

THE COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION
PUBLIC MEETING #107

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BOSTON CONVENTION AND EXHIBITION CENTER

415 Summer Street, Room 151

Boston, Massachusetts

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

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3 CHAIRMAN CROSBY: It's my pleasure
4 to call to order the 107th meeting of the
5 Massachusetts Gaming Commission at the Boston
6 Convention and Exhibition Center. We really
7 have only two things on our agenda, or really
8 one just making decisions about live
9 entertainment venues and surrounding
10 communities. With that, I'm going to pass the
11 leadership of the meeting to Ombudsman John
12 Ziemba.

13 MR. ZIEMBA: Good morning, Chairman,
14 Commissioners. Today the Commission is
15 deciding on petitions for surrounding community
16 status for Northampton, Hampden and Longmeadow.

17 As you know, the Commission heard
18 from representatives of MGM and the communities
19 on January 28. The materials in the
20 Commissioner's packets supplement and organize
21 the materials from that meeting including the
22 very detailed project community petitions and
23 petition responses from the applicants. All of
24 the materials are on the Commission's website.

1 And I urge anyone who wants to follow further
2 to take a look in the archives on those
3 meetings.

4 Today, we will discuss six separate
5 criteria used in the Commission regulations to
6 help the Commission determine surrounding
7 community status: proximity, transportation
8 infrastructure, development impacts,
9 operational impacts, other impacts, and
10 positive impacts.

11 The petitions, the applicant
12 responses and the staff and consultant reviews
13 found in the packet demonstrate that different
14 criteria are more integral to the determination
15 of surrounding community status for each
16 community. We will focus much of this
17 discussion today on such areas.

18 Today, we are joined by our team of
19 consultants who helped us review these criteria
20 including City Point Partners, Green
21 International Affiliates, McFarland Johnson on
22 traffic, construction, water and wastewater
23 issues. HLT Advisory on economic issues, LDS
24 Consulting on housing and school impacts, and

1 our own Mark Vander Linden, director of
2 research and problem gaming on issues such as
3 problem gaming, crime and other operational
4 impacts.

5 I will ask different consultants to
6 help in the review for different communities.
7 At the conclusion of the presentation on each
8 community, the Commission will deliberate
9 surrounding community status and will make a
10 decision on each.

11 In addition, today there is also an
12 involuntary disbursements petition relative to
13 the Northampton application for surrounding
14 community status. After we review the
15 Northampton filings, then we can then turn to
16 involuntary disbursement petition.

17 With that I ask you to turn to page
18 three of the Northampton petition. We will go
19 Northampton, Hampden and then we will finish
20 with Longmeadow today. So, page three of the
21 Northampton analysis. I first note in the
22 framework, the legal framework that accompanies
23 geographic proximity, pursuant to MGL Chapter
24 23K in order for a community to be a

1 surrounding community, it must be in proximity
2 to a host community. The statute that that is
3 a prerequisite for the statute.

4 There are different types of impacts
5 that don't necessarily -- are not necessarily
6 required for a community to become a
7 surrounding community such as a specific
8 operational type of impact, but geographic
9 proximity is a statutory requirement.

10 Northampton argues that it is
11 proximate taking into account that individuals
12 to Western Mass. are accustomed to driving long
13 distances. And that it is approximately a 20-
14 minute drive to the site of the proposed
15 facility. MGM argues that Northampton is
16 approximately 18 miles from the project site
17 with a drive time of approximately 20 to 30
18 minutes. As such, the project is outside any
19 reasonable interpretation of the term proximity
20 according to MGM.

21 Moving onto transportation impacts,
22 Northampton's petition states, let me just read
23 the specific quote for you: "Unlike many other
24 communities throughout the Commonwealth that

1 have petitioned for surrounding community
2 status, Northampton does not claim to be
3 burdened by impacts on its infrastructure,
4 e.g., traffic impacts. Unfortunately, the city
5 instead anticipates a grave and substantial
6 impact on its finances and local businesses due
7 to the erosion of its status as the sole
8 destination market in the Pioneer Valley, which
9 forms the core and fabric of Northampton's
10 economy."

11 In regard to the lack of
12 transportation impacts, MGM agrees with this
13 analysis. And our traffic consultants also
14 concur with that analysis. Their memo is
15 included in your packet, but due to the fact
16 that it was not raised by Northampton, we will
17 dispense with them providing a further
18 presentation as part of the Northampton
19 analysis.

20 Also of note, Northampton was not
21 involved in the PVPC's regional traffic study.
22 And there were not any significance of a
23 mention in the environmental notification form
24 documents, drafted environmental impact report

1 documents that were recently issued.

2 So, moving onto impacts that
3 Northampton may experience from the development
4 of the gaming facility, Northampton on page 31
5 of your packet --

6 COMMISSIONER ZUNIGA: John, can I go
7 back to the previous comment that they were not
8 part of the PVPC study? Was that because it
9 wasn't deemed to be close enough to be worthy
10 of the analysis? Or did the city decline to
11 participate?

12 MR. ZIEMBA: That's correct. There
13 was a determination of a number of communities
14 that were very sort of geographically
15 proximate. And those were part of that
16 analysis based on the likelihood of traffic
17 impacts.

18 COMMISSIONER ZUNIGA: Thank you.

19 MR. ZIEMBA: So, moving onto
20 development impacts, page 31 of your packet.
21 Northampton similarly does not claim
22 development impacts. Again, our traffic
23 consultant concurs with this analysis. And
24 development impacts, what we mean is impacts

1 during the construction of the facility. And
2 typically these would be increased truck
3 traffic on local road ways are other impacts
4 from the construction within a very close
5 proximate distance to the proposed facility.

6 Now I would like you to turn to page
7 36 of the Northampton analysis. This is the
8 operation question. As the Commission heard on
9 the 28th and upon review of the Northampton
10 application, Northampton is stating impact
11 based on the economic impact that Northampton
12 believes it will experience as a result of the
13 new MGM facility that is proposed.

14 We are joined by Lyle Hall from HLT
15 Advisory. And he will explain the arguments
16 and will give the Commission the benefit of its
17 analysis based on these arguments. So, I'll
18 now turn to Mr. Hall.

19 MR. HALL: Thanks, John. Good
20 morning, Chairman, Commissioners. As John
21 mentioned, we were engaged by the Commission to
22 look at the operational impacts of a potential
23 casino in Springfield on Northampton,
24 specifically focusing on the local retail

1 entertainment and service businesses in
2 Northampton.

3 What we did to focus on that area
4 was to review a substantial amount of
5 background material that was put together by
6 both the petitioner and MGM, as well as looking
7 at examples of similar casino situations that
8 had occurred in small communities proximate to
9 larger metropolitan areas in which a casino was
10 developed.

11 We also reviewed a report that was
12 prepared for the city of Northampton by Camoin
13 Associates, a Massachusetts based economic
14 impact company. And that was the city's
15 primary basis for submitting their petition.
16 And it's the area I'd like to spend most of the
17 time on this morning. I'll just quickly touch
18 on a few points.

19 I should mention right off the top
20 that Camoin Associates objectives as set out in
21 the scope of work submitted as part of the
22 involuntary payment application, the scope was
23 only to look at the adverse negative impacts on
24 the city, not to consider the positive impacts.

1 And I quote from the statement of work that
2 says, "The city would like the consultant to
3 assess these issues and provide an expert
4 report that will show the extent of any adverse
5 economic impacts on the community."

6 One of the points that I will raise
7 is the fact that the positive outcomes of the
8 casino were not assessed and therefore not
9 quantified. So, I'm not suggesting that's a
10 shortfall of the Camoin report. It was a
11 shortfall of the objectives that were put on
12 the table.

13 There are three issues though I'd
14 like to address with respect what Camoin said.
15 One is a failure to consider the repatriation
16 of gaming revenue by Massachusetts residents,
17 which is currently estimated by UMass Dartmouth
18 at about \$710 million a year, the majority of
19 that going to casinos in Rhode Island and
20 Connecticut.

21 If we simply do some simple math
22 here and look at the population, the adult
23 population in Massachusetts at just under five
24 million, 4.77 million that would provide based

1 on a \$700 million spend on out-of-state gaming
2 and average spend per adult of about \$149. So,
3 taking that and applying it to the trade area
4 that Camoin suggested of about 323,000 people,
5 it suggested that up to \$50 million in gaming
6 spend could be repatriated just to the trade
7 area that we're speaking of.

8 And that of course would not include
9 any costs that went along with that for
10 gamblers going to Connecticut or Rhode Island
11 on travel, if they stayed overnight on meals,
12 food and beverage and gas.

13 CHAIRMAN CROSBY: Could you just
14 walk me through the analysis one more time?
15 How did you come up with the \$149?

16 MR. HALL: Sure. By taking the
17 UMass estimate of out-of-state gaming by
18 Massachusetts residents of \$700 million.

19 CHAIRMAN CROSBY: That's gaming and
20 non-gaming?

21 MR. HALL: That's gaming, just
22 gaming.

23 CHAIRMAN CROSBY: Just gaming of
24 which 80 or so percent is returned to gamblers,

1 right? You're talking about gross gaming
2 revenue?

3 MR. HALL: That's gross gaming
4 revenue.

5 CHAIRMAN CROSBY: 710 gross gaming
6 revenue.

7 MR. HALL: To put it into customers
8 point of view, the amount of money they left
9 out of the state in casinos on gaming only, and
10 then simply dividing that by the adult
11 population of the area.

12 CHAIRMAN CROSBY: The \$710 million
13 is gross gaming revenue. So, to generate that
14 number there is something like four billion
15 that had to be gambled, right? Wow.

16 COMMISSIONER MCHUGH: Just to follow
17 up on that how does the repatriation of that
18 help anybody but the casino? I can understand
19 the collateral economic yield from keeping the
20 people at home, but the money staying home is
21 by definition the money that would have gone
22 into the pocket of some other casino and now is
23 going into the pocket of the casino --

24 CHAIRMAN CROSBY: -- and us.

1 COMMISSIONER MCHUGH: -- and us
2 that's right.

3 MR. HALL: This is true. And the
4 second point and where Camoin went next is an
5 assumption that every dollar spent on gaming is
6 a dollar not spent on something else. And the
7 point here is that some \$50 million is already
8 being spent on gaming.

9 If it's now spent in Massachusetts,
10 there's no reason to believe that those dollars
11 now being spent in Massachusetts would cause a
12 decline in non-gaming spending in Northampton.
13 In fact, if anything, you are now putting more
14 money into the hands of residents of that trade
15 area.

16 COMMISSIONER MCHUGH: Got it.

17 MR. HALL: So, those two points
18 repatriation of gaming and the incrementality
19 of spending substantially overestimated the
20 impact we believe on Northampton.

21 The third point is that as I mention
22 at the top, is Camoin did not look at any of
23 the positive benefits from a casino operating
24 in that broad or trade area, whether that's the

1 2300 FTEs that MGM has claimed that they will
2 engage or the four million out-of state visits
3 to the casino, which would come in from all
4 directions, presumably some of those through
5 Northampton.

6 We wanted to give a bit of
7 perspective though on how this might compare to
8 where similar casinos have happened somewhere
9 else. And you've got our report in front of
10 you. And on page seven we identify a number of
11 comparables where we looked at casinos of a
12 similar size to what MGM is proposing in
13 Springfield that have occurred in smaller
14 community outside of major population areas.
15 And the two that we have identified --

16 MR. ZIEMBA: Excuse me, it's page 63
17 in your packet.

18 MR. HALL: Oh, I'm sorry. The two
19 that we identified as being most relevant are
20 the Parks Casino in New Hope, Pennsylvania and
21 Maryland Live outside of Annapolis. Both of
22 these casinos are actually substantially larger
23 than what's proposed in Springfield. But both
24 could potentially have the impact on these two

1 surrounding communities, whether it's New Hope
2 or Annapolis.

3 We contacted the economic
4 development representatives in both of those
5 communities, told them straight up what we were
6 doing, and asked them to comment on the impact
7 that the casino has had their community.

8 Recognizing that The Parks opened in 2009 and
9 Maryland Live in 2012, so relatively recently.

10 But the comments we got back were
11 that there was limited impact. That their
12 belief was that the casino clientele was a very
13 different clientele that frequented those
14 communities for the arts and culture benefits
15 and related amenities that they offered. That
16 there had been no studies done or any requested
17 on the impact of the casino on those
18 communities. And in their view the distance,
19 which is comparable to the distance that
20 Northampton is from Springfield suggests that
21 there would be no impact.

22 The conclusion that we have is that
23 taking into account the overestimation of the
24 negative impacts by Camoin and the lack of

1 consideration of positive impacts that there is
2 unlikely to be any significant impact on the
3 local retail, entertainment and service
4 businesses in Northampton. We would suggest
5 that that would continue on to the extent
6 relevant to the other communities in the trade
7 area notably Longmeadow and Hampden. Mr.
8 Ombudsman, that's my report.

9 MR. ZIEMBA: Thank you very much.
10 Commissioners, Northampton did not raise
11 impacts on housing or school-age impacts.
12 However, we reviewed the potential impacts
13 across the three petitioning communities. I'm
14 going to ask Lynne Sweet from LDS Consulting to
15 now brief the Commission on her review for all
16 three.

17 And unless requested by the
18 Commission, we will not repeat this overview
19 for Hampden or Longmeadow, unless there are
20 specific questions. Longmeadow is a little bit
21 more proximate, but I think Lynne is going to
22 address that issue in her remarks. Lynne,
23 thank you very much.

24 MS. SWEET: Thank you. The first

1 thing I want to point out is that the property
2 is being built in an urban area. And for that
3 reason, we looked at vacancy rates for housing
4 units as well as unemployment statistics. The
5 petition stated that there were going to be
6 3254 jobs created. And that within Springfield
7 they were hoping to employ 35 percent of their
8 workers from Springfield alone and that no more
9 than 10 percent of the workforce would be
10 residents from surrounding communities.

11 So, we read the petitions and the
12 exhibits to the petitions, the applications,
13 the gaming legislation. And we looked at
14 census data, which is currently ACS, American
15 Community Survey. It's done on a yearly basis
16 rather than the 10-year decennial census.

17 And we ran some ESRI reports, which
18 is a company that basically takes census data
19 and assembles it to make it easier to
20 understand and also does some estimating and
21 projecting.

22 So, the results of our work with
23 regard specifically to the unemployment is that
24 there are approximately 15,000 unemployed

1 workers in Springfield and surrounding
2 communities with the largest portion actually
3 being in Springfield. So, many times more
4 people seeking jobs than the new jobs that
5 would be created.

6 In addition, we looked at housing
7 vacancy and came up with over 11,000 vacant
8 housing units. So, it was very hard for us to
9 conclude anything other than that this, the
10 casino would actually have a positive benefit
11 to fill vacant units as well as to employ
12 unemployed workers.

13 Again, a lot of it has to kind with
14 the density of it being an urban area. And the
15 petitioners are more suburban communities that
16 don't have the same access to services and
17 infrastructure as where the facility is going
18 to be placed.

19 With regard to school-age children,
20 there was one petition in Longmeadow that
21 stated a need for a code compliant person of 25
22 hours a week. So, what we did there was we
23 looked at mainly what they had been spending --
24 what their revenue was for real estate taxes

1 and for licenses and permits. So, fees that
2 would be coming in that would cover the cost of
3 a staff member.

4 And we saw that license revenue was
5 going up and taxes were going up. And there
6 really was no explanation as to why they
7 thought there might be the need for another
8 staff member. So, it was hard for us to
9 conclude that the fact that they're going to be
10 building a casino and there may be staff would
11 somehow impact their inspectional services
12 budget in some way.

13 I think that it would be kind of
14 organic and natural growth. That is you build
15 a house, you get taxes and you get permit fees.
16 But since there are a lot of vacant units, it
17 really would just be occupying vacant units and
18 maybe rehab. permits and so on and so forth.

19 We then looked at school-age
20 children and housing size to see if there might
21 be some type of impact on the expenses to the
22 community for supporting school-age children.
23 And when we looked at school-age children, we
24 saw much like you are seeing elsewhere in the

1 country, the school-age population is actually
2 shrinking because household size is shrinking.

3 So, if you look at that, you can
4 assume that if you are having less children
5 that you may have more capacity if indeed other
6 children do come into the system.

7 So, we concluded that based on a
8 shrinking household size and contracting
9 school-age population that it is reasonable to
10 conclude that a Category 1 casino will
11 adversely impact on the schools in the
12 petitioned communities.

13 CHAIRMAN CROSBY: Questions?

14 COMMISSIONER ZUNIGA: I want to go
15 to something that you mentioned at the very
16 early part of your remarks, Ms. Sweet. You
17 said that no more than 10 percent of the
18 employment would come from surrounding
19 communities. Was that an opinion or a
20 statement from the petitioner or did you mean
21 to say no less than 10 percent?

22 MR. ZIEMBA: Commissioner, if you
23 take a look at page 102 of the petition, item
24 537 of the application from MGM, they state

1 that while the overwhelming majority of jobs
2 are anticipated to be held by existing regional
3 residents, approximately 10 percent of jobs
4 will likely be held by people moving to the
5 area due to the need for specialized knowledge
6 and experience.

7 COMMISSIONER ZUNIGA: Okay. So,
8 it's no more than 10.

9 MS. SWEET: No more than 10 percent
10 coming from outside the area.

11 COMMISSIONER ZUNIGA: Including the
12 surrounding community area.

13 MS. SWEET: Including, yes.

14 COMMISSIONER MCHUGH: Is that fact
15 that 90 percent of the jobs will be filled by
16 people who are already there, at least that's
17 the goal, is that an ingredient of your
18 conclusion that the casino won't have an effect
19 on school population because the people who are
20 already there and presumably who already have
21 children in school are going to be the people
22 who get the jobs?

23 MS. SWEET: Yes.

24 CHAIRMAN CROSBY: Or don't, yes.

1 MS. SWEET: Yes, that's a fair
2 conclusion.

3 COMMISSIONER MCHUGH: But that makes
4 up the labor force.

5 CHAIRMAN CROSBY: In your prior
6 presentations too, you used the number of
7 vacant units versus the number of expected new
8 jobs. And always there are more vacant units
9 than there are expected people to fill them.
10 Is there some -- Full employment is whatever
11 three, four, five percent unemployment is known
12 as full employment or whatever the number is
13 now. There's probably some number of vacancy
14 which is known as full absorption.

15 You can't absorb 100 percent because
16 some of the units aren't really habitable or
17 the sizes of families don't fit or the
18 locations are wrong or whatever. Is there some
19 relationship between demand for units and
20 available units, some ratio that is sort of the
21 minimum elasticity that is required to absorb
22 new demand?

23 MS. SWEET: That's an interesting
24 question. When we do market studies, we

1 basically say that if occupancy is at 95
2 percent or greater that that is an indicator of
3 unmet demand and the need to create more units.
4 So, it's not a direct answer to your question
5 because people are always going to kind of be
6 moving in and out.

7 CHAIRMAN CROSBY: Right.

8 MS. SWEET: One thing I will note is
9 that when the census was done in 1999, the
10 economy was actually still in a fairly good
11 place. So, that those numbers probably peaked
12 and then vacancy increased after that. The
13 unemployment numbers that we gave you are
14 current as of a week ago. I'm not sure if that
15 kind of sheds a little bit of light.

16 CHAIRMAN CROSBY: So, 95 percent is
17 in the nature of full absorption is what you're
18 saying using the model.

19 MS. SWEET: Yes.

20 CHAIRMAN CROSBY: So, what is the
21 net number here? You said Springfield is 10
22 percent vacancy rate, but Longmeadow has only
23 three percent. Is there a net of seven,
24 average percent?

1 MS. SWEET: Yes. If we looked at an
2 average of seven percent that says that in
3 essence there is two percent excess housing
4 units. One thing we didn't focus a lot on but
5 just because we do market research in the daily
6 course of our business was we did note that
7 although we didn't call up every single town
8 hall and say what are you building, we do know
9 that Northampton along with Mass. Development
10 is adding residential units.

11 Springfield is not adding
12 residential units because they're trying to
13 occupy the current units that they are having.
14 So, for some of the communities that might have
15 a lower vacancy rate most likely, there are
16 developers going in there and starting to put
17 something in the pipeline if they are less than
18 the five percent.

19 CHAIRMAN CROSBY: Right. Okay.
20 Interesting, thank you.

21 MR. ZIEMBA: Thank you very much,
22 Lynne. City Point Partners confirmed that
23 there is no expected impact on Northampton's
24 water and wastewater infrastructure. This was

1 not raised by Northampton, but it will be part
2 of the analysis that City Point Partners briefs
3 the Commission on when we get to Hampden and
4 Longmeadow.

5 Finally, Mark Vander Linden will
6 give a brief overview of his findings on social
7 impacts, crime, problem gambling for the
8 region. Again, it's not our intention to have
9 Mark repeat the findings throughout the rest of
10 the region. So, Mark can you give us your
11 analysis, please.

12 MR. VANDER LINDEN: Good morning,
13 Commissioners, another beautiful Boston day.

14 CHAIRMAN CROSBY: So glad to be
15 back.

16 MR. VANDER LINDEN: I'm sure you
17 are. You look well rested. I have to say that
18 in reviewing the petitions for the area that to
19 a lesser degree than the ones for the slot
20 parlors were mentioned potential social
21 impacts. So, while I reviewed those petitions,
22 and in many cases there weren't social impacts
23 that were specifically cited, I think that it's
24 worth consideration about what are the

1 potential social impacts which may accompany
2 gaming expansion within the region.

3 Another sort of disclaimer here is
4 that it truly is difficult to accurately
5 predict the actual impact as it will ultimately
6 -- it varies from community to community. And
7 it's dependent on a number of different
8 variables, including what are the pre-existing
9 risk factors within that community? What are
10 the pre-existing protective factors within that
11 community?

12 So for example, a small community
13 with very few existing resources and a number
14 of existing problems is likely going to be more
15 profoundly impacted than a larger community
16 where it has a more robust economy, less demand
17 on the social services and more entertainment
18 options.

19 With that said, there are a number
20 different social indices that we are taking a
21 look at within the Commission, within the
22 Commonwealth of Massachusetts. There are a few
23 that kind of always tend to rise to the top as
24 the ones that people most commonly cite. That

1 being problem gambling that being crime. What
2 is the burden of social services? And what
3 happens not just with traffic but maybe even
4 more specifically what is the connection
5 between gaming expansion and traffic accidents
6 and drunken driving?

7 So, first I wanted to talk about
8 problem gambling and gambling disorders, and
9 the increase of these when you introduce a new
10 form of gambling. Specifically, thinking about
11 Northampton here, given its proximity to
12 Springfield, what would the impact of problem
13 gambling be on Northampton given that it is not
14 all that close relatively compared to the other
15 communities to Springfield.

16 Probably, the most commonly cited
17 resource on this is the 1999 US Gambling Impact
18 study. And it did find that location of a
19 casino within 50 miles was associated with
20 approximately a doubling of the rate of
21 gambling disorders of problem gambling within
22 an area.

23 CHAIRMAN CROSBY: Doubling?

24 MR. VANDER LINDEN: Doubling,

1 correct. Is this going to be true within any
2 of these specific communities, again that is
3 difficult to tell. And that is something that
4 we are as a Commission paying very, very close
5 attention to as we establish our baseline and
6 look to follow this up in the years to come.

7 Another common --

8 COMMISSIONER MCHUGH: Can I ask you
9 a question about that? Does that study talk
10 about the existing economic conditions in the
11 community where the rates double? I.e. is
12 there any correlation between a community in
13 which the general economy is low and a
14 community in which the general economy is high
15 in terms of wagering?

16 MR. VANDER LINDEN: That is getting
17 much, much more specific. This was kind of a
18 US aggregate study. That study specifically
19 did not get as specific.

20 That's a very good question. Again,
21 that kind of goes back to what is the condition
22 of that community as it stands. What are the
23 protective factors that it brings to the table
24 as gaming expands in the area.

1 There are other studies, this is a
2 study -- There are a number of different
3 studies that looked at this issue. For
4 example, there's Dr. Howard Shaffer, our local
5 expert in this area, took a look at problem
6 gambling and the availability of gambling in
7 Nevada. Found that where there was more
8 gambling availability within those specific
9 counties that there was a higher prevalence
10 rate of problem gambling. Again, it's hard to
11 speak specific to the question of what was the
12 local economy besides that.

13 COMMISSIONER MCHUGH: I take it this
14 is one of the questions that may be answered by
15 our research?

16 MR. VANDER LINDEN: Yes, absolutely.

17 CHAIRMAN CROSBY: Could I just ask
18 as long as we're on this. To put it a little
19 more bluntly, there's a sense, I think that
20 casino gambling, slots gambling, preys on poor
21 people. There's a sense that in poor
22 communities, people tend to be more prone to
23 get in trouble.

24 Are you aware of any evidence,

1 actual research data that suggests that that is
2 the case that there is a greater propensity for
3 problem gambling within lower income
4 communities versus middle to higher?

5 MR. VANDER LINDEN: Yes. There's a
6 piece in there where I took a look at the
7 socio-economic disparity of gambling. I did
8 find that there is a body of evidence that
9 poorer people gambled a higher percentage of
10 their income on lottery or slot machines or
11 gambling in general.

12 More money in general was spent by
13 higher incomes but it was a lower percentage of
14 their actual income that was being spent.

15 So, yes there is evidence that would
16 say that poorer people spend a higher
17 percentage of their income on gambling. Is
18 that connected to slot machines, I think that
19 there is some evidence that it's not just slot
20 machines, but there's other types of gambling
21 options that that would be connected to as
22 well.

23 COMMISSIONER MCHUGH: That's
24 fascinating. This is not related, but it just

1 occurred to me as I was listening to you there
2 are studies that also show that lower income
3 groups devote a greater proportion of their
4 income to charities than higher income groups;
5 isn't that so?

6 MR. VANDER LINDEN: Yes.

7 CHAIRMAN CROSBY: Is it just a
8 function of the fact that those folks have less
9 income and not indicative of either necessarily
10 on the one hand greater generosity or on the
11 other hand a greater propensity for problem
12 gambling.

13 COMMISSIONER MCHUGH: I don't know.
14 I think it's fascinating.

15 CHAIRMAN CROSBY: Yes, that is
16 interesting.

17 MR. VANDER LINDEN: Another piece
18 connected to this is what happens over time.
19 So, while we can take a look and say what's
20 going to happen in the first couple years after
21 the expansion or introduction of a new gaming
22 option within this area, what happens after
23 that?

24 And it's a lot of evidence that

1 would say that people tend to adapt over time
2 too. While if you to see an increase in rates
3 of problem gambling and gambling disorders, you
4 may see that decrease or return to
5 approximately what it was prior to the
6 introduction of the gambling option a few years
7 down the line.

8 That adaptation would say that the
9 novelty of it has worn off. That the
10 effectiveness of prevention and education
11 programs is taking effect. Or perhaps that the
12 population of people that were vulnerable to
13 gambling disorders have experienced that
14 gambling disorder and have either moved on
15 through recovery or moved on in some other way.
16 So, that's another issue to take a look at.

17 CHAIRMAN CROSBY: Interesting, thank
18 you.

19 MR. VANDER LINDEN: There are a
20 couple of other issues that I think are
21 interesting to take a look at too. This goes
22 back to what is the condition of the community
23 before the introduction of gambling?

24 One would be taking a look at what's

1 the burden on social services. Again, it's a
2 difficult question to answer. Rob Williams,
3 Rachel Volberg both co-authored a study taking
4 a look at the evidence around this. What they
5 found is that typically you don't necessarily
6 see a huge influx and increased burden on the
7 social services.

8 For one reason is that problem
9 gamblers tend to not seek out treatment. They
10 tend to not necessarily put a greater burden on
11 the social services within an area. It's not
12 to say that there aren't other social services
13 that are intricately connected to that problem
14 gambler including child welfare, including the
15 criminal justice system, including housing
16 authorities that sort of thing.

17 But in terms of the actual number
18 problem gamblers seeking treatment that's
19 relatively low. I would like to say that --
20 think that as we move forward with our research
21 agenda in Massachusetts, we really get a handle
22 on what are the reasons that -- who are the
23 persons who are experiencing gambling
24 disorders? And how can we better connect them

1 with help that we would see a higher rate of
2 persons seeking out the help that we will be
3 able to offer. But in terms of what does the
4 existing evidence state, it's not very --
5 there's just not a lot there.

6 Another issue that I wanted to
7 highlight was drunken-driving incidents. So,
8 what is the increase of drunken-driving
9 incidents within a proximity of a casino? This
10 did seem to come up some within the surrounding
11 community petitions.

12 And there is actually a stronger
13 body of evidence that would support this than
14 not. So, one of the most recent ones and
15 closest proximity was a Spectrum study done in
16 Connecticut analyzing the existence of
17 legalized gambling within the state of
18 Connecticut and the incidents of drunken-
19 driving incidents.

20 And what they found was that there
21 was a positive correlation between the two. As
22 gambling options increased within Connecticut,
23 so did the number and rate of driving while
24 intoxicated arrests.

1 There was another one, Cotti,
2 looking at the impact of casino on fatal
3 alcohol-related traffic accidents just within
4 the United States. And they found a strong
5 link between the presence of a casino in a
6 county and the number of alcohol-related fatal
7 traffic accidents.

8 And that one looks specifically at
9 county by county level. Ombudsman Ziemba had
10 asked if there was any evidence that showed
11 within a certain number of miles of a casino
12 would you see an increase in DUIs or alcohol-
13 related accidents. And I wasn't able to find
14 evidence that took a look at it at that at that
15 level. It was only from county to county level
16 was I able to find the evidence.

17 COMMISSIONER MCHUGH: We have some
18 of the strongest dram shop laws in the country,
19 laws that require among other things a tracing
20 back in most cases of where the person had been
21 drinking when involved in either a fatal or
22 some other kind of a traffic incident. And
23 then strong penalties for serving that person
24 both through lawsuits and through licensing.

1 Is there any correlation in any of
2 the studies that looks at the disincentives to
3 over serving created by statutory or other
4 schemes and the number of incidents?

5 MR. VANDER LINDEN: I did not find
6 that, no. I took a look at the applications.
7 And I took a look at the applicant's response
8 to the community petitions to see if a
9 community is citing that drunken-driving would
10 be an incident, what are they actually doing to
11 mitigate this problem?

12 And there are efforts at Mohegan
13 Sun for example, mentioned that they have
14 policies in place to make sure that there is
15 specific training of employees, to make sure
16 that they offer a ride home type of program.
17 Whether this is offered, I know that there is
18 training at the other applicants as well but it
19 was Mohegan Sun that had specifically mentioned
20 that.

21 COMMISSIONER CAMERON: Director, do
22 you have knowledge that one of the issues of
23 just collecting statistics is there any
24 knowledge that those were incidents of drunk

1 driving where the vehicles actually came from
2 the casinos? That's another -- I think if we
3 can capture that information correctly, we will
4 -- our research will be invaluable. Because
5 it's my understanding that police departments
6 are not required to capture that information,
7 which makes it difficult to say yes, it's due
8 to that casino being in that area.

9 MR. VANDER LINDEN: Right. That's a
10 great point. Yes, of the drunken-driving
11 incidents, which originated where they were
12 drinking at a local gaming establishment. And
13 the evidence that I found did not take a look
14 at that. That is absolutely something that I
15 think that we should be taking a look at in
16 Massachusetts.

17 CHAIRMAN CROSBY: Are we doing that?
18 I would think that would be a hard thing to do
19 would be to change the local cops' data
20 collection technology.

21 COMMISSIONER CAMERON: We're working
22 with the police departments now.

23 CHAIRMAN CROSBY: We are?

24 COMMISSIONER CAMERON: We are. We

1 are having meetings as we speak to talk about
2 ways to capture that information.

3 CHAIRMAN CROSBY: That would be
4 great.

5 COMMISSIONER MCHUGH: It certainly
6 is captured already in accidents, when
7 accidents result, isn't it? I'm almost
8 positive that it is.

9 COMMISSIONER CAMERON: Those
10 questions will be asked. With a good accident
11 investigation, crash investigation, certainly
12 it is important information to know where that
13 person was consuming alcohol. But in a typical
14 drunk-driving arrest, that information is not
15 captured.

16 CHAIRMAN CROSBY: Right.

17 COMMISSIONER MCHUGH: Right.

18 COMMISSIONER CAMERON: So, that
19 would be important information.

20 CHAIRMAN CROSBY: It seems like it
21 would be a big change to get the whole system
22 to be willing --

23 COMMISSIONER CAMERON: Crime in
24 general, being able to identify --

1 CHAIRMAN CROSBY: -- sources.

2 COMMISSIONER CAMERON: Yes.

3 CHAIRMAN CROSBY: Interesting. All
4 of us are around the edges of this incredible
5 research project that you're working on. It's
6 just going to be a fascinating. And almost
7 everything we've been talking about here, we
8 are going to be capturing in our research
9 project. So, it's going to be something.

10 Mark, do you have any -- I am sure
11 there is no data on this, but any sense or
12 maybe data. The unique situation we have in
13 Massachusetts is we are introducing casino
14 gambling into a state where we already have
15 extraordinarily high per capita gambling.

16 Do you have any sense or is there
17 any way to estimate, does that make it more or
18 less likely that problem gambling will increase
19 dramatically? Is there any reason to think
20 that we are already saturated at the problem
21 gambling level or close to a saturation because
22 -- is there any way to intuit or deduce or know
23 anything about that?

24 MR. VANDER LINDEN: I hate to

1 speculate on that before our data comes out.
2 We are doing this amazing baseline study. And
3 as we expand gaming within Massachusetts,
4 you're right, we are far from being kind of a
5 clean environment of gambling options when we
6 have gambling options that surround us in every
7 state including the lottery and social and
8 charitable gaming, illegal gaming
9 opportunities, Internet gaming, etc., etc.

10 So, what will the impact be?
11 Perhaps we may find that there would be very
12 little increase in problem gambling through the
13 increase of gaming options within
14 Massachusetts, given the amount of availability
15 that there is currently.

16 May even throw out the option that
17 you would see a decrease if we do this right.
18 If we are providing appropriate education,
19 appropriate prevention, intervention programs
20 that would intervene and in a more systematic
21 way that there is a whole range of
22 possibilities that we could see.

23 CHAIRMAN CROSBY: Thank you.

24 COMMISSIONER MCHUGH: Were you going

1 to touch on the general crime issue?

2 MR. VANDER LINDEN: I can certainly
3 do that.

4 COMMISSIONER MCHUGH: That is
5 consistently raised.

6 MR. VANDER LINDEN: Again, I'm going
7 to draw from Dr. Robert Williams in his review
8 of the studies both US and internationally. He
9 did a fantastic job of kind of pulling this
10 together in a 2012 report.

11 And evidence basically, the jury is
12 out in terms of what you may see in terms of
13 increase in crime. So, he found evidence that
14 is somewhat mixed concerning the impact of
15 legal gambling introduction has on crime rates.
16 And the most common finding is that crime rates
17 do indeed increase with increased gambling
18 availability, but the main caveat to that study
19 is that findings are referring to aggregate
20 crime rates, rather some are focusing on the
21 impacts for specific types of crimes such as
22 increase in fatal traffic accidents following
23 the introduction of casinos.

24 Other studies simply document that

1 increased gambling at an individual level is
2 associated with an increased likelihood of
3 gambling related crime. So, several studies
4 failed to find an increase in crime at all or
5 only found increases in some communities but
6 not others.

7 Dr. Williams concluded that although
8 there's good theoretical reasons to expect a
9 positive relationship between gambling
10 introduction and crime, it may not manifest
11 itself.

12 There are many factors other than
13 gambling that can potentially mediate this
14 relationship such as what is the prior exposure
15 to gambling? What are the existing policies
16 and practices within a jurisdiction? What are
17 the policies within the casinos themselves?

18 Again, it kind of goes back to how
19 are we moving forward and what types of
20 regulations do we have in place to support the
21 introduction of casinos and the slot parlor
22 within Massachusetts.

23 COMMISSIONER MCHUGH: And I take it
24 that there is no study that shows the

1 geographic dispersion of whatever crime may
2 increase, nor is there a good study that shows
3 what type of crime we're talking about?

4 MR. VANDER LINDEN: Not that I
5 found, no.

6 COMMISSIONER MCHUGH: I raise that
7 not because we shouldn't be concerned about
8 this, but because it is a frequently raised,
9 indeed it sometimes takes center stage issue
10 whenever this subject is raised. And like many
11 other things, the question is what are the
12 facts? And how much do we really know? Again,
13 I think our study will show that.

14 But intuitively, it seems to me that
15 for certain kinds of crimes, the geographic
16 dispersion of whatever rise there is is likely
17 to be very constricted. It's hard to figure
18 out intuitively why, for example, an increase
19 in assaultive behavior or robberies in the
20 vicinity of a casino would spill over into
21 communities miles away, maybe it does. But
22 it's hard to see that. So, I look forward to
23 the data that this study is going to yield on
24 that as well.

1 MR. VANDER LINDEN: It goes back to
2 theoretically it seems plausible that you would
3 see this increase in crime, but what do we
4 really mean by a crime? And how related is it
5 to the expansion of gaming? I think as
6 Commissioner Cameron had said, we are taking a
7 very close look at this as we speak. That we
8 are trying to sort these very specific issues
9 out.

10 What is related to the expansion of
11 gaming? And what is that sort of outside noise
12 that can impact this and throw our findings off
13 or lead us down the wrong path.

14 COMMISSIONER MCHUGH: Right. Thank
15 you.

16 CHAIRMAN CROSBY: Great stuff, thank
17 you.

18 MR. ZIEMBA: Thank you very much,
19 Mark. So, now we move onto other impacts and
20 positive impacts. The Commissioners could turn
21 to page 114 in their packet. Longmeadow does
22 not include any other impacts in its petition.

23 In regard to positive impacts,
24 Northampton states that it will not experience

1 positive impacts. And that MGM's
2 representation that it will cross promote
3 Northampton contravenes the amenities rich MGM
4 proposal and the track record of gaming that
5 it's provided a disincentive to patrons to
6 visit entertainment facilities outside of the
7 facility much less in other communities.

8 MGM responds that there will be
9 increases in visitation by out-of-state and
10 international students and others. That it
11 will create 3000 permanent jobs. That workers
12 will be well trained and that this will be good
13 for the region.

14 MGM's application speaks to other
15 benefits. That approximately 50 percent of
16 gaming revenue and more than 50 percent of non-
17 gaming revenue will come from out-of-state
18 visitors. MGM estimates operative vendor
19 spending of \$50 million annually in the region.
20 And that the project will generate an
21 additional \$14 million in employee compensation
22 to employees in Region B outside of Hampden
23 County.

24 Further the project is estimated to

1 generate 4600 construction jobs in Region B,
2 and between \$470 million to \$515 million in
3 economic spending in Region B.

4 With that Commissioners, we conclude
5 our analysis of each one of those factors.

6 CHAIRMAN CROSBY: Okay. Thank you.
7 Does somebody want to try to sort of summarize
8 the net of that? One of the Commissioners or
9 you, just sort of let's go back and take a look
10 at the bottom line.

11 MR. ZIEMBA: So, Commissioners, we
12 took a look at proximity. And there were
13 significant arguments that Northampton is not
14 proximate. Northampton raised the fact that
15 commuters from Western Mass. are accustomed to
16 driving long distances for entertainment and
17 other reasons so that they should be deemed
18 proximate.

19 We went through a number of reviews
20 regarding some of the operational concerns.
21 HLT Advisory opined on significant economic
22 effects and positive impacts that could accrue
23 to Northampton and did a review of the Camoin
24 review that was conducted by Northampton, and

1 found that that report did not look into some
2 of the significant positive impacts that could
3 accrue to Northampton.

4 We heard from LDS Consulting
5 regarding housing and school impacts. They
6 asserted that based on their analysis that they
7 do not determine that there would be housing or
8 school impacts for Northampton.

9 Mr. Vander Linden, you just heard
10 his reports regarding how we are conducting
11 many studies as we look forward to some of the
12 other impacts on problem gaming, crime and
13 other associated negative effects from the
14 facilities.

15 And then finally, MGM has alleged
16 that there will be very significant positive
17 impacts from the facility but Northampton also
18 alleges that Northampton will not benefit from
19 those positive impacts.

20 CHAIRMAN CROSBY: Anybody?

21 COMMISSIONER MCHUGH: It seems to me
22 that I've always thought of proximity, the
23 first factor, as a functional rather than a
24 geographic concept. There are outer boundaries

1 geographically to what's proximate but beyond
2 that it seems to me it's functional. So, I am
3 willing to concede for purposes of analysis
4 that there is proximity between Northampton and
5 Springfield.

6 But the rest of it, the only other
7 issue that Northampton raises and I think the
8 independent analysis has shown that there
9 really isn't any impact in the areas that it
10 didn't raise, is one that is based, it seems to
11 me, on the concept that what we are talking
12 about is a zero-sum world. And also a world in
13 which there's going to be no benefit from the
14 recapture of the dollars now going elsewhere.

15 In terms of the zero-sum world, the
16 fundamental premise, it seems to me is that a
17 dollar spent, a new dollar for the new money
18 that comes into the state that this statute is
19 designed to create is going to go exclusively
20 into the casinos and is not going to go to
21 Northampton. And worse, the existence of the
22 casino is going to suck money out of
23 Northampton into the casinos.

24 I just don't see any evidence of

1 that. And it strikes me that that is illogical
2 given what MGM's marketing plan is and
3 everything that they've told us about how they
4 are going to operate.

5 It seems to me perfectly compatible
6 with the existence of a tourist centered
7 facility, whether it be gambling or other that
8 the regions around the facility are going to
9 benefit from the influx of dollars that it's
10 going to draw. And secondly, the
11 repatriation of the dollars that are going
12 elsewhere and the repatriation of the people
13 who are spending those dollars not traveling to
14 Connecticut and Rhode Island is going to have a
15 positive impact on the region including
16 Northampton.

17 So, I don't see the case made for
18 Northampton's claim that it's going to be
19 adversely affected by the operation of a
20 casino.

21 CHAIRMAN CROSBY: Anybody else?

22 COMMISSIONER ZUNIGA: Yes. Just to
23 agree with Commissioner McHugh. As I was
24 reading through the analysis and the arguments

1 the last time we met and today and in the
2 packets, I always thought about just from a
3 personal perspective, if our enhanced code of
4 ethics didn't preclude us, I could see myself
5 going to a casino like the one in Springfield.
6 I never will, I guess. But the only way that I
7 could probably go with my wife is to promise
8 that we'd go to Northampton where she loves to
9 go.

10 So, there's the argument that we
11 have touched on relative to repatriation and
12 economic impact that comes from out of state is
13 usually thought of by people in the abstract.
14 But there's other considerations like a spouse
15 or other things that would probably enhance the
16 argument of these correlation of benefits, if
17 you will.

18 So, I am persuaded by the arguments
19 made by MGM and perhaps substantiated by the
20 analysis of our consultants.

21 COMMISSIONER CAMERON: I as well was
22 persuaded by HLT's review of this matter where
23 they pointed out that the positives were not
24 taken into consideration. And that there is no

1 evidence to the negatives that Northampton
2 asserted. So, I am persuaded that there's not
3 a significant impact here.

4 COMMISSIONER STEBBINS: I would echo
5 Commissioner McHugh in talking about some
6 concession of the proximity argument. Living
7 in Western Mass., it's easy to scoot right up
8 91. There is usually relatively little traffic
9 to get to Northampton if you choose to dine
10 there or whatever. And it will take 20 to 25
11 minutes. I would expect in Eastern Mass. you
12 can take 20 or 25 minutes to go to dinner and
13 you are still in the same community.

14 COMMISSIONER MCHUGH: Same block.

15 CHAIRMAN CROSBY: Still Center
16 Street in JP.

17 COMMISSIONER STEBBINS: One missing
18 piece of information that I'm not sure we can
19 even begin to assemble the data on is not only
20 the repatriation of gaming money, but obviously
21 people from Massachusetts are going down to the
22 facilities in Connecticut for entertainment
23 purposes as well. And if there's an
24 opportunity to kind of repatriate that

1 entertainment dollar which we can't put as a
2 specific a number on.

3 But disappointing that this study
4 only stressed what the negative impacts would
5 be. And for whatever reasons did not seem to
6 chart a course of study relative to what the
7 positive impacts could be on Northampton.

8 I think from our original
9 presentation, one of the figures that stuck out
10 for me was a data point showing I think it was
11 between 2000 and 2010, amount of revenue spent
12 or amount of money spent on, I think, it was
13 food and beverage between two communities. And
14 both in the last 10 years have seen a rise.
15 So, it certainly was a critical data point for
16 me to show that there isn't a -- one
17 community's benefit is the other one's loss.

18 CHAIRMAN CROSBY: I would agree. I
19 think Commissioner McHugh's description or
20 analysis was right on. And I agree with the
21 other comments.

22 The one thought that does occur to
23 me is this. That the industry has been
24 evolving from the old model of casinos where

1 they really were intentionally boxes that
2 pulled everybody in, kept everybody in.
3 Everybody talks about no windows and no light
4 and no clocks, and was designed to get every
5 possible dollar out of the consumer within that
6 box.

7 For a variety of reasons having
8 mostly to do with competition, I think, that
9 has begun to change as they've needed to bring
10 other kinds of amenities and so forth. And
11 certainly, our legislation coupled with our own
12 evaluation criteria have put tremendous
13 pressure, I think, on the communities to be --
14 on the facilities to be outward looking, to be
15 collaborative in their marketing and so forth
16 and so on.

17 And they've done that to a
18 substantial extent. One of the things that we
19 talked about here is MGM's commitment to cross-
20 marketing its other venues and related venues
21 and so forth. All of which is great and I
22 think all of which is natural to some extent.

23 However, it is on one hand, once we
24 get passed the licensing a little

1 counterintuitive. You are the GM for the
2 facility at MGM Springfield. You've got a
3 number. You're supposed to come in at a
4 certain number. You miss your number, you're
5 going to want to market more aggressively to
6 your people. You're not going to be very
7 interested in sending your people off to other
8 venues.

9 So, as regulators, it's going to be
10 important that we make sure that people stick
11 to their commitments. Right now, everybody is
12 happy talk about cross-marketing. And we love
13 to promote tourism. And we are going to send
14 our people to other places. And that's all
15 well and good.

16 But the dynamic changes once the
17 licenses are awarded. And on behalf of the
18 Northhamptons of the world and on behalf of all
19 of the surrounding businesses, as regulators we
20 are going to need to be sensitive to making
21 sure that the industry maintains these
22 commitments even as they go through their own
23 throws of competition and internal financial
24 pressures and so on and so forth.

1 Having said that, I agree also with
2 the bottom line for Northampton. Does somebody
3 want to put that in the form of motion if we're
4 all set?

5 COMMISSIONER MCHUGH: I would move
6 that on the basis of the materials presented in
7 writing and presented at the hearings, the
8 Commission conclude that Northampton is not a
9 surrounding community within the meaning of the
10 statute.

11 CHAIRMAN CROSBY: Second?

12 COMMISSIONER CAMERON: Second.

13 CHAIRMAN CROSBY: Any further
14 discussion? All in favor of the motion
15 concluding that Northampton is not a
16 surrounding committee signify by saying aye.
17 Aye.

18 COMMISSIONER MCHUGH: Aye.

19 COMMISSIONER CAMERON: Aye.

20 COMMISSIONER ZUNIGA: Aye.

21 COMMISSIONER STEBBINS: Aye.

22 CHAIRMAN CROSBY: Opposed? The ayes
23 have it unanimously. Thank you very much.

24 MR. ZIEMBA: Thank you, Mr.

1 Chairman. Now I move to the city of
2 Northampton's involuntary disbursement
3 petition. Pursuant to our regulations 205 CMR
4 114.03(2b), the Commission may approve the
5 application upon a finding that there is a
6 reasonable likelihood that the community will
7 be designated a surrounding community pursuant
8 to 205 CMR 125.01. And that the request is
9 reasonable in scope and that the risk that the
10 community will not be able to properly
11 determine the impacts of a proposed gaming
12 establishment without the requested funds
13 outweighs the burden of the actual financial
14 cost that will be borne by the applicant.

15 We've just had a determination that
16 Northampton is not a surrounding community.
17 So, I do not believe that it would meet the
18 test that the Commission can approve upon a
19 finding that there is reasonable likelihood
20 that the community will be designated a
21 surrounding community.

22 CHAIRMAN CROSBY: Okay.

23 COMMISSIONER MCHUGH: Just to be
24 clear. I think we ought to just note, and it's

1 almost metaphysics but not quite. That the
2 time they filed that petition is different from
3 the time now. And it's perfectly conceivable
4 that had we acted instantly, we could have
5 found probable cause that they'd be designated
6 and yet found that they weren't. That happens
7 all of the time.

8 MR. ZIEMBA: Right.

9 COMMISSIONER MCHUGH: But we are
10 deciding this today not then. And in addition
11 for what it's worth, I had some substantial
12 doubt about their qualification and likelihood
13 of being designated as a surrounding community
14 on the day that the presentations were made.

15 So, I think we can proceed as today
16 even with that anomaly, if you will, in the
17 sequencing of the matters. I think we ought to
18 just note that. Because we are trying to move
19 this as quickly as possible we are doing this
20 in this fashion.

21 COMMISSIONER ZUNIGA: I agree with
22 that. Can I ask, is the request for costs
23 before us, are those costs already incurred?
24 Or is there any portion of those costs that

1 have been already been incurred where it was
2 the Camoin report or other?

3 MR. ZIEMBA: The Camoin report that
4 was a \$17,500 expenditure. And to the best of
5 my understanding that has been expended. Then
6 there was \$25,000 that was allocated for legal
7 expenses. I'm not aware of how much was done
8 prior to this date.

9 CHAIRMAN CROSBY: Any other
10 comments? The bottom line if we are
11 comfortable with Commissioner McHugh's sense of
12 that -- I understand the point. And it's a
13 little bit tricky, but I think I agree with
14 Commissioner McHugh's conclusion. Okay.

15 COMMISSIONER MCHUGH: So, I would
16 move that the motion for an involuntary
17 disbursement be denied.

18 CHAIRMAN CROSBY: Is there a second?

19 COMMISSIONER CAMERON: Second.

20 CHAIRMAN CROSBY: Any further
21 discussion? All in favor, aye. Aye.

22 COMMISSIONER MCHUGH: Aye.

23 COMMISSIONER CAMERON: Aye.

24 COMMISSIONER ZUNIGA: Aye.

1 COMMISSIONER STEBBINS: Aye.

2 CHAIRMAN CROSBY: All opposed? The
3 ayes have it unanimously.

4 MR. ZIEMBA: Thank you, Mr.
5 Chairman. We can now move onto the town of
6 Hampden.

7 COMMISSIONER STEBBINS: Mr.
8 Chairman, I need to excuse myself during your
9 deliberations on Hampden and Longmeadow.

10 CHAIRMAN CROSBY: Hampden and
11 Longmeadow both?

12 COMMISSIONER STEBBINS: Yes

13

14 (Commissioner Stebbins exits
15 conference room.)

16

17 MR. ZIEMBA: So, if you turn to page
18 three in your Hampden packet, proximity.

19 CHAIRMAN CROSBY: Excuse me, John.
20 Let's just have a brief break. We'll come back
21 in five or 10 minutes.

22

23 (A recess was taken)

24

1 CHAIRMAN CROSBY: We will reconvene
2 at about 10:45. Commissioner Stebbins I think
3 had a few words.

4 COMMISSIONER STEBBINS: Sure. I
5 didn't mean to beat a hasty retreat, everybody
6 wondering why I disappeared. As you recall, I
7 excused myself from the earlier presentations
8 on the surrounding community status for
9 Longmeadow and Hampden out of just an
10 overabundance of caution in those proceedings.
11 For the time being, I didn't think it would be
12 fit for me to sit through this discussion at
13 this point.

14 CHAIRMAN CROSBY: So, you will not
15 participate in our decision about whether
16 Hampden or Longmeadow should be deemed a
17 surrounding community?

18 COMMISSIONER STEBBINS: Correct.

19 CHAIRMAN CROSBY: Okay. Thank you.

20 COMMISSIONER STEBBINS: Now I'll
21 leave again.

22 CHAIRMAN CROSBY: Try again. We
23 just hate to see you go.

24

1 (Commission Stebbins exits
2 conference room.)
3

4 MR. ZIEMBA: Thank you, Mr.
5 Chairman. Moving onto Hampden, if the
6 Commissioners could turn to page three in their
7 packets. Hampden asserts that it is three
8 miles from the eastern border of Springfield.
9 That it is approximately eight miles from the
10 facility. MGM states that the center of
11 Hampden is approximately 11 miles from the
12 facility. And that Hampden is not proximate
13 given the approximate 20-minute drive.

14 Moving onto transportation
15 infrastructure, I asked Rick Moore from City
16 Point Partners to brief the Commission about
17 the findings, and to also address the related
18 matters of development impacts. And finally to
19 state whether the Hampden water or wastewater
20 infrastructure is anyway impacted by the MGM
21 facility application.

22 Please note that Hampden has not
23 raised this as an issue but it is part of our
24 independent review. We asked City Point

1 Partners to confirm our understanding. Mr.
2 Moore.

3 MR. MOORE: Thank you, John. Good
4 morning. Unlike Mr. Wynn, I brought some
5 slides to help us along with our discussion.

6 The first slide is an overview of
7 the regional area. Just to help you orient
8 yourself, this is Springfield and these are the
9 other three surrounding communities. We are
10 talking about this is the Mass. Turnpike, I-90
11 and then I-91 north/south. So essentially, the
12 MGM site is at the crossroads of two major
13 interstate highways north/south and east/west.

14 Hampden is in this location to the
15 southeast of Springfield. Again, as John said,
16 it's about 10 miles from the facility. In
17 looking at all of the traffic information, we
18 based our analysis on the traffic work that was
19 done by MGM. And in some cases the Pioneer
20 Valley folks did an analysis and the Department
21 of Transportation also provided some comments
22 on the traffic. So, we took all of that into
23 consideration.

24 Two sort of general comments that

1 apply to all of the communities. First in
2 terms of construction related impacts, we
3 believe there will be none of any significance
4 in the three towns. We are talking about
5 primarily because of the robust interstate
6 system. And that truck traffic generally will
7 stay on interstate system, easy access to the
8 facility and MGM also has control over
9 specifying that if needed. So, we don't
10 believe that even without the specification
11 there'll be a significant impact, a
12 construction related impact for any of the
13 three communities.

14 The second thing is in terms of
15 traffic parlance, if you will, the analysis was
16 basically done for the two peak hours of the
17 casino traffic, which is a Friday p.m. and a
18 Saturday p.m. The peak Saturday is actually
19 larger traffic generator than the peak Friday
20 for the casino. However, if you superimpose
21 that over the roadway network, the peak Friday
22 condition in combination with the peak casino
23 condition is worse than the Saturday condition.

24 So, for simplicity, we are just

1 going to focus on the Friday p.m. peak hour
2 condition. So, the numbers you see and the
3 percentages you see are based on that
4 particular condition, which for all practical
5 purposes you can consider the worst-case.

6 So, now to Hampden, which is in this
7 location. The traffic analysis looked at the
8 distribution of traffic coming from the
9 surrounding communities. And if they took the
10 traffic generated from this particular
11 community and other communities in the
12 neighborhood who might travel through Hampden,
13 they concluded that there are about 29 vehicles
14 in total that would come from that part of the
15 state and part of northern Connecticut that
16 could enter or exit towards the casino.

17 If you assume that that entire
18 amount of traffic is on Allen Street, which if
19 you can see on the map is this line, which
20 basically is a two-lane road that runs through
21 Hampden, which is a rural community. And if
22 you assume that all of that 29 vehicles will
23 travel to and from on Allen Street, that's the
24 basis of the analysis.

1 So, if you look at the numbers and
2 if you go the next slide, you can see this is
3 Allen Street at the Friday peak p.m. hour
4 period. The roadway currently carries about
5 540 vehicle.

6 CHAIRMAN CROSBY: That's both ways.

7 MS. SWEET: Both ways. The increase
8 from the casino, as I mentioned, was about 29
9 vehicles which is about a five percent
10 increase.

11 If you look at the road in and of
12 itself, it's a two-lane roadway with a capacity
13 of approximately well over 3000 vehicles a day
14 -- I'm sorry 3000 vehicles in the peak hour.
15 And part of the reason for that is there are no
16 traffic signals. So, there's free flow through
17 that particular area. If you look at the
18 amount of traffic, even when you add the
19 increase, we are less than 20 percent of the
20 capacity of the road.

21 So, essentially there is significant
22 amount of available capacity on this particular
23 road. And if all of the vehicles use it, it
24 will not stress the capacity of the road.

1 Therefore, to us, it was a reasonably
2 straightforward conclusion that there was no
3 significant adverse impact on Allen Street in
4 Hampden.

5 CHAIRMAN CROSBY: Could I just ask a
6 couple questions about this? Presumably the 29
7 vehicles would be going virtually all inbound
8 right, going towards the casino at that peak
9 hour?

10 MR. MOORE: Yes, at the Friday p.m.,
11 there wouldn't be a 50-50 split. It would be
12 weighted toward the incoming traffic.

13 CHAIRMAN CROSBY: Assume it's --

14 MR. MOORE: Sixty-five percent.

15 CHAIRMAN CROSBY: Anyway, it's more
16 than 4.7 because it's some percent more. If
17 the 540 is both ways and that's got to be
18 preponderantly what? Preponderantly out
19 coming, right, because it's the end of the day
20 and people are leaving the Metro area.

21 So, that's more than 50 percent
22 outbound. So, it's something less than 270
23 vehicles an hour going inbound. And you are
24 going to have something more than 20 -- So,

1 it's probably more like 10 or 15 percent

2 increase rather than a five percent increase.

3 MR. MOORE: Right, if you're looking
4 at it in the one direction.

5 CHAIRMAN CROSBY: Isn't that the way
6 you should look at it?

7 MR. MOORE: It would be a useful
8 exercise if two things were there. First of
9 all, we have so much extra capacity. If you
10 divide the 3600 by half, you still have a
11 significant -- more than 50 percent of the
12 capacity available.

13 Secondly, if the roadway was near
14 capacity, and adding a few vehicles or a small
15 percentage of vehicles could aggravate an
16 already serious problem or already congested
17 problem then you might drill down and look at
18 those kind of numbers. But because we are, in
19 our opinion have so much flexibility here, so
20 much reserve capacity, there was no need to
21 drill down and look at those numbers.

22 Although, we did do that, and looking at them,
23 there is significant extra capacity there.

24 CHAIRMAN CROSBY: It just seems like

1 for purposes of being conservative, it would be
2 better in a proposal like this to not have an
3 obvious assumption that seems off. It seems
4 like it would have made more sense to call that
5 10 percent for the sake of this discussion. If
6 what you're saying is right about capacity, it
7 wouldn't have mattered. But it doesn't make it
8 vulnerable to that kind of logical test it
9 seems to me.

10 While we are on this, so 3600
11 capacity and again that's two way. But even if
12 do it 50-50 that's 1800 an hour. That's 30 a
13 minute; is that right?

14 MR. MOORE: Yes.

15 CHAIRMAN CROSBY: And that's an
16 appropriate number on a two-lane road in that
17 town 30 a minute?

18 MR. MOORE: We actually analyzed
19 that number.

20 CHAIRMAN CROSBY: One every two
21 seconds.

22 MR. MOORE: Right, based on a
23 certain speed, the fact that there are no
24 signals. Typically, you use the total amount

1 because when you do have signals, even though
2 there may be other than a 50-50 split, you need
3 to account for all of the traffic in terms of
4 timing.

5 In this case, you're right. There's
6 no signals. And looking at one lane is
7 instructive. And we would have done that had
8 we been even close to an issue.

9 CHAIRMAN CROSBY: So, that number of
10 3600 for this kind of a two-lane road must be
11 an industry norm. And that is not a
12 contestable number, right? That is something
13 that any logical person in your business would
14 know?

15 MR. MOORE: Right. It's both a rule
16 of thumb and we actually ran a simple analysis
17 of it to confirm that number.

18 CHAIRMAN CROSBY: Okay. Thank you.

19 MR. MOORE: So, again, we consider
20 there to be no significant adverse impact.

21 MR. ZIEMBA: Thank you, Rick.
22 Commissioners, if you could now turn to page
23 56. This is the development section. We just
24 heard from Mr. Moore that this was not

1 addressed in Hampden's petition but also that
2 it is not, would not rise to a significant
3 adverse impact based on the analysis from Mr.
4 Moore and his colleagues.

5 MR. MOORE: There was one other
6 issue that we needed to address in Hampden,
7 which was the water and sewer. Since Hampden
8 is not part of the Springfield water and sewer
9 commission district, they don't get water from
10 Springfield nor do they send sewage to
11 Springfield. There is no impact from the
12 casino in terms of water and sewer.

13 CHAIRMAN CROSBY: Did they raise
14 water and sewer?

15 MR. ZIEMBA: No. Commissioners, if
16 we can now turn to operations, page 63 of your
17 packet. Operational concerns were not raised
18 in the petition or the response. However,
19 you've heard from Mark Vander Linden, Lynne
20 Sweet and Lyle Hall on the regional reviews for
21 each of the areas. And Hampden is not
22 significantly different from the regional
23 reviews that were just discussed.

24 And if we could then turn to page

1 113 of the packet that is other concerns and
2 positive concerns. There are no other concerns
3 that were raised by the applicant or the
4 applicant (SIC). Finally, as you've heard, I
5 outlined a lot of the positive impacts found in
6 MGM's application and its responses in regard
7 to positive impacts.

8 So in sum, regarding proximity we
9 had between eight to 11 miles included in
10 proximity depending on which point you were
11 measuring. We reviewed some of the traffic
12 infrastructure. Mr. Moore and his colleagues
13 believe that there would be no significant
14 impact related to traffic or development
15 concerns. Then we've heard general reviews on
16 operational concerns from the earlier
17 presentation.

18 CHAIRMAN CROSBY: Questions,
19 comments?

20 COMMISSIONER MCHUGH: It seems to me
21 that this single issue that's been raised is
22 the traffic impact. The excess capacity is
23 substantial no matter how you use those
24 numbers. And it seems to me that there will be

1 no adverse impact.

2 CHAIRMAN CROSBY: It seems that way
3 to me too.

4 COMMISSIONER CAMERON: I agree.

5 CHAIRMAN CROSBY: Do you want to
6 make a motion?

7 COMMISSIONER ZUNIGA: Sure, I can
8 make a motion. I would move that based on the
9 information presented in the packets and the
10 analysis of our consultants as described here
11 today that the community of Hampden not be
12 designated a surrounding community.

13 CHAIRMAN CROSBY: Second?

14 COMMISSIONER CAMERON: Second.

15 CHAIRMAN CROSBY: Any further
16 discussion? All in favor, aye.

17 COMMISSIONER MCHUGH: Aye.

18 COMMISSIONER CAMERON: Aye.

19 COMMISSIONER ZUNIGA: Aye.

20 CHAIRMAN CROSBY: Opposed? The ayes
21 have it four to zero, unanimously.

22 MR. ZIEMBA: Mr. Chairman, perhaps
23 this would be a good point that you raised at
24 the last community hearing on the 28th that

1 just because a community is not successful in
2 becoming a surrounding community for the
3 purposes of these proceedings, that does not
4 mean that a community could not avail itself of
5 the community mitigation fund, in the event all
6 of the analysis that we proved is somewhat
7 incorrect or that it's not as accurate as we
8 think that it is.

9 That fund could be populated with in
10 excess of \$20 million per year. There's some
11 very substantial resources that could benefit
12 communities in the event of mitigation needs.

13 CHAIRMAN CROSBY: Right. I agree.
14 That's an important point. Thank you. Next.

15 MR. ZIEMBA: Now we turn to the town
16 of Longmeadow. In regard to proximity, if you
17 turn to page three of your packets, Longmeadow
18 asserts that its center is approximately 3.6
19 miles from the site. That it shares an
20 extensive border with Springfield. And that
21 the intersection of Longmeadow Street and
22 Forest Glen Road is only 2.2 miles from the
23 site. MGM concedes that Longmeadow is
24 proximate.

1 Now if you can move to page 10,
2 traffic infrastructure. I again asked Mr.
3 Moore of City Point Partners to review this
4 issue to explain how Longmeadow may be impacted
5 by development concerns, the construction
6 concerns. And to speak out about Longmeadow's
7 concerns about water and wastewater impacts.
8 Longmeadow specifically raised the issue of
9 water and wastewater in its analysis. Mr.
10 Moore.

11 MR. MOORE: Thank you. The
12 Longmeadow traffic issue is a little bit more
13 complex. I would like you to take a look at
14 this map for a minute and just to orient
15 yourself. This is the casino location in
16 Springfield. This is I-91 north/south. This
17 is approximately the Longmeadow border. This
18 is Route 5 which parallels 91. And the main
19 issue that we'll talk about today is the impact
20 on Route 5 and the interaction between 5 and
21 91.

22 These two intersections were studied
23 both by the applicant, MGM. They were reviewed
24 by the Pioneer Valley folks as well as Mass.

1 DOT. This northern intersection, very close to
2 91, is about 2.2, 2.3 miles from the casino.

3 Now if you look at the traffic
4 condition on both roads, if you look at Route
5 5, the p.m. peak hour traffic is 918 vehicles
6 per hour. And the casino will add about 53
7 vehicles to that amount. That 53 vehicles
8 accounts for about three and a half percent of
9 the casino generated traffic.

10 Then if you move to the I-91 and
11 look at the box on the left side, the Friday
12 p.m. peak is slightly over 7000 vehicles per
13 hour. And the casino will add about 300
14 vehicles per hour. That's about 19 and a half
15 percent of the casino traffic.

16 Now if you add the three and a half
17 percent and the 19 and a half percent, you get
18 23 percent of the casino traffic that is
19 running north/south through the combined
20 91/Route 5 corridor.

21 Now these numbers are based on the
22 Pioneer Valley assessment of the traffic study
23 that was done by MGM. MGM had slightly lower
24 numbers. They had slightly lower trip

1 generation by about 13 percent. And MGM took
2 the 23 percent of the total vehicles going
3 north and south, and they put 20 percent on 91
4 and three percent Route 5.

5 So, if you take the change from the
6 casino traffic analysis and all of those
7 numbers added up to about 36 vehicles on Route
8 5. So, you go from 36 vehicles on Route 5 both
9 ways, you go to the Pioneer Valley assessment
10 of that traffic study and they raised it based
11 on trip generation and distribution to the 53.
12 You with me so far?

13 COMMISSIONER MCHUGH: Right.

14 COMMISSIONER ZUNIGA: Right.

15 COMMISSIONER CAMERON: Yes.

16 MR. MOORE: The casino did an
17 analysis of those two intersections. And they
18 concluded that in the future the level of
19 service of the entire intersection would not
20 change. Level of service being how the
21 intersection operates. These are signalized
22 intersections.

23 However, once they look at
24 individual turning movements, because you can

1 assign the level of service to turning
2 movements as well as to the aggregate of the
3 intersection, they found that the southbound
4 movement that makes a left turn onto Forest
5 Avenue was degraded from an LOS D, which is
6 acceptable, to an LOS E, which is considered
7 problematic. AS you go from A to F, A through
8 D is generally considered --

9 CHAIRMAN CROSBY: This is southbound
10 on 5 at that first intersection making a left.

11 MR. MOORE: Making a left turn.

12 CHAIRMAN CROSBY: Got it.

13 MR. MOORE: In order to improve that
14 one turning movement, and left turns are always
15 the problematic turn, they recommended a
16 signal timing change at that intersection.
17 That improved that left turn or upgraded it
18 from an E back to a D. They concluded that
19 therefore that that signal -- the intersection
20 would operate overall at level of service C and
21 was appropriate. And we would agree with that.

22 CHAIRMAN CROSBY: Who is the they in
23 this case?

24 MR. MOORE: This is the casino, this

1 is MGM.

2 CHAIRMAN CROSBY: Okay.

3 MR. MOORE: Now if you add to that
4 that additional traffic going from the 36
5 additional vehicles to the 53 additional
6 vehicles, there would be, again, a slightly
7 degrading of that intersection and probably you
8 could resolve that issue with another
9 refinement in the turning movement calculations
10 or the turning movement timings.

11 And if that were the end of the
12 story, I think it would be a difficult decision
13 as to whether this impact raises to the level
14 of significantly adverse.

15 However, that's not really the end
16 of the story. Because both the Department of
17 Transportation and the Pioneer Valley identify
18 the congestion on 91 in this area right here
19 where there is a lane drop. So, the roadway
20 goes from three lanes to two lanes through that
21 sort of curve.

22 There's some weaving movements in
23 that area. Then it opens back up to the three
24 lanes again. Because there is congestion at

1 that location, both DOT and the Pioneer Valley
2 suggested that that congestion on 91 might
3 cause people coming from the South, some
4 portion of that 7000 and the additional 300 to
5 divert onto Route 5 and to use it basically as
6 a shortcut to go around the congestion on 91
7 here and then get back.

8 CHAIRMAN CROSBY: Is the lane drop
9 north or south or both?

10 MR. MOORE: The lane drop we're
11 concerned about is north.

12 CHAIRMAN CROSBY: North, okay.

13 MR. MOORE: So, that would depending
14 on how that congestion would change people's
15 driving patterns, that could divert more
16 traffic onto Route 5, and further increase the
17 53 to some additional number.

18 Both DOT and Pioneer Valley suggests
19 that this needs to be looked at, but to date it
20 hasn't been looked at. And we don't have any
21 definitive information about what magnitude of
22 this additional congestion and this additional
23 diversion might occur. And we feel that that
24 uncertainty which we feel will be an increase

1 at some level is enough to cause us to say that
2 there will be a potential adverse impact on
3 Route 5 in Longmeadow.

4 Just to summarize, if we can go to
5 the next slide, we've talked about Route 5 and
6 the amount of vehicles on the roadway, the
7 increase in both directions from the casino,
8 which is almost a six percent increase, the
9 traffic on 91. We talked about the two
10 signalized intersections that were studied.

11 We spoke of the fact that there was
12 no overall change in LOS, but to get there they
13 had to do some mitigation. So, there's an
14 acknowledgment that there was an impact, and
15 mitigation was necessary in terms of signal
16 timing. Further, this whole issue of diversion
17 was raised by Mass. DOT and the Pioneer Valley
18 Planning Commission, and to date has not been
19 resolved.

20 Based on the fact that we likely
21 will have more than those 36 vehicles, 53, and
22 potentially more than that and as you can see,
23 it wouldn't take too many more of this 300 and
24 the 7000 to move this up significantly that we

1 conclude that there is a potential adverse
2 impact on Route 5.

3 COMMISSIONER ZUNIGA: I have a
4 question. Do you know or is this part of your
5 point that it has not been studied, the level
6 of service currently northbound on Route 5?

7 MR. MOORE: No. The level of
8 service has been studied for those two
9 intersections at the MGM -- based on the MGM
10 traffic data. It has not been studied based on
11 the higher numbers or a what if diversion
12 number from 91. That has not been studied.
13 Both agencies have recommended that that be
14 done based on some sophisticated computer
15 models, transportation models as well as time
16 and travel studies. There are a number of ways
17 you can do this, particularly given the cell
18 phone technology today and what you can glean
19 from driving habits from cell phone technology
20 and from sophisticated computer models.

21 In fact, there was an article in the
22 Globe today about people getting more
23 information about their travel habits. And
24 this is a good example of that whether it's

1 from the radio or from an app on your phone or
2 whether some other source. Traffic -- driving
3 patterns are becoming very sophisticated.

4 COMMISSIONER MCHUGH: The two
5 intersections we are talking about are the one
6 at Route 5 and Forest Glenn and Route 5 and
7 Converse Street.

8 MR. MOORE: Yes.

9 COMMISSIONER ZUNIGA: Those two
10 intersections are both in Longmeadow or just
11 one?

12 MR. MOORE: Both of them are.

13 COMMISSIONER ZUNIGA: Both of them
14 are.

15 CHAIRMAN CROSBY: What percent of
16 capacity is Route 5 northbound at peak now?

17 MR. MOORE: When you have signals
18 along the roadway, the capacity is basically a
19 function of the level of service of those
20 intersections.

21 So as I said before, the level of
22 service at the two intersections are acceptable
23 in the future condition based on the MGM
24 analysis, level of service D or C or better.

1 So, now and in the future with the additional
2 traffic the overall level of service is
3 acceptable.

4 The caveat that we mentioned is that
5 that looked at those intersections in
6 isolation.

7 CHAIRMAN CROSBY: Without the
8 diversion.

9 MR. MOORE: Without the diversion.

10 CHAIRMAN CROSBY: Are those
11 remediated by signal changes? Whatever the
12 impact is, is it likely to be able to be
13 remediated by signal changes like you did the
14 left turn southbound?

15 MR. MOORE: Signal changes, but
16 potentially signal changes that would be
17 required of more sophisticated equipment. In
18 other words, you may not be able to just go out
19 there now and tinker with the equipment that's
20 out there. You may need more sophisticated
21 equipment.

22 And I think the Pioneer Valley
23 suggested that the ultimate solution is
24 actually more sophisticated equipment. So,

1 it's not just resetting the current signals.

2 It's potentially a new set of signals --

3 CHAIRMAN CROSBY: Right.

4 MR. MOORE: -- that are much smarter
5 and can adapt to the traffic demands as they
6 occur.

7 COMMISSIONER MCHUGH: The Pioneer at
8 page 28 of the book recommended a whole bunch
9 of things, it looks like, for those
10 intersections. But I take it that we don't
11 have to go that far to say those are what is
12 needed in order to determine that there's
13 impact.

14 MR. MOORE: I don't think they are
15 suggesting significant geometric changes. I
16 think they are suggesting a more sophisticated
17 signal system.

18 COMMISSIONER MCHUGH: Right.

19 COMMISSIONER CAMERON: But I believe
20 you're saying the study has to be done first so
21 that the real numbers will be evident. And
22 then the next step -- based on a new study then
23 you go to the next step which would be more
24 sophisticated equipment; is that accurate?

1 MR. MOORE: Yes. We agree with the
2 Pioneer Valley comments and Mass. DOT that
3 interaction of the two roads needs to be
4 studied.

5 CHAIRMAN CROSBY: Right. What I
6 asked is can you do signal changes. You said
7 yes, but PVPC had said it would probably
8 require more elaborate, but they're also
9 talking about a new lane. So, you are talking
10 real money here. You're not talking about just
11 a new signal system according to PVPC.

12 MR. MOORE: New signal equipment is
13 a significant investment, just the signal
14 equipment without the geometric changes.
15 Longmeadow has steadfastly rejected geometric
16 changes to keep the character of the road as it
17 currently is.

18 CHAIRMAN CROSBY: I see. Okay. But
19 in any event, as Commissioner McHugh said
20 that's not our problem. Our problem is to
21 determine whether this is a surrounding
22 community or not. And if it is, then the
23 parties will figure out what remediation is
24 appropriate.

1 MR. MOORE: Right.

2 CHAIRMAN CROSBY: Okay. Anybody
3 else?

4 MR. MOORE: Can I make a point about
5 the water and sewer if it's appropriate now?

6 CHAIRMAN CROSBY: Sure.

7 MR. MOORE: Longmeadow receives
8 water from the Springfield water and sewer
9 commission. And they send their sewage to
10 Springfield, which acts as a regional water and
11 sewer agency. On the water side, they get
12 water from a reservoir, which is west of town.
13 The capacity that they are permitted is almost
14 40 million gallons a day. So, they can take
15 about 40 million gallons a day out of the
16 reservoir. They are currently using about 35
17 million gallons a day.

18 CHAIRMAN CROSBY: This is
19 Longmeadow?

20 MR. MOORE: No. This is the entire
21 regional area. So, the regional authority has
22 essentially a 5 million gallon capacity just
23 like the roadway capacity. The casino will use
24 about .2 MGD of that capacity or about five

1 percent of their reserve capacity.

2 So, they have 5 million. The casino
3 is going to use point .2 million of that, five
4 percent. So, there is really no concern about
5 lack of water.

6 On the sewer side, the numbers are
7 even more compelling in the sense that there is
8 a sewage treatment plant on the west side of
9 the river right about here that has a capacity
10 of almost 70 million gallons a day. And
11 they're using about 50 million gallons a day
12 currently on average.

13 So, there is a significantly, almost
14 a 20 MGD capacity. If you think of the numbers
15 we just talked about .2 sewage, it's about a
16 one percent use of their available capacity.

17 So, in both cases the Springfield
18 water and sewer commission has ample capacity
19 to serve water and sewer without impacting
20 Longmeadow or any of the other communities for
21 that matter.

22 CHAIRMAN CROSBY: Okay.

23 COMMISSIONER ZUNIGA: I have a
24 question. Perhaps John can help me. Refresh

1 my memory, but MGM does not necessarily dispute
2 the assertion or the status of surrounding
3 community from Longmeadow. It strikes me as
4 it's the amount of impacts and compensation or
5 mitigation monies that may be at stake here.
6 Is that a fair statement?

7 MR. ZIEMBA: Almost. What you point
8 out is that there has been a big contention
9 between the two parties about the amount of the
10 mitigation. I think MGM has made the argument
11 that it has voluntarily entered into agreements
12 with a number of different communities.

13 But they believe that in order to
14 meet the statutory standard and the regulatory
15 standard at least in its petitions and petition
16 responses, I believe that Longmeadow didn't
17 rise to that level. But I think they would
18 agree that there are impacts but there weren't
19 significant enough impacts to rise to the
20 regulatory, statutory threshold I believe is
21 probably the way that they would characterize
22 it.

23 COMMISSIONER ZUNIGA: That MGM would
24 characterize it?

1 MR. ZIEMBA: Right. Commissioners,
2 if we can point to page 98 of your packet,
3 development concerns, development impacts, Mr.
4 Moore just gave us the benefit of the
5 development impacts. Longmeadow did not
6 specifically raise development impacts in its
7 petition. MGM asserted that it would be within
8 the Commission's discretion to not consider
9 this factor as it wasn't raised by Longmeadow.
10 But as you know that is not the way that we
11 analyze these petitions.

12 I will note that the DEIR
13 certificate notes that more detailed
14 information is necessary on items such as haul
15 routes and a traffic management plan. Those
16 would all be components of their final
17 environmental impact report. But we have heard
18 the analysis from Mr. Moore.

19 On operational level page 107,
20 Longmeadow asserts that it will experience
21 significant public safety needs, fire needs and
22 impacts on social services, including impacts
23 from DUI incidents. It alleged code
24 enforcement concerns. Also, Longmeadow has

1 noted -- raised water and wastewater concerns.

2 MGM responds that data from travel
3 during the Big-E demonstrate that crash rates
4 relative to some of the public safety concerns
5 may decrease with higher congestion periods.
6 Further, MGM has invested significant resources
7 to the Springfield Police Department, as MGM
8 notes through its host community agreement.

9 MGM also points to a study that was
10 performed by UNLV that states that crimes --
11 excuse me that crimes because of increased
12 numbers of people may be increased in the
13 immediate vicinity but that overall rates will
14 remain unchanged.

15 Further MGM notes that its own
16 security complement will be over 100 full-time
17 equivalent professionals. As you note, we have
18 previously heard from Mark Vander Linden
19 regarding these concerns. Lynne Sweet had
20 addressed some of the concerns regarding some
21 of the code inspection issues. And Mr. Moore,
22 as we just mentioned, addressed the water and
23 wastewater concerns.

24 In regard to other impacts, if you

1 turn to page 168 of your packets, no other
2 impacts were included or responded to by the
3 petitioner and the applicant. On page 169,
4 positive impacts, Longmeadow notes that because
5 it is predominately residential, it will not
6 experience positive impacts. Also the cost of
7 transportation improvements cannot be
8 outweighed by positive impacts.

9 The applicant responded with a
10 recitation of positive impacts we've already
11 discussed such as 2000 local construction jobs,
12 3000 permanent jobs and \$50 million in annual
13 local spending on vendors and suppliers.

14 With that Commissioners, I put it to
15 you for consideration.

16 CHAIRMAN CROSBY: Thoughts,
17 question, reactions?

18 COMMISSIONER MCHUGH: There are two
19 aspects of this, of the petition and response
20 that I found troublesome. So, I just wanted to
21 say something about that before getting into
22 the merits of this.

23 First of all, the notion that the
24 casino operators are not responsible for any

1 increases that further diminish the capacity or
2 the level of service of already deficient
3 roads, strikes me as untenable.

4 To come into an area that is
5 experiencing traffic issues or is already at
6 full capacity, and to put a facility that
7 increases the traffic is to create a problem
8 that needs remediation, it seems to me. So, I
9 don't find that argument persuasive at all.

10 Mr. Moore didn't talk about it
11 perhaps because he found it unpersuasive as
12 well, but I just thought it was worth saying
13 that.

14 Conversely, Longmeadow's argument
15 that it's not only the traffic from the casino
16 that MGM should be concerned with, but MGM's
17 plan is to place a facility in the heart of
18 Springfield, which will regenerate the entire
19 area around the casino and therefore add to
20 traffic from the regeneration, which MGM should
21 compensate Longmeadow for strikes me as equally
22 specious.

23 The notion that somehow somebody who
24 comes in and develops or starts the development

1 process for an area of a city that badly needs
2 it should somehow be accountable for paying for
3 the consequences of sequelae of its investment.

4 CHAIRMAN CROSBY: The what?

5 COMMISSIONER MCHUGH: The sequels,
6 the things that follow its investments is to be
7 a huge disincentive to anybody making the
8 investment in the first place. So, I think
9 that is an equally specious argument.

10 I say that because I am persuaded
11 that because of the traffic analysis that was
12 succinctly presented by Mr. Moore, Longmeadow
13 is a surrounding community for the traffic
14 purposes. But as we talked about before, this
15 designation is something of an on-off switch.
16 You're either a surrounding community or you're
17 not a surrounding community.

18 And if you are a surrounding
19 community, there are a variety of things that
20 go with that territory. So, I have something
21 further to say about that before we're finished
22 but I do think they are a surrounding community
23 because of those impacts on Route 5 and the
24 Route 5 area and some of these feeders to Route

1 5. But I reject those arguments on both sides
2 that I just described.

3 CHAIRMAN CROSBY: Interesting.
4 Anybody else?

5 COMMISSIONER CAMERON: I found our
6 traffic analysis to be persuasive, pretty
7 straightforward. There will be an impact. For
8 that reason, I agree that they will be a
9 surrounding community or should be rather.

10 COMMISSIONER ZUNIGA: Just walking
11 through what would happen next, it occurs to me
12 that those two intersections need to be studied
13 in more detail. Actually, need to be studied
14 with the feedback that Mass. DOT and the PVPC
15 have provided, which is this alternative or
16 this reroutement scenario.

17 Is that going to the basis for which
18 the parties can reach some kind of mitigation
19 agreement? Or is our timeline not necessarily
20 in sequence with that study?

21 MR. ZIEMBA: As you know, the
22 parties have 30 days from today to negotiate
23 agreement. So, I'm not certain that any of
24 these types of further studies would be

1 concluded within that period.

2 Applicants and communities have made
3 agreements throughout the Commonwealth in
4 anticipation of events that can happen or will
5 happen in the future. For example, the look-
6 back agreement that MGM has proposed.
7 Longmeadow has been critical of their
8 particular version of a look-back agreement but
9 these are the types of things that could be
10 negotiated by the parties.

11 CHAIRMAN CROSBY: Can you give us a
12 sense of other situations that are comparable?
13 Of all of the potential claims for surrounding
14 community status, there is one fairly limited
15 one that our consultant seems to have merit,
16 which is this one segment of Route 5 at a
17 particular time if certain things happen.

18 Does that meet the threshold that we
19 have typically used in other situations?

20 MR. ZIEMBA: The most comparable is
21 the town of Bolton where we took a look at the
22 impact that would occur as a result of the
23 traffic coming from 495. And based on that one
24 concern -- Again, one thing about this process

1 is that we are predicting the future. And with
2 anything that we do, it's difficult to predict
3 the future.

4 So, some operational concern as Mr.
5 Vander Linden pointed out, may become more of a
6 reality than we anticipate at this point. But
7 the most comparable situation would be Bolton
8 as you asked.

9 COMMISSIONER ZUNIGA: Remind me,
10 where are they in the DEIR?

11 MR. ZIEMBA: MGM just received its
12 DEIR certificate I believe it was last Monday.
13 And then they'll have to file their final.

14 COMMISSIONER ZUNIGA: That DEIR
15 included those comments relative to the two
16 intersections?

17 MR. ZIEMBA: That's correct.

18 CHAIRMAN CROSBY: Which was
19 supportive of this reading.

20 MR. ZIEMBA: It's supportive of this
21 reading.

22 CHAIRMAN CROSBY: Anything else?
23 Other thoughts? It seems like it's sort of a
24 close call in a way, but I think that Bolton

1 model that's what I was looking for. I guess
2 if it is significantly adverse if you are in
3 that particular area, and that's what was
4 potentially significantly adverse. And that's
5 what we're talking about. I guess I'd probably
6 will go along with that. Do we have a motion?

7 COMMISSIONER ZUNIGA: Sure, I can
8 make one. Based on the information as
9 presented to this Commission in the packets and
10 as summarized here by our traffic consultants
11 that this Commission do designate the town of
12 Longmeadow to be a surrounding community in the
13 MGM application.

14 CHAIRMAN CROSBY: Second?

15 COMMISSIONER CAMERON: Second.

16 CHAIRMAN CROSBY: Any further
17 discussion?

18 COMMISSIONER MCHUGH: Yes. I would
19 like to just note as part of the discussion,
20 not to amend the motion, as part of the
21 discussion that I at least am voting -- I'm
22 going to vote in the affirmative on this
23 because of the traffic at these intersections
24 and related problems on some of the other

1 intersections that have been discussed in the
2 reports. But primarily generated by the
3 traffic at these two intersections that were
4 just described and for no other reason.

5 And I just note that for the record.
6 That's why I'm voting for this. I am not
7 voting for any other aspect of it. As I said
8 before, it's an on-off switch but I want to
9 make that point.

10 COMMISSIONER ZUNIGA: I actually do
11 agree and would be happy to put it into the
12 motion, but I know that's not what our
13 regulations really call for. But I agree with
14 the notion that it is because of the traffic
15 issues at these two intersections that we are
16 persuaded by this.

17 CHAIRMAN CROSBY: It was certainly
18 clear from my comments that I feel the same
19 way. Any other comments? All in favor of the
20 motion designating Longmeadow as a surrounding
21 community signify by saying aye. Aye.

22 COMMISSIONER MCHUGH: Aye.

23 COMMISSIONER CAMERON: Aye.

24 COMMISSIONER ZUNIGA: Aye.

1 CHAIRMAN CROSBY: Opposed? Four,
2 zero unanimous vote.

3 COMMISSIONER MCHUGH: Can I just say
4 one other thing Mr. Chairman? And I'm going to
5 be very brief about this because it's not the
6 time or the place. I had mentioned before my
7 desire to have all five of us talk about
8 whether there should be some kind of a cap,
9 some kind of a mechanism -- Let's put it that
10 way. -- to deal with grossly unsatisfactory
11 results of an arbitration process. And I
12 simply note here in this context that I look
13 forward to having that discussion.

14 CHAIRMAN CROSBY: I would like to
15 observe one thing too. We were given the task,
16 this unusual task by the Legislature to
17 determine surrounding communities or not. And
18 to have surrounding communities to have a
19 degree of mitigation, be entitled to a degree
20 of mitigation and an agreement pre-award of a
21 license, which is in and of itself unique I
22 think in the country, but we have also
23 implemented that. You all have implemented
24 that with extraordinary diligence.

1 This is an amazing amount of work to
2 take very seriously the pros and cons of a
3 community's concern and a bidder's comparable
4 concerns. It's up on our website for everybody
5 to see. It could not possibly be a more
6 transparent process. It couldn't possibly be
7 more data driven. We might be right or we
8 might be wrong. But the process I think is an
9 extraordinary one and -- It's not our credit.

10 We were given this by the
11 Legislature, but I just hope people will take
12 note of it. Even the members of the press,
13 there's 400 pages of thoughtful written
14 analysis of just these three simple questions
15 in front of us.

16 So, I say thank you to you John.
17 You did a great job on this.

18 COMMISSIONER MCHUGH: A terrific
19 job.

20 CHAIRMAN CROSBY: And to the
21 consultants and everybody. Frankly, I feel
22 good that we are taking this process very
23 serious and handling it the way we should.

24 MR. ZIEMBA: We certainly hope that

1 remaining communities and applicants will avail
2 themselves of the opportunity to reach an
3 agreement if that is within their interest but
4 we'll continue on and do this type of review.

5 COMMISSIONER ZUNIGA: I would echo
6 that. Just to also follow up on Commissioner
7 McHugh's point, one of the policy decisions
8 that we will have to consider at some point,
9 maybe not in the near future, is the community
10 mitigation fund whether that would be allocated
11 per region or collectively. It's something
12 that we look forward to manage and look at
13 those grant applications.

14 And there is a case to be made on
15 either way. That impacts should be addressed
16 with money that comes out of that activity in
17 that region. Or maybe some impacts would be
18 such that need to be addressed before impacts
19 elsewhere. So, as we consider how we're going
20 to manage that fund is one of the things we
21 need to start thinking about.

22 CHAIRMAN CROSBY: One of many.

23 COMMISSIONER ZUNIGA: One of many.

24 CHAIRMAN CROSBY: Commissioner

1 McHugh, when is it on our agenda to address the
2 issue you were talking about? I know we've
3 talked about this a few times.

4 COMMISSIONER MCHUGH: Is it this
5 Thursday?

6 CHAIRMAN CROSBY: It's coming up
7 this Thursday?

8 MR. ZIEMBA: I believe it's March 6.

9 COMMISSIONER MCHUGH: It's either
10 this Thursday or the next meeting. It's soon.

11 CHAIRMAN CROSBY: We don't have one
12 on the 26th, I don't think.

13 COMMISSIONER MCHUGH: The sixth.

14 CHAIRMAN CROSBY: So, it's on the
15 schedule. Okay, good. Thank you all. We got
16 to item two on our agenda. Item 3 which is the
17 Hanover Theater impacted live entertainment
18 venue.

19 MR. ZIEMBA: Mr. Chairman we still
20 an ILEV question.

21

22 (Commissioner Stebbins rejoins the
23 Commission meeting)

24

1 CHAIRMAN CROSBY: Yes, that's what I
2 was saying, wasn't it? Commissioner Stebbins
3 has rejoined us. Director Griffin.

4 MS. GRIFFIN: Welcome back.
5 Chairman Crosby, Commissioners, I was expecting
6 to review ILEV petitions from two venues, but
7 we received some good news over the weekend
8 that the Majestic Theater and MGM have come to
9 an agreement. So, today we are reviewing the
10 petition from Eastern States Exposition in West
11 Springfield relative to MGM.

12 So, on January 28 we had a chance to
13 hear from Eugene Cassidy, President and CEO of
14 ESE and Mike Mathis and his team from MGM. And
15 in that meeting, we heard information from both
16 sides. We also have the ILEV petition and the
17 applicant response and additional information
18 that was supplied to us.

19 And you have that information in
20 front of you. Today you will decide whether to
21 accept or deny the petition based on the
22 following conditions and considerations in the
23 statute. The conditions that were set in the
24 statute are is the venue a not-for-profit or

1 municipally owned organization. And the
2 Commissioners will review the type of
3 performance offered, the proximity to the
4 gaming establishment, the venue capacity and
5 the potential negative impacts including the
6 applicant geographic exclusivity clause if
7 there is one.

8 So, if you would turn to the ILEV
9 petition analysis relative to Eastern States
10 and MGM Springfield. I should actually -- I
11 know Lyle Hall was introduced earlier from HLT.
12 And HLT has provided some excellent analysis
13 relative to this petition as well. On page
14 three of the analysis, we reviewed the venue's
15 ownership and by agreement of all parties,
16 Eastern States Exposition is a nonprofit with a
17 federal public charity designation of 501(C)3.

18 On page four, we reviewed the
19 proximity. And by agreement of all parties
20 Eastern States Exposition is situated on
21 approximately 175 acres across the Connecticut
22 River in West Springfield, about 1.9 miles away
23 from MGM Springfield.

24 On page five, we reviewed the venue

1 capacity and the types of performances offered
2 by the venue. Here we looked at the fact that
3 MGM Springfield is not building its own
4 ticketed entertainment venue, but instead has
5 agreements with existing venues.

6 Agreement in place with the Mass.
7 Convention Center Authority obliges MGM to
8 underwrite a minimum of four events each year
9 at the MassMutual Center including a variety of
10 marketing, promotional, co-promoting, booking
11 and scheduling activities.

12 The host community agreement with
13 the city of Springfield obliges MGM to
14 underwrite a minimum of three events each at
15 Symphony Hall in CityStage each year.

16 Eastern State's Xfinity Arena and
17 the Coliseum offer 6500 and 6000 seats
18 respectively while the MassMutual Center has
19 8000 seats. The MassMutual Center is capable
20 of staging and has historically staged events
21 that are similar to events at the Xfinity and
22 the Coliseum.

23 And I'm going to actually turn it
24 over at this point to Lyle Hall to also talk

1 about some of the nuances with these different
2 venues.

3 MR. HALL: Thank you, Director
4 Griffin. I'm back again. As Director Griffin
5 mentions we were engaged to consider the
6 applicability of ESE, if I can use the acronym,
7 as an ILEV. ESE's contention is that the MGM
8 support of the MassMutual Center in addition to
9 Symphony Hall and CityStage will create a
10 situation where ESE will be harmed given the
11 potential competition for entertainment and
12 other types of events going through those
13 buildings.

14 ESE has submitted a fairly wide
15 ranging petition and prepared an economic
16 impact study that spoke not only to ESE, the
17 Big-E event and the balance of the other
18 buildings and activities that occur on that
19 site. And I think here it's important to
20 understand that ESE is a complex, a relatively
21 large organization and as Director Griffin has
22 mentioned includes not only the 17-day fair but
23 a number of event venues onsite both the
24 Coliseum and Xfinity Arena as well as a number

1 of trade and consumer show buildings and the
2 Storrowton historic village.

3 I think where we went from here was
4 to try to understand the relationship of ESE
5 and taking it back to the definition of what an
6 ILEV was. And if you'll bear with me, I just
7 wanted to read out the sentence that Director
8 Griffin touched on.

9 And that is that an ILEV is defined
10 as a not-for-profit or municipally owned
11 performance venue designed in whole or in part
12 for the presentation of live concerts, comedy
13 and theatrical performances. And then goes on
14 to talk about which the Commission might
15 determine could experience a negative impact.
16 So, our focus was on that definition of live
17 concert, comedy and theatrical performances.

18 We asked through the Commission ESE
19 to provide an event list for 2013 and 2014.
20 And we've reviewed the list. Obviously, the
21 '14 list is scheduled events. They have not
22 occurred yet. And we also took into account
23 ESE CEO Gene Cassidy's comment at the January
24 Commission meeting about the Big-E event

1 accounting for some 82 percent of total ESE
2 revenue, the 17 days of the fair.

3 Taking that into account, our
4 determination is that ESE itself does not
5 qualify as an ILEV. But if you look at the
6 three test points on what constitutes an ILEV,
7 proximity, capacity and similarity of
8 performances, there are two buildings on the
9 ESE grounds that could qualify as an ILEV.
10 Those would be the Xfinity Arena, which is a
11 seasonally operated building and the Coliseum.

12 Clearly, they do qualify as an ILEV
13 from the proximity and capacity point of view.
14 However, putting aside the Big-E Fair for a
15 moment, we do not believe that they qualify for
16 the third test, which is similarity of
17 performances. As the preponderance of events
18 that occur on this site and in those two
19 buildings are not live concerts, comedy or
20 theatrical performances.

21 We note that MGM in its petition
22 references an agreement that they had been
23 looking to work with ESE on ensuring that they
24 do not compete with ESE on booking events

1 through the 17-day fair.

2 That is not in the application
3 itself. It is in the petition. We think if
4 that was in turn in the agreement or in the
5 license that would give ESE significant
6 protection over that period. We might go on to
7 suggest that protection be granted for a period
8 of time before and after the event in order for
9 significant protection.

10 But our conclusion is that ESE does
11 not qualify as an ILEV. And we would suggest
12 that the Commission consider some way of making
13 sure that the commitments that MGM has made in
14 discussions with ESE are somehow attached to or
15 looked at as part of the license itself.

16 CHAIRMAN CROSBY: Anybody else,
17 questions?

18 COMMISSIONER STEBBINS: Can you
19 quickly re-clarify? You did not think they fit
20 the ILEV definition because of similarity of
21 performances. Can you just go back over that?

22 MR. HALL: The three tests as I
23 understand it, Commissioner, are that to be
24 considered an ILEV is that the venue has to be

1 proximate to the casino. It has to have
2 similar capacity as the casino. And it has to
3 have a history of programming that would be
4 similar to what the casino would be programming
5 in its event.

6 The majority of events that are
7 programmed outside of the Big-E Fair at ESE are
8 equine, agricultural, animal and like related
9 events that are probably most likely not what
10 MGM is considering programming in the
11 MassMutual Center or Symphony Hall.

12 COMMISSIONER STEBBINS: Okay.

13 CHAIRMAN CROSBY: You said a
14 preponderance. What does that mean? How many
15 are there that would be competitive or would be
16 of similar type?

17 MR. HALL: The only event that we
18 saw that might fall under the category of live
19 concerts, comedy and theatrical performances
20 were the circus. My reading on the circus
21 would be that that is a family-oriented event.
22 It's probably not what a casino operator would
23 be looking to try and attract to a building
24 they were operating.

1 CHAIRMAN CROSBY: So, in 2013 and
2 '14, there was only one event that you thought
3 looked like it qualified outside of the Big-E
4 itself.

5 MR. HALL: Yes.

6 CHAIRMAN CROSBY: That's more than a
7 preponderance. Okay.

8 COMMISSIONER ZUNIGA: But during the
9 Big-E period, the 17 days of the fair, there
10 are a number of theatrical performances.

11 MR. HALL: There are commercial
12 entertainment events that would fall under that
13 category. And that's my comment about MGM
14 saying in its rebuttal to the petition and in
15 an agreement they had been trying to work out
16 with ESE that they would have a standstill
17 arrangement of some sort where they wouldn't
18 compete with the Big-E Fair for those types of
19 fans.

20 In my view, that agreement needs to
21 extend beyond just the run of the fair because
22 you if got an exclusivity period, any kind of
23 traveling entertainer, you're probably going to
24 want a period of at least 30 days before and

1 after the event to give a significant buffer
2 from the ticket sale point of view.

3 COMMISSIONER CAMERON: So, I think
4 your recommendation is that they do not qualify
5 but you would like us to ensure -- They've
6 already agreed to -- They understand the
7 importance anyway and plan to enter into a
8 broader agreement. But you would like us to
9 ensure that it goes even longer than that 30
10 plus and 30 after; is that accurate?

11 MR. HALL: Two parts, Commissioner.
12 They've not so much agreed as they've offered
13 to ESE. They have not agreed. It is not a
14 part of their application. So, I think you
15 need to deal with that.

16 Secondly, yes, I think the period on
17 which they are not competing should be extended
18 before and after the run of Big E event.

19 CHAIRMAN CROSBY: But if they do
20 compete in those two venues during the 17 days
21 of the Big-E as well as a month or so on either
22 side, why do they not meet the criteria? You
23 said they do not meet the third criteria
24 because it's not similar except for the Big-E

1 period. Why does that take them out of the
2 qualification?

3 MR. HALL: It's a question of who is
4 qualifying. ESE has not done those types of
5 events outside of that period. So, unless they
6 change their programming pattern going forward.

7 CHAIRMAN CROSBY: But they do do
8 those types of events during that period.

9 MR. HALL: Yes.

10 CHAIRMAN CROSBY: So, why are you
11 excepting that period? There's nothing that
12 says it has got to be all year long, it has to
13 have similar events all year long. It just
14 says it has to have similar events.

15 MR. HALL: Right. My assumption,
16 perhaps I'm wrong in reading the law, is that
17 intention is to prevent negative impacts on
18 what's currently been happening. If you were
19 to allow ESE to say we are now going to program
20 those buildings entirely differently than we've
21 been doing it for the last number of years and
22 claim that we are negatively impacted that's a
23 forward-looking --

24 CHAIRMAN CROSBY: No, no. Maybe I'm

1 missing something here. But you're looking and
2 saying they don't qualify because of not
3 meeting the third criteria except during the
4 17-day period. Maybe you actually think it
5 should be more than a 17-day period.

6 Why does that not mean they qualify?
7 Why wouldn't you read that and say yes, they do
8 meet the criteria because at least during the
9 17-day period if not more, they do have similar
10 events?

11 MR. HALL: I guess we could say the
12 same thing that they qualify as an ILEV for
13 that two-week period out of the 52-week year.

14 CHAIRMAN CROSBY: It's an on-off
15 switch as Commissioner McHugh said. You're
16 either an ILEV or you're not an ILEV. There's
17 been nothing about timing. Either you meet
18 those criteria or you don't meet those
19 criteria.

20 Again, I'm not sure I am
21 interpreting this right. You're saying there
22 actually is a potential impact. And although
23 you don't think they qualify as an ILEV, we
24 probably ought to use our authority, if we can

1 find some such authority to put ILEV type
2 protections into their agreement if we award a
3 license to them. That's a roundabout way of
4 saying they are an ILEV. Why don't we just
5 call them an ILEV?

6 COMMISSIONER ZUNIGA: I think on
7 that note, we should look at the other piece
8 here, which is that MGM is offering support of
9 another venue that is to their benefit. It is
10 also is a state owned property. They are not
11 building an arena as they have argued. And
12 that their promise of that support is what
13 generates this. They have promised to do it
14 outside of the concentrated period that really
15 concerns the Big-E.

16 So, in the abstract, your argument
17 is a good one but I think it needs to be put
18 into a context of what is giving genesis to
19 this concern, which is the support of another
20 venue.

21 CHAIRMAN CROSBY: Are you saying
22 that's different from then if it were their own
23 venue?

24 COMMISSIONER ZUNIGA: I think so.

1 There's an argument to be made in reading the
2 statute relative to the impact of live
3 entertainment is because there this preclusion
4 from building venues under 1000 and above 3000
5 or 3500 seats -- 3500 that the intent was that
6 there was not going to be a venue at the site,
7 at the casino that would be directly impacting
8 these other venues.

9 I believe this is a great example of
10 what constitutes a positive impact. MGM's
11 proposal of underwriting acts across the street
12 is to their benefit, but they are clearly doing
13 it in conjunction with these other three
14 organizations. So long as they don't do it at
15 the same times during the Big-E that would be,
16 in my opinion, a really good outcome.

17 COMMISSIONER MCHUGH: I was --
18 Trouble is too strong a word. But I was
19 interested in the same point. They're not
20 building their own facility. Do we now know
21 why they entered into agreements with
22 MassMutual and the other venues? Was that part
23 of the host community agreement?

24 MR. HALL: Yes, they were.

1 COMMISSIONER MCHUGH: So, they don't
2 build their own performance venue. They enter
3 into agreements with these others because of
4 the host community agreement. They voluntarily
5 enter into the agreements with two others, the
6 concert venue, Symphony Hall and the other
7 one --

8 COMMISSIONER ZUNIGA: CityStage.

9 COMMISSIONER MCHUGH: -- CityStage,
10 and they thereby create the potential for an
11 adverse impact on ESE's facility that wouldn't
12 be present if they just set up their casino and
13 didn't build an entertainment venue.

14 COMMISSIONER ZUNIGA: That's right.

15 COMMISSIONER MCHUGH: So, by
16 providing a positive benefit to some regional
17 ILEVs, they have created the potential for a
18 negative impact on another one.

19 COMMISSIONER ZUNIGA: Right.

20 COMMISSIONER MCHUGH: So, they're
21 hoist by their own petard.

22 MR. HALL: But I think this comes,
23 Commissioner, if I could and this goes back to
24 the Chairman's comment. Again, going back to

1 the definition of an ILEV being a building for
2 live concerts, comedy or theatrical
3 performances, which the Commission determines
4 experience or is likely to experience a
5 negative impact from the development or
6 operation of a gaming establishment.

7 The only way there's a negative
8 impact here is if ESE changes its historical
9 programming to do something different.

10 CHAIRMAN CROSBY: Except for the 17
11 days.

12 MR. HALL: Except from the run of
13 the fair, yes.

14 COMMISSIONER CAMERON: Which they've
15 already said they'd make a commitment not to
16 book during that timeframe.

17 MR. HALL: Right. One could argue
18 they're an ILEV for 17 days and not for 340 or
19 50, whatever that works out to.

20 CHAIRMAN CROSBY: That's my point.

21 COMMISSIONER MCHUGH: One could also
22 approach this from a different standpoint,
23 couldn't one, and say if MGM firmly commits to
24 doing what it says it will do on pages 10 and

1 11, which is not have any radius restrictions
2 on any acts, do cross marketing and promotion
3 and will block book entertainment acts in
4 collaboration with other venues and will not --
5 will sort of go into hibernation during the 16
6 days of the fair. What else could it to,
7 reasonably be expected to do and say that if it
8 commits to doing those things in an enforceable
9 way then we don't have to make the decision as
10 to whether the ESE is an ILEV.

11 CHAIRMAN CROSBY: Well, Lyle said
12 that he would add something like a 30-day
13 window on either side of the 17 days.

14 COMMISSIONER MCHUGH: Yes.

15 MR. HALL: I would agree. I think
16 that would be the additional piece I would add
17 is that's it's not just competing during the
18 fair. If you're selling tickets to an
19 entertainment event, the purchase process for
20 that starts before the 17 days. So, you want
21 to make sure you're not competing with ESE's
22 entertainment runs through the event. Probably
23 a longer period before than after, maybe 45
24 days before and 30 days after, but a

1 significant buffer.

2 MS. GRIFFIN: There's one other
3 matter in ESE's response to MGM's response or
4 opposition. They raise a problem in the draft
5 marketing agreement, the draft agreement.
6 There is a clause that in the event that MGM
7 fails to include a radius restrictions
8 exemption, ESE shall have no remedy.

9 Let me read it. In the event that
10 MGM fails to include such radius restriction
11 exemption in any contract or otherwise
12 inadvertently prohibits a performance in
13 violation of this paragraph, MGM shall grant a
14 waiver to such visiting performer or show at
15 the written request of ESE. ESE shall not be
16 entitled to any other remedy for breach of this
17 section 2.2.

18 So, they are concerned that there's
19 no teeth to the agreement. And this is a draft
20 agreement that has not been agreed upon between
21 the two parties, I should add.

22 COMMISSIONER MCHUGH: But I don't
23 understand what their concern is there because
24 if on request -- aviolation of the agreement

1 they put a radius restriction in there, because
2 it's part of boilerplate, and ESE says wait a
3 minute, you've got a radius -- they approach
4 the same performer and say we want you to play.
5 And the performer says I can't do it because
6 there's radius restrictions. And they go to
7 MGM and say, hey, you've got a radius
8 restriction there. And MGM says, oh, that was
9 mistake. We'll will take it out insofar as
10 you're concerned. How are they harmed? I
11 don't see how they can complain that there's no
12 teeth in it.

13 CHAIRMAN CROSBY: They wouldn't
14 necessarily know. If you sort of assume bad
15 faith then you could put them in there and just
16 put pressure -- people don't even bring them
17 up.

18 They're in there. Everybody knows
19 but nobody says anything about it. Only if
20 the act says I can't come because there's a
21 radius clause here. That's the only time Big-E
22 would have an opportunity to cure.

23 COMMISSIONER MCHUGH: And you have
24 to presume bad faith there. And if you're

1 going to presume bad faith then that result can
2 be reached even without a radius clause. MGM
3 when they go to the performer can say we'll
4 book you here at an exorbitant sum, but you
5 have to agree under the table that you are not
6 going to perform within a 90-mile radius of
7 anyplace here. And just tell people you're
8 booked.

9 CHAIRMAN CROSBY: Right. But your
10 question was isn't the remedy that's in place
11 enough? And for that problem, it wouldn't be.
12 You'd want some ability to penalize in order to
13 force good behavior.

14 COMMISSIONER MCHUGH: Yes. I get
15 your point and you're right. I wonder as much
16 as we need to decide this today, it seems to me
17 that the range of disagreement here is so small
18 in all likelihood that I wonder if it isn't
19 worthwhile having had this discussion to give
20 these folks another week to talk about it
21 before making a decision.

22 CHAIRMAN CROSBY: This is not a
23 rhetorical question, what is the difference
24 between that and determining that they are an

1 ILEV so that they must now talk?

2 COMMISSIONER MCHUGH: Well, if it's
3 said and done by agreement that we don't get
4 into a downward spiral that leads to
5 arbitration and doesn't break things out. They
6 both have something to lose here one way or the
7 other, however we go on this ultimately.

8 And if they have another week to say
9 we may lose, we may not lose, they both have
10 something to lose. They may be able to reach
11 an agreement because it seems to me the
12 rational people would say they are so close
13 together. Once we've declared them to be an
14 ILEV, The Sword of Damocles has fallen, one way
15 or the other, and positions harden, can harden
16 and it's not unusual for them to do it and
17 you're into someplace where it's harder to
18 reach an agreement.

19 CHAIRMAN CROSBY: Does anybody else
20 have thoughts about this?

21 COMMISSIONER ZUNIGA: I am fine with
22 another week. I guess the way I was thinking
23 about this was fundamentally MGM could very
24 easily withdraw its support or have not entered

1 into its support with the other venues. I'm
2 not suggesting that they would but this is just
3 emanating from their larger plan, which is this
4 revitalization of downtown. I know that may
5 not be relevant to the topic exactly at this
6 very minute.

7 COMMISSIONER CAMERON: I think it is
8 relevant. I think it is relevant. In many
9 ways they are helping themselves, but they help
10 others at the same time. And I think to
11 presume bad faith is not helpful in this
12 situation. I would hope too with another week
13 they could come to an agreement on their own.

14 CHAIRMAN CROSBY: I don't
15 particularly feel strongly about it, but what's
16 the difference if we just got through doing
17 with Longmeadow. We pretty much previewed the
18 way we thought on Longmeadow. We had our
19 consultants. And we could have said rather
20 than force the process, Longmeadow and the
21 applicant had had an opportunity to see where
22 we are going, to define the issues. Let's give
23 them another week and save them the trouble.

24 COMMISSIONER CAMERON: We had

1 recommendations from consultants that there was
2 an impact that there was additional
3 information. I don't believe we have that
4 here.

5 COMMISSIONER MCHUGH: I agree with
6 Commissioner Cameron. In addition, I think the
7 issues in the Longmeadow case are much more
8 complex.

9 I frankly don't understand why these
10 people haven't come to an agreement. It seems
11 to me the essence of the agreement is here. As
12 a rational -- I don't want to say irrational,
13 but I just think the essence of an agreement is
14 here. And the dynamic will change time
15 dramatically regardless of which we rule. And
16 they both have something to gain, a lot to gain
17 by reaching an agreement, and it seems to me a
18 simple agreement to reach. They both have a
19 lot to lose potentially depending on how we
20 rule ultimately. So, it's a much simpler deal.

21 COMMISSIONER ZUNIGA: So, perhaps to
22 state the obvious, the Commission at this point
23 is divided as to how we would rule. And that
24 should also give both applicants and

1 petitioners a strong incentive to go back to
2 it.

3 MS. GRIFFIN: Commissioners, can I
4 just add that between January 28 and today, it
5 appears that the petitioner and the applicant
6 did not meet or didn't have substantive
7 discussions. And I wouldn't put it on any one
8 party, but if you are coming to a decision that
9 they will have one more week maybe there could
10 be a requirement that they get together.

11 CHAIRMAN CROSBY: Is certainly is
12 implicit. If they don't draw that conclusion -
13 - We have meetings all next week. So, we could
14 stick this into an agenda item. So, there's no
15 problem with another meeting. I assume a week
16 isn't going to bump us. If worse case happens,
17 an added week isn't going to bump us past May
18 31, right? So, we could have another week.

19 MR. ZIEMBA: Mr. Chairman, regarding
20 the Region A deferral that potentially could
21 put us past the date.

22 CHAIRMAN CROSBY: Past May 31, yike.

23 MR. ZIEMBA: Yes.

24 CHAIRMAN CROSBY: So, do we need a

1 vote for this? Or can we just sort of have a
2 consensus to say -- I'm fine with waiting if
3 everybody wants to wait. Is anybody from Big-E
4 here? Sorry. Sorry I didn't recognize you.

5 I guess everybody gets the gist.
6 And you sort of see what we are thinking and
7 hopefully a week will be an opportunity to
8 resolve this to everybody's satisfaction.
9 Okay, thank you.

10 COMMISSIONER MCHUGH: Thank you all.

11 CHAIRMAN CROSBY: Now we get to item
12 number three. Does anybody want another break?
13 Are we all right to finish up here?

14 COMMISSIONER MCHUGH: What is item
15 number three?

16 CHAIRMAN CROSBY: The Hanover
17 Theatre ILEV.

18 COMMISSIONER ZUNIGA: I thought that
19 was resolved.

20 CHAIRMAN CROSBY: Is that resolved
21 now?

22 COMMISSIONER CAMERON: Yes.

23 MR. GROSSMAN: This will take just a
24 second, if I may. This petition is the

1 opposite of the ones you've heard. We are
2 asking by mutual agreement of the parties that
3 the Hanover Theatre be undesignated as an ILEV.

4 The parties have entered into a
5 cooperation agreement. Actually, the agreement
6 is between Cordish and the Massachusetts
7 Performing Arts Coalition not between Cordish
8 and the Hanover Theatre.

9 So, we'll call it a misunderstanding
10 that led to the designation. And the parties
11 both agree that the Hanover Theatre should be
12 undesignated relative to the Cordish
13 application.

14 COMMISSIONER STEBBINS: Attorney
15 Grossman, wasn't there information in our
16 packets about Hanover challenging or seeking
17 other designation from MGM?

18 MR. GROSSMAN: This is Category 2.
19 This is a different application. They may be.
20 I'm not sure what is going on with MGM
21 application.

22 MS. GRIFFIN: Right. So, that is a
23 separate matter. And this is back to the
24 Category 2 slots parlor designation from some

1 time ago.

2 CHAIRMAN CROSBY: Is Hanover in
3 debate about whether it's an ILEV for Region B?

4 MS. GRIFFIN: No, I believe they
5 waived their ILEV petition. And we have it
6 right here. So, writing to you today to report
7 that with respect to one such petition on
8 behalf of the Hanover Theatre in connection
9 with Blue Tarp Redevelopment, the Coalition has
10 successfully negotiated and executed a live
11 entertainment cooperation agreement with MGM.
12 And the copy is attached here. That's a
13 separate matter from this one.

14 CHAIRMAN CROSBY: So, they are set
15 for now as far as we know.

16 COMMISSIONER MCHUGH: They're
17 basically doing everything through the
18 Coalition.

19 MR. GROSSMAN: Yes, which is not in
20 and of itself a venue of course. It represents
21 venues.

22 COMMISSIONER MCHUGH: It's a
23 representative, right.

24 COMMISSIONER STEBBINS: So, I guess

1 you need a simple motion to undesignate Hanover
2 Theatre?

3 CHAIRMAN CROSBY: Do we have the
4 authority to undesignate?

5 COMMISSIONER STEBBINS: Apparently,
6 we do.

7 CHAIRMAN CROSBY: Under that broad
8 authority in Chapter 23A, do we have a motion?

9 COMMISSIONER STEBBINS: I move that
10 the Commission per the request -- Is the
11 request coming from the Coalition?

12 MR. GROSSMAN: And the applicant.

13 COMMISSIONER STEBBINS: -- per the
14 request of PPE and the Massachusetts Performing
15 Arts Coalition that the Commission undesignate
16 or de-designate the Hanover Theatre in
17 Worcester as an impacted live entertainment
18 venue.

19 CHAIRMAN CROSBY: Second?

20 COMMISSIONER MCHUGH: Second.

21 CHAIRMAN CROSBY: Further
22 discussion? All in favor, aye.

23 COMMISSIONER MCHUGH: Aye.

24 COMMISSIONER CAMERON: Aye.

1 COMMISSIONER ZUNIGA: Aye.

2 COMMISSIONER STEBBINS: Aye.

3 CHAIRMAN CROSBY: Opposed? The ayes
4 have it unanimously.

5 COMMISSIONER MCHUGH: That's a broad
6 new power. I hadn't thought about it. It may
7 have uses elsewhere to undesignate.

8 CHAIRMAN CROSBY: No telling what we
9 might undesignate. Do we have a motion to
10 adjourn?

11 COMMISSIONER ZUNIGA: So moved.

12 CHAIRMAN CROSBY: Second?

13 COMMISSIONER CAMERON: Second.

14 CHAIRMAN CROSBY: All right, we are
15 adjourned. Thank you, everybody.

16

17 (Meeting adjourned at 12:20 p.m.)

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1 ATTACHMENTS:

- 2 1. Massachusetts Gaming Commission February
3 18, 2014 Notice of Meeting and Agenda
- 4 2. Majestic Theater January 3, 2014
5 Memorandum Regarding Request for ILEV
6 Designation
- 7 3. Eastern States Exposition January 3, 2014
8 Memorandum Regarding Request for ILEV
9 Designation
- 10 4. HLT Advisory February 11, 2014 Report
11 Regarding Request for ILEV Status by
12 Eastern States Exposition
- 13 5. HLT Advisory February 11, 2014 Report
14 Regarding Request for ILEV Status by
15 Majestic Theater
- 16 6. Massachusetts Gaming Commission ILEV
17 Petition Analysis Eastern States
18 Exposition
- 19 7. Massachusetts Gaming Commission ILEV
20 Petition Analysis The Majestic Theater
- 21 8. Massachusetts Gaming Commission
22 Surrounding Community Petition Analysis
23 Town of Hampden

24

1 9. Massachusetts Gaming Commission
2 Surrounding Community Petition Analysis
3 Town of Longmeadow

4 10. Massachusetts Gaming Commission
5 Surrounding Community Petition Analysis
6 City of Northampton

7
8 GUEST SPEAKERS:

9 Lyle Hall, HLT Advisory

10 Rick Moore, City Point Partners

11 Lynne D. Sweet, LDS Consulting Group

12
13
14 MASSACHUSETTS GAMING COMMISSION STAFF:

15 Jill Griffin, Director Workforce, Supplier and
16 Diversity Development

17 Todd Grossman, Deputy General Counsel

18 Mark Vander Linden, Director of Research and
19 Problem Gambling

20 John Ziemba, Ombudsman

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22
23
24

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 19th day of February, 2014.

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