow
9 for the usual regulation development and
10 approval process. And our request is the
11 regulation be enacted as an emergency
12 regulation.

13 With that if I could quickly defer
14 to Catherine to address the emergency
15 regulation process.

16 MS. BLUE: We think that
17 implementing this on an emergency basis meets
18 two main considerations. The first being that
19 we are coming up on the award of a license.
20 So, we want to have this in place.

21 The second is that we are starting
22 our first budget process. And in order to get
23 that budget completed by the beginning of the
24 next fiscal year, we will need to start that

1 fairly quickly.

2 This regulation spells out how we're
3 going to do that. So, we think it's important
4 to have it on the record and to let applicants
5 and other folks know how we're going to do
6 that.

7 What we would do is on an emergency
8 basis, when and if it's approved by the
9 Commission, it will be filed with the Secretary
10 of the Commonwealth. It will go into effect
11 then, but we will also start the regular
12 approval process at the same time. So, we will
13 get the letter out to the local government
14 advisory committee. We will schedule the
15 public hearing. We will post it for comments,
16 do all of the normal things we do for
17 regulations on a concurrent basis.

18 COMMISSIONER MCHUGH: So, the
19 emergency and the regular regulatory process
20 would go forward in tandem.

21 MS. BLUE: Yes.

22 COMMISSIONER MCHUGH: Right.

23 MR. DAY: The emergency reg. is
24 valid for 90 days; is that correct?

1 MS. BLUE: Yes. The emergency
2 regulation is valid for 90 days. That also
3 gets us through almost the end of what will be
4 our budget process.

5 COMMISSIONER MCHUGH: Right.
6 Comments, are you ready for comments?

7 MR. DAY: Yes, I am.

8 COMMISSIONER MCHUGH: I picked up on
9 your thought about providing maximum
10 flexibility for what we do. I have full
11 anticipation that we're going to move forward
12 and issue the license and things will go
13 forward in ordinary fashion without any
14 difficulties. But there are a lot of balls in
15 the air. So, I wonder if I could raise a
16 couple of suggestions.

17 The first is with respect to
18 121.02(1) on page two. That says as a
19 condition of any award, the Commission may
20 provide such license fees be paid on an
21 installment basis. The statute requires that
22 those fees be paid within 30 days. Our
23 regulations require that too.

24 I think the flexibility of an

1 installment basis is a very helpful thing. But
2 it seems to me that we ought to add to that an
3 installment basis before the license is issued.
4 So, in effect it would be a layaway approach to
5 that. I don't anticipate we would need to do
6 that, but it would give us the flexibility if
7 some unexpected thing occurred to do that.

8 And get a license fee in
9 installments and credit that fee to the overall
10 fee that was owed to us. Then recoup the
11 amount necessary -- strike that. So, I'll just
12 end right there. That would give us that
13 flexibility. And I think would be a very
14 useful tool to have in our toolkit if necessary
15 if we did that.

16 COMMISSIONER ZUNIGA: In other
17 words, and I think it's a very good idea, but
18 just to confirm the installments could be made
19 until the final award of the license. At which
20 point, we are then under the statute of
21 everything is payable within 30 days.

22 COMMISSIONER MCHUGH: Right, in 30
23 days. That's right. As I say, I don't
24 anticipate that that would be something we

1 would want to adopt, but it would be something
2 we would have available in the event we did
3 want to adopt it.

4 COMMISSIONER ZUNIGA: So, a simple
5 sentence at the end of that paragraph like you
6 suggested until the final award of the license
7 would suffice?

8 COMMISSIONER MCHUGH: Sure. Until
9 the final award of the license or paid on an
10 installment basis before the license is finally
11 issued. That would allow in effect the
12 designation of a person, entity and a
13 commencement of collecting the license fee on
14 an installment basis.

15 At some point, either at the end of
16 the installment period or at some point sooner,
17 the final license would actually be issued.
18 And within 30 days that the balance of the
19 unpaid would be due or if the installments ate
20 up the entire license fee, the license would
21 issue when the entire installment had been
22 paid.

23 COMMISSIONER ZUNIGA: Then the life
24 of the license begins at that point, the five

1 years and the 15 years can only begin until
2 that point.

3 COMMISSIONER MCHUGH: Right.

4 COMMISSIONER ZUNIGA: I think it's
5 very reasonable.

6 COMMISSIONER MCHUGH: And we
7 determine what the installments are and
8 installment schedule and the like. Again, I
9 don't anticipate we would do this, but it's
10 there if we have to do it or find it desirable
11 to do it. So, that's the first thing. Is
12 there any -- Commissioner Stebbins, any
13 thoughts about that?

14 COMMISSIONER STEBBINS: No.

15 COMMISSIONER CAMERON: Mr. Lennon,
16 does that sound appropriate?

17 MR. LENNON: It makes sense to me.
18 The one thing that I've always been concerned
19 with is our cash run-out dates. So, as long as
20 we determine our installments and we determine
21 the amount that's due, that doesn't leave us
22 with no lights on, I'm fine with it.

23 COMMISSIONER MCHUGH: That's what we
24 are talking about. We anticipate, as I said,

1 things going forward in ordinary fashion. But
2 the last two years have demonstrated that
3 sometimes they don't. So, this would be a
4 helpful thing to ensure more flexibility.

5 The second suggestion that I have is
6 designed to achieve the same end. And that is
7 this, 121.02(3) talks about commencement of the
8 assessment process in 2015, fiscal year 2015.
9 I understand that. But, what about commencing
10 at least having the ability to commence an
11 assessment process once the license is issued
12 either provisionally or permanently to deal
13 with the rest of FY 2014?

14 And we could do that easily, I
15 think, by amending this component of the
16 regulation slightly to say that we could have,
17 if we chose to do so, an assessment process for
18 maybe the last quarter of fiscal year '14 to
19 provide us with a flow of cash if we needed to
20 go in that route and had no other source for
21 it.

22 We would not have to rewrite this
23 section significantly. We could say, for
24 example, at the beginning of that subsection

1 something along the lines except in the case of
2 any assessment for fiscal year 2014. And that
3 would take care of that first part.

4 Then in the second to last sentence
5 say the Commission may assess an annual
6 assessment on a pro rata basis commencing with
7 fiscal year 2014 and will make full assessments
8 for each fiscal year thereafter. And then we
9 build in the kind of flexibility we may need,
10 may not need. But at least we built in another
11 flexible approach to a cash flow.

12 COMMISSIONER ZUNIGA: I agree with
13 that.

14 MR. LENNON: We've actually
15 discussed this quite a bit. And it brings us
16 back to the initial plan that we had laid out
17 for FY'14, and the fairness issue that was
18 brought up by the Category 2 applicants of how
19 do we make sure that we bring in enough money
20 until the Category 1 applicants. But I think
21 combined with your first piece of an
22 installment plan, I think that would mitigate
23 our cash flow issue. So, yes, I find that to
24 be a good alternative as well.

1 COMMISSIONER MCHUGH: Those letters
2 we got, those thoughtful letters we got dealing
3 with the fairness piece, I think we've all
4 taken to heart, we've read. And the
5 implementation of these would take into account
6 the substance of what those applicants said.

7 MR. DAY: Commissioner McHugh, it
8 doesn't foreclose an option. If it's
9 necessary, I think it provides that option.

10 COMMISSIONER MCHUGH: Right. Then
11 the final suggestion I'd have is a purely
12 technical one based on the other changes. And
13 that would be to amend subsection 5.02 to
14 delete the exception, to delete the clause that
15 says except those required by 205 CMR 1.02(1)
16 and (2).

17 Because if we do an installment
18 plan, we would want to issue invoices and get
19 paid within 30 days. And if as anticipated, I
20 continue to say that, as fully anticipated the
21 applicant gives us the full fee on the day we
22 award the license, we issue the invoice and the
23 full amount is due 30 days thereafter.

24 In fact, I think that's what we are

1 going to do. But in either case we could issue
2 an invoice and it would be due 30 days
3 thereafter, the payment would be due 30 days
4 thereafter.

5 MR. LENNON: I agree.

6 COMMISSIONER MCHUGH: Now there may
7 be other things that we need to do or think
8 about to give us the maximum amount of
9 flexibility. But this it seems to me builds in
10 the most flexibility that we can build in
11 ourselves without help from others outside the
12 Commission.

13 So, we may need to get that help.
14 We may not need to get it. But at least we've
15 done everything we can to create as much
16 flexibility as is possible within the ambit of
17 our authority. Any further discussion,
18 Commissioner Stebbins?

19 COMMISSIONER STEBBINS: I had just
20 two quick comments or questions, under 121.04
21 the Commission's annual budget knowing that
22 we're kind of backing out days when an invoice
23 and assessment needs to go out, I would like to
24 see us kind of hold our own feet to the fire

1 and create a deadline for when we would need to
2 approve the annual budget.

3 MS. BLUE: We talked about that and
4 putting that in the reg. I think that every
5 year the budget process is slightly different.
6 So, we could put a date in there, but the idea
7 was to have flexibility.

8 If we can do it sooner and have it
9 done quicker, more time before the beginning of
10 fiscal year that's great. But there have been
11 some fiscal years in other organizations I've
12 been in where you are right up against the end
13 of the fiscal year to do that. So, that's why
14 we don't have a hard and fast date in there.
15 But we can certainly add one, if you'd like.

16 MR. DAY: The concept was, and Derek
17 can jump in here if I am stating it wrong, but
18 the concept was basically that we'd start
19 development and try to get it before the
20 Commission in April. Essentially, there is a
21 period that the licensees have 30 days to pay
22 the assessment. So, that does put the pressure
23 on us to give it to them so they've got the 30
24 days to pay it before we start the new fiscal

1 year. So, there is that requirement to serve
2 as both a protection but also a requirement on
3 us to get those bills out.

4 COMMISSIONER STEBBINS: Again, just
5 thinking that we need to back days off from the
6 beginning of the fiscal year, if we could give
7 ourselves somewhat of a timeline, even if it's
8 a hard and fast date, even some guideline by
9 which -- Derek will be here for a while -- by
10 which future Commissions can begin to keep a
11 tab on.

12 COMMISSIONER ZUNIGA: Perhaps we
13 could say something to the effect of prior to
14 the beginning of the fiscal year, the
15 Commission can or may begin the budget process
16 as outlined here. It's basically there.

17 MR. DAY: I think that's there, but
18 just a suggestion, it's our intention to
19 develop a procedure behind this that would
20 outline who's doing what and what those
21 timeframes are. That procedure would begin --
22 identified to begin in April. So, if the
23 Commission would entertain that we can
24 accomplish that I think it would be helpful.

1 It would still commit us but also maintain
2 flexibility.

3 MR. LENNON: I don't know if it'd be
4 helpful if you'd want to put a budget calendar
5 in here. That we will present a budget
6 calendar by a certain date. We've talked about
7 that too. It requires us to do a planning
8 process, submit something to you by April that
9 says we will have a completed budget in front
10 of you.

11 MR. DAY: That would be in the
12 procedure as well.

13 MR. LENNON: Yes. That would
14 definitely be part of the procedure.

15 COMMISSIONER STEBBINS: Okay.

16 MR. LENNON: Because I like
17 deadlines too, I like to have them clearly laid
18 out. That way you stick to them.

19 COMMISSIONER MCHUGH: That's good.

20 COMMISSIONER STEBBINS: The other
21 question I had or the other concern I have
22 under 121.04 subsection 3, if at any time
23 during the fiscal year -- I know we've
24 obviously used the word flexibility a lot this

1 morning, but I have somewhat an issue with
2 that.

3 In kind of this broad authority that
4 we would be granted to go out and assess
5 additional costs if at such time we think our
6 costs are going to exceed revenue. I'd like to
7 kind of narrow it down for both our benefit of,
8 again, holding our feet to the fire when it
9 comes to operating within our means.

10 Secondly, to give our licensees some
11 level of comfort in terms of when they may
12 expect an additional assessment. I know we are
13 looking for flexibility, but I think for
14 everybody's planning purposes to all of a
15 sudden two months into a fiscal year, I'm not
16 saying that this would happen, but two months
17 into a fiscal year, here's another assessment.

18 I think for people's planning
19 purposes -- I have an issue with that. I'd
20 rather say something going into third or fourth
21 quarter as opposed to I would find it highly
22 unlikely that we start running up against some
23 issues somewhere in the middle of the second
24 quarter of the fiscal year.

1 COMMISSIONER ZUNIGA: There's a
2 couple of things that run against that concern,
3 which is a very legitimate one. We're not
4 going to have a lot of money in our coffers as
5 a matter of course. We're not going to, in my
6 opinion, assess a large amount and then draw
7 down and have a healthy balance in our bank
8 account to deal with contingencies like
9 unexpected -- plan but unexpected amount larger
10 than the budget.

11 So, our operation is one in which
12 there's an incentive to be as efficient as
13 possible where this flexibility is very
14 important. I can go back to our investigatory
15 process and our own consultants who we like
16 very much and they did a great job. The
17 forecasts that they gave us ended up being
18 surpassed for every applicant. And had we not
19 had such a flexibility of midway through the
20 year assessing for additional costs, our
21 ability to conduct the investigations in the
22 time and manner that needed to happen would
23 have been seriously hampered.

24 So, I am a proponent of leaving it

1 the way it is. I think those concerns are very
2 valid, but we are not in a steady-state
3 operations. We have, in my opinion, we will
4 see costs that we may have thought about but
5 not realized until they materialized. We are
6 still building an organization. So, I think
7 for those reasons I think we should just leave
8 it just the way it is.

9 COMMISSIONER MCHUGH: The steady-
10 state piece is of concern to me too. We are
11 moving through this. And we plan. And most of
12 our plans work out, but you pointed to one
13 place where the expenditures were way above
14 what was predicted. But Commissioner Stebbins'
15 point is a sound one too.

16 What about if we put a couple of
17 fiscal years in here, which would take us into
18 a steady-state and then require us either to
19 renew the authority with a new regulation in
20 two years or not? For example, we said at any
21 time during fiscal year 2014, '15 or '16.

22 COMMISSIONER STEBBINS: I hear
23 Commissioner Zuniga's concern. We are still in
24 an unsteady state. Even just adding onto the

1 end of the beginning with fiscal year 2017,
2 2018, whatever you think is reasonable, the
3 Commission will be allowed to assess additional
4 costs no earlier than the beginning of the
5 third quarter, whatever the language should be.

6 But I like the idea of kind of
7 getting through this initial period. And then
8 at some date in the future just saying
9 beginning at a certain fiscal year, we won't be
10 able to do it until the second, third quarter.

11 Am I picking up on your point or did
12 I just muff that one?

13 COMMISSIONER MCHUGH: No, no.
14 That's another way to do it. I guess my
15 suggestion was tighter. There's be no ability
16 to assess additional costs under my formulation
17 after we finish fiscal year '16 unless we
18 renewed the authorization of this regulation
19 require us to do it. Between now and then, we
20 could do it depending on what happened.

21 Yours is another way of doing it,
22 saying we're going to limit ourselves to
23 increases in the third quarter beginning in
24 fiscal year '17. I guess the difference is

1 mine would be tighter, yours would be more
2 flexible.

3 But I think the point of some kind
4 of a limitation in there is a good one.

5 COMMISSIONER CAMERON: I think the
6 reason to begin with was because we are not in
7 a steady-state. So, funding is not as it will
8 be once we are in a steady-state. So, limiting
9 it in some way making a statement that we
10 intend to use this only for the next couple of
11 years, let's say, we can do that, I believe.
12 And maybe we should be as firm about it as
13 Commissioner McHugh suggests. Say, hey, we
14 need this right now but we would have to
15 reauthorize later and really make the case. I
16 always point to Director Lennon, because he
17 knows so much more about finance than I do.

18 MR. LENNON: I like the idea of
19 ultimate flexibility. I do like being on the
20 other end of it at times. I like the idea of
21 having expectations of when someone may tap
22 into me for some more money. So, maybe we can
23 write a policy around how much time we can give
24 notice, the process going up to the Commission

1 to let you know what the cost increases are.
2 Whether you agree with them, whether you want
3 us to look internally for the budget.

4 I don't so much like the idea of
5 always sticking to a one-time assessment just
6 because things will come up now and then.
7 Where if we stick to a one-time cost
8 assessment, it will be up to us to always find
9 it within our own hide if we have a cost come
10 up that we didn't foresee.

11 And every operation, when they come
12 into steady-state has something thrown at them
13 that they didn't foresee. We don't have the
14 ability to go out and raise our fees. We don't
15 have the ability -- The only place we generate
16 revenue is through our assessments. If we had
17 that ability to make those different
18 determinations, I'd say yes, that's fine.

19 COMMISSIONER ZUNIGA: You're
20 touching on something that I alluded to in my
21 previous comment which is we cannot spend into
22 the negative, which is another constraint for
23 us.

24 There is vague language in the

1 statute that imagines our ability to borrow in
2 the future. It's not very clear to me that
3 we'll be doing a lot of that or how we would go
4 about doing that. So, to that point, it really
5 leaves our ability to assess our licensees as
6 the main source. So, I'm advocating again
7 maximum flexibility.

8 But since we're talking about ways
9 in which to confine this authority, we could
10 also think about a percentage limit. The
11 budget could be revised a maximum of 20 percent
12 at any given point giving ourselves flexibility
13 to make those assessments. It would give our
14 licensee planning idea, not expecting to have
15 assessments exceed a certain amount. But I am
16 generally of the opinion that this regulation
17 should stay like this certainly for these few
18 years.

19 MR. DAY: Commissioner Zuniga and
20 Commissioners, I am arguing for leaving the
21 flexibility that is in the regulation at this
22 point. I would agree with both Mr. Lennon and
23 Commissioner Zuniga.

24 But the other but I think is

1 important is the industry that we are
2 regulating is very aggressive, very adaptive
3 and changes quickly. I think one of the
4 reasons for this kind of flexibility is to be
5 able to also accommodate those changes.

6 If the industry is going to make
7 some changes, maybe it requires us to be able
8 to purchase some new equipment or put on some
9 more staff to be able to approve new concepts
10 and new ideas. To the extent we freeze our
11 ability in this regulation to be able to make
12 those assessments to be able to accommodate
13 that service to the industry, I think we'd be
14 at cross purposes.

15 To that extent, I would encourage
16 that -- I understand, but I'd encourage that we
17 leave the flexibility in there and develop our
18 processes very public.

19 The Commission does here say will
20 report and monitor the budget and the progress
21 on a quarterly basis. I would argue it's not
22 going to be any mystery about what happens in
23 that process of where the assessment would come
24 from. It would be clearly evident as we move

1 forward in that budget process and that
2 projection.

3 So, I think that kind of protection
4 is there. I clearly understand the concept of
5 getting a budget, doing your best to stick to
6 it, which is what I think the design is here.
7 But I'd suggest that relief valve has other
8 purposes besides our flexibility. It helps us
9 respond to the industry as we move forward with
10 this development as well.

11 COMMISSIONER ZUNIGA: That's an
12 excellent point. Thank you for that. Let's
13 not forget that any costs -- any budget
14 revisions in excess of the approved budget
15 would have to come to the Commission anyway.
16 So, there's a real check there for the public
17 knowledge, for the input of this Commission to
18 come in and say maybe I disagree -- maybe this
19 excess assessment is too much or it's too soon,
20 etc.

21 COMMISSIONER MCHUGH: I think I'm
22 coming around to that. The point about the
23 industry's flexibility is a really important
24 one. This is a very flexible, creative

1 industry.

2 And the kinds of games and the kinds
3 of things that we may need to regulate, the
4 equipment we may need to do it, the training we
5 may need to undergo it could happen very
6 quickly, and may not be accounted for in our
7 budget.

8 We could simply undertake to self-
9 monitor recognizing that it hurts licensees as
10 well if we come out of nowhere with a huge
11 budget increase that reflects poor planning as
12 opposed to unexpected contingencies.

13 Commissioner Stebbins?

14 COMMISSIONER STEBBINS: You know the
15 wish of the Commission, I am happy to leave it
16 the way it is now. Hopefully, as we do get our
17 feet underneath us at some point we think
18 there's a need for both the Commission and our
19 licensees to have it -- I think we'll see how
20 it works. I'm comfortable with leaving the
21 flexibility for the time being.

22 COMMISSIONER MCHUGH: This is a good
23 conversation to put in front of the applicants
24 and ourselves, the issue. And I think there's

1 consensus around the issue that we should not,
2 cannot simply be sloppy in budget planning and
3 then make it up at end the to take care of
4 oversights. Not that that was the plan but --
5 Okay.

6 MR. DAY: We definitely understand
7 that process.

8 COMMISSIONER MCHUGH: Anything
9 further then, comments from anybody about this
10 part about the regulation? We do need a motion
11 for this one, right?

12 MR. DAY: Correct.

13 COMMISSIONER MCHUGH: The motion
14 would be to approve the regulation as presented
15 to the Commission today with the amendments to
16 121.02(1), 121.02(3), 121.02(5) that were
17 discussed during the conversation and
18 discussion we just concluded.

19 Would that be the right motion?

20 MR. DAY: Excuse me, Commissioner,
21 you did say as an emergency.

22 COMMISSIONER MCHUGH: As an
23 emergency regulation. I did not say it but now
24 I have.

1 MR. DAY: Thank you.

2 COMMISSIONER ZUNIGA: So moved.

3 COMMISSIONER CAMERON: Second.

4 COMMISSIONER MCHUGH: Discussion?

5 All in favor, aye.

6 COMMISSIONER CAMERON: Aye.

7 COMMISSIONER ZUNIGA: Aye.

8 COMMISSIONER STEBBINS: Aye.

9 COMMISSIONER MCHUGH: All opposed?

10 None. The ayes have it unanimously.

11 Thank you for this thoughtful work.

12 That brings us then to the next item, which is

13 4D. 4D, the ballot initiative I think that we

14 are all aware of the fact that it's out there.

15 It may raise some concern, some contingencies.

16 And what we need to do is create an

17 atmosphere and an environment where we move

18 forward to fill the mandate of the statute and

19 our obligation to implement the statute as

20 steadily and quickly as possible.

21 The discussion we just had, the

22 motion we just made gives us some tools to use

23 if necessary to do that. There may be other

24 tools that we need. We may need help from

1 others. But at the moment, this is as far as
2 we can go to keep this thing, keep this process
3 online, moving forward while other things over
4 which we have no control sort themselves out.

5 I didn't mean to take this away, but
6 if there's anything further you want to add to
7 that or we should be discussing, Director Day,
8 let's do it.

9 MR. DAY: No. I think that was one
10 of the big reasons to move the regulation
11 forward is to ensure that the regulation would
12 provide flexibility to adapt to items beyond
13 the Commission's control. And I think that an
14 approved regulation does that.

15 From my perspective, I think the
16 message even in the reg. is that we are moving
17 forward to make the assessments for the
18 licensees to pay the bills and that's the
19 concept.

20 COMMISSIONER MCHUGH: Right. Any
21 other thoughts on that topic?

22 COMMISSIONER ZUNIGA: No, just to
23 emphasize your point that we are implementing
24 the statute that we have for the purposes that

1 we were appointed. We're continuing to do our
2 job and our staff is helping us do that. So,
3 forward and onward as we say.

4 COMMISSIONER STEBBINS: Until
5 somebody tells us different.

6 COMMISSIONER MCHUGH: Right.

7 MR. DAY: Look forward to the end of
8 the month.

9 COMMISSIONER MCHUGH: Yes, it is
10 very exciting. We are weeks away now from
11 making the first of the really big decisions.
12 And things are shaping up to have an
13 interesting and vibrant, I think, discussion
14 that final week. And it'll be very exciting to
15 see what the outcome is. So, I think we are
16 all enthused about that.

17 COMMISSIONER ZUNIGA: Coming to the
18 Commission was my first big decision, so this
19 would be the second.

20 COMMISSIONER MCHUGH: Anything
21 further?

22 MR. DAY: I have nothing further.

23 COMMISSIONER MCHUGH: Any of the
24 Commissioners? That was a succinct meeting.

1 So, we would have a motion to adjourn.

2 COMMISSIONER CAMERON: Move to
3 adjourn.

4 COMMISSIONER STEBBINS: Second.

5 COMMISSIONER MCHUGH: All in favor,
6 aye.

7 COMMISSIONER CAMERON: Aye.

8 COMMISSIONER ZUNIGA: Aye.

9 COMMISSIONER STEBBINS: Aye.

10 COMMISSIONER MCHUGH: The ayes have
11 it. And we are in adjournment.

12

13 (Meeting adjourned at 10:55 a.m.)

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1 ATTACHMENTS:

- 2 1. Massachusetts Gaming Commission February
3 6, 2014 Notice of Meeting and Agenda
4 2. Massachusetts Gaming Commission January
5 22, 2014 Meeting Minutes
6 3. Massachusetts Gaming Commission January
7 23, 2014 Meeting Minutes
8 4. DRAFT Omnibus Suitability Decision
9 5. DRAFT Massachusetts Gaming Commission
10 March 11, 2014 Internet Gaming Forum
11 Agenda
12 6. DRAFT Massachusetts Gaming Commission
13 Category 2 License RFA-2 Application
14 Review Template and Flow Chart
15 7. Regulation 205 CMR Section 121.00
16 amendments

17

18

19 MASSACHUSETTS GAMING COMMISSION STAFF:

20 Catherine Blue, General Counsel

21 Richard Day, Executive Director

22 Derek Lennon, Chief Financial and Accounting

23 Officer

24

C E R T I F I C A T E

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

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

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

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

WITNESS MY HAND this 7th day of February, 2014.

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