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THE COMMONWEALTH OF MASSACHUSETTS  
MASSACHUSETTS GAMING COMMISSION  
PUBLIC MEETING #187

CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

Gayle Cameron

Lloyd Macdonald

Bruce W. Stebbins

Enrique Zuniga

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April 25, 2016 1:00 p.m.- 1:58 p.m.

MASSACHUSETTS GAMING COMMISSION

101 Federal Street, 12th Floor

Boston, Massachusetts

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

CHAIRMAN CROSBY: We are calling to order the 187th meeting of the Massachusetts Gaming Commission at our offices at 101 Federal Street. It is now about one o'clock.

We will start as usual with approval of the minutes, Commissioner Macdonald.

COMMISSIONER MACDONALD: Yes. I move that the minutes of the March 22, March 24 and March 29; is that right?

CHAIRMAN CROSBY: No.

COMMISSIONER MACDONALD: I'm sorry I'm on the wrong -- Yes, the minutes of the meeting April 14, 2016 be approved subject to any corrections, typographical errors or other nonmaterial matters.

CHAIRMAN CROSBY: Second?

COMMISSIONER CAMERON: Second.

CHAIRMAN CROSBY: Conversation? All in favor, aye.

COMMISSIONER MACDONALD: Aye.

COMMISSIONER CAMERON: Aye.

COMMISSIONER ZUNIGA: Aye.

1                   COMMISSIONER STEBBINS: Aye.

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

4                   Next is administrative update with  
5 Executive Director Bedrosian.

6                   MR. BEDROSIAN: Good afternoon,  
7 members of the Commission. You will see I am  
8 seated over on the other side today. That  
9 recognizes the significance of what will be  
10 happening with item 4(a) and the role that Mr.  
11 Ziembra and General Counsel Blue will play. Mr.  
12 Moore, to my right, will shift to my seat. And  
13 I will go to the back and attend the meeting  
14 from behind.

15                   This is obviously busy week for the  
16 Commission. In addition to today's hearing, we  
17 have deliberations on Region C down at the  
18 Shaw's Center in Brockton scheduled for  
19 tomorrow, Wednesday and Thursday and back here  
20 on Friday if necessary. I will just tell you  
21 staff is working very diligently on preparing  
22 all of the materials for the Commission. And  
23 we intend to be ready.

24                   I would also I just have one

1 suggestion, Mr. Chair, on item number 4, the  
2 legal division. You may want to consider doing  
3 items (b) and (c) which are relatively quick  
4 before getting to item (a) which is the Wynn 61  
5 decision.

6 CHAIRMAN CROSBY: Yes. Anything  
7 else? Okay. So, we will do that since 4(a) is  
8 the big item. 4(b), Commissioner Zuniga I  
9 believe you have the paperwork.

10 COMMISSIONER ZUNIGA: Yes. I do  
11 have a motion to read into the record relative  
12 to the promulgation of 205 CMR 116, persons  
13 required to be licensed or qualified and its  
14 associated amended small business impact  
15 statement. And later I'll be doing that  
16 separately for 205 CMR 134, the licensing and  
17 registration of employees, vendors, junket  
18 enterprises and representatives, and labor  
19 organizations.

20 If I can just briefly touch base  
21 with our General Counsel. These are in final  
22 form, if I'm not mistaken?

23 MS. BLUE: Yes. These regulations  
24 have gone through the process. We've had the

1 public hearing. The only piece we have left is  
2 to file them for final promulgation along with  
3 the amended small business impact statement.

4 So, they have come before you. We  
5 have received comments. We've made, I believe,  
6 no changes since the last time they were before  
7 you. We did hold our public hearing. And we  
8 did not get any comments at the public hearing  
9 on them. So, they are ready to go through to  
10 be finally promulgated.

11 COMMISSIONER ZUNIGA: All right.  
12 So, if there is no further questions or  
13 comments, I would move that the Commission  
14 approve the amended small business impact  
15 statement and final version of 205 CMR 116 as  
16 included here in the packet; and authorize  
17 staff to take all steps necessary to file the  
18 regulation with the Secretary of the  
19 Commonwealth and complete the regulation  
20 promulgation process.

21 CHAIRMAN CROSBY: Second?

22 COMMISSIONER STEBBINS: Second.

23 CHAIRMAN CROSBY: Any discussion?

24 All in favor, aye.

1 COMMISSIONER MACDONALD: Aye.

2 COMMISSIONER CAMERON: Aye.

3 COMMISSIONER ZUNIGA: Aye.

4 COMMISSIONER STEBBINS: Aye.

5 CHAIRMAN CROSBY: Opposed? The ayes  
6 have it unanimously.

7 COMMISSIONER ZUNIGA: Similarly, the  
8 second set of regulations in the packet are 205  
9 CMR 134, certain licensing regulations, and I  
10 believe they're in the same status at the final  
11 promulgation stage.

12 MS. BLUE: They are.

13 COMMISSIONER ZUNIGA: We've had the  
14 hearing. And we've discussed them before --

15 MS. BLUE: That's correct.

16 COMMISSIONER ZUNIGA: -- and are  
17 ready for final promulgation.

18 So, I would move that the Commission  
19 approve the amended small business impact  
20 statement and final version of 205 CMR 134 as  
21 included in the packet and authorize staff to  
22 take all steps necessary to file the regulation  
23 with the Secretary of the Commonwealth and  
24 complete the regulation promulgation process.

1                   COMMISSIONER CAMERON:    Second.

2                   CHAIRMAN CROSBY:   Discussion?   All  
3   in favor, aye.

4                   COMMISSIONER MACDONALD:   Aye.

5                   COMMISSIONER CAMERON:    Aye.

6                   COMMISSIONER ZUNIGA:    Aye.

7                   COMMISSIONER STEBBINS:   Aye.

8                   CHAIRMAN CROSBY:    Opposed?   The ayes  
9   have it unanimously.

10                   Okay.   We will move onto 4(a), the  
11   Wynn Section 61 decision.   As has been in the  
12   past, since neither Commissioner Macdonald nor  
13   I participated in the original vote in the  
14   original decision-making on Region A, he and I  
15   will not participate in this topic.   And as  
16   I've done in the past, I'm going to ask  
17   Commissioner Zuniga to conduct this portion of  
18   the meeting.

19                   COMMISSIONER ZUNIGA:    Thank you, Mr.  
20   Chairman.   I'm first going to turn it over to  
21   General Counsel Blue to perhaps give us an  
22   update on the changes since we last talked  
23   about these and the process since we last saw  
24   this document and let the Commissioners ask

1 questions that we have.

2 MS. BLUE: Thank you, Commissioner  
3 Zuniga. Mr. Ziemba will have some overall  
4 remarks. But I just wanted to say that today  
5 we are bringing before you the final version of  
6 the draft Section 61s for the Wynn project.  
7 You will have in your packet a redline copy and  
8 also a clean copy.

9 These are the product of a great  
10 deal of thought and work by our consultants and  
11 by Mr. Ziemba to try to get into this final  
12 form what the mitigation that's required under  
13 MEPA and how that should be addressed.

14 So, I appreciate all the work that  
15 folks have put into this. And we have taken  
16 our time to get there, but we think we've  
17 gotten all of the issues addressed and  
18 appropriately for the project. So, I'll let  
19 Mr. Ziemba make some remarks. We have our  
20 consultants here to answer any questions. And  
21 obviously, Mr. Ziemba and I can answer  
22 questions as well.

23 MR. ZIEMBA: Thank you, Catherine.  
24 Commissioners, as you are aware, on August 28,



1 2015 the Secretary of Energy and Environmental  
2 Affairs determined that Wynn's second  
3 supplemental final environmental impact report  
4 adequately and properly complied with MEPA.

5 In the certificate issued by the  
6 Secretary, the Secretary required enhanced  
7 public review during the development of Section  
8 61 Findings by both the Massachusetts  
9 Department of Transportation and by the Gaming  
10 Commission. Included within the mandated  
11 enhanced review were the publication of draft  
12 Section 61 Findings by MassDOT for public  
13 review and comment, and a 15-day comment  
14 period. MassDOT was also required to have a  
15 public hearing on the draft findings.

16 Following the hearing, the  
17 certificate states that MassDOT will publish  
18 its final Section 61 Findings. MassDOT has  
19 since done so.

20 The Secretary also required an  
21 enhanced process by the Commission. Pursuant  
22 to the certificate, MGC's issuance of Section  
23 61 Findings, we were required to consider and  
24 revise as appropriate its draft Section 61

1 Findings included in the SSFEIR. The MGC  
2 Section 61 Findings shall include or include by  
3 reference the MassDOT Section 61 Findings. We  
4 are including those.

5 Consultant hired by the MGC will  
6 make a public presentation at MGC meeting and  
7 provide recommendations regarding additional  
8 conditions that could be added to the draft  
9 Section 61 Findings. We have already had a  
10 presentation. We'll have further presentation  
11 about additional conditions that could be added  
12 today.

13 MGC will solicit written comments in  
14 the draft Section 61 Findings and will hold a  
15 public hearing. We have done both of those in  
16 the recent past.

17 The draft Section 61 Findings and  
18 the consultant reports will be posted on the  
19 MGC website. We did that. We also published  
20 them in the Monitor. We also submitted copies  
21 of our comments -- excuse me copies of the  
22 comments of the draft for comment to those that  
23 had interacted with the process.

24 Then compliance with the Section 61

1 Findings and the conditions of the gaming  
2 license will be part of a regular quarterly  
3 review conducted by the MGC. That will occur  
4 after the Commission approves the Section 61  
5 Findings.

6 One thing I'll note is that the  
7 certificate also required the establishment of  
8 a long-term planning group to review both  
9 transportation and development concerns in the  
10 region. That pursuant to the certificate, the  
11 establishment of the regional working group was  
12 designed to proceed on a separate and distinct  
13 track and will also include significant  
14 opportunities for consultation, public review  
15 and comment.

16 That is underway. That group has  
17 met quite a number of times. And they are in  
18 the process of developing their plan for public  
19 comment as they develop their final plans.  
20 Notably that group includes MassDOT, MAPC,  
21 CTPS, the cities of Boston, Everett, Somerville  
22 and Wynn is also an observer. The Gaming  
23 Commission is also an observer. Also  
24 Congressman Capuano's office and the Executive

1 Office of Housing and Economic Development --  
2 and how could I miss that one, I'm sorry, and  
3 the Attorney General's office, thank you  
4 Catherine, a very important one.

5 Rick Moore of City Point Partners  
6 will provide a brief highlight of some of the  
7 changes that have been made since the initial  
8 MassDOT Section 61 Findings, the draft and will  
9 address some of the concerns that have been  
10 raised as part of our process and how we have  
11 addressed those.

12 Before Rick begins his presentation,  
13 I just wanted to note, highlight one provision  
14 that's included in this latest draft for your  
15 consideration.

16 If you turn to page 57 of your draft  
17 -- I'll let you turn to that. So, if you take  
18 a look at page 57 of the draft, the draft  
19 states that Wynn at the very bottom before the  
20 beginning of the footnotes, it states that Wynn  
21 shall use its best efforts to work with the  
22 MBTA, MassDOT and DCR on any future plans to  
23 create mass transit opportunities that serve  
24 the gaming establishment including without

1 limitation working with the MBTA, MassDOT, DCR  
2 on right-of-way issues. Wynn shall consider  
3 making a reasonable contribution as may be  
4 determined by the Commission to the cost of the  
5 implementation of such mass transit  
6 opportunities.

7           Indeed, there will be quite a bit of  
8 discussion of mass transit opportunities as  
9 part of the regional working group. We think  
10 that this provision included in these draft  
11 Section 61 Findings reflects the true spirit of  
12 policy debate that will go on in that regional  
13 working group. But we also do note that this  
14 sentence is also included within the overall  
15 context of what the Secretary required as part  
16 of the certificate.

17           The Secretary required that the  
18 enhanced public review process that I just  
19 mentioned. And the secretary also required as  
20 a separate track the long-term working group  
21 process to take a look at issues within the  
22 region both transportation and economic  
23 development issues.

24           So, in keeping with that, we have

1 required that Wynn make a consideration of mass  
2 transit opportunities that would flow from the  
3 working group. And many of these ideas have  
4 been around for quite some time. Some are new,  
5 but at the end of the process some of these  
6 opportunities could provide a substantial  
7 improvement to the Wynn property. And we think  
8 this is a proper request.

9           We also do note that in the prior 56  
10 pages of this document that is consistent with  
11 the mitigation that Wynn is required to make  
12 pursuant to Section 61 to mitigate its impact.  
13 Some of the long-term planning opportunities  
14 could improve the area, improve transit  
15 opportunities and improve transportation  
16 opportunities, but the prior -- basically the  
17 prior 56 pages are designed to mitigate the  
18 impact of the Wynn facility.

19           As we know there have been  
20 significant, significant review at the MEPA  
21 level at MassDOT. MassDOT, just as I  
22 mentioned, issued its Section 61 Findings, and  
23 today we'll consider further findings.

24           One other thing I will mention

1 before I turn it over to Rick is that these  
2 findings should be placed in the context of the  
3 significant mitigation that is required of all  
4 licensees and specifically Wynn. They've  
5 entered into surrounding community agreements  
6 with many communities.

7           And then in tandem with that, the  
8 Commission obviously has the authority to  
9 administer further funding as part of the  
10 community mitigation fund program. There will  
11 be significant dollars, over \$11 million based  
12 on projections from the Wynn licensee each year  
13 to try to adjust future impacts that may result  
14 from this facility.

15           So, in tandem between the Section 61  
16 Findings, the consideration of any further  
17 opportunities as part of the regional working  
18 group, the surrounding community agreements,  
19 the community mitigation fund, we think that  
20 there is very significant mitigation that is  
21 being put forward by the Wynn licensee and by  
22 the Commission.

23           In addition, the Commission also has  
24 the ability and has retained the ability

1 through its draft Section 61s and the items  
2 included in this agreement -- in this Section  
3 61 Findings to require further mitigation of  
4 the Wynn licensee under a number of different  
5 circumstances such as if the traffic and  
6 transportation projections that we have all  
7 taken a look at do not come to bear.

8           If the situation is worse than  
9 expected and there's provisions included in the  
10 Boston surrounding community agreement that  
11 provide a specific threshold to how that should  
12 be monitored, the Commission has retained the  
13 ability through its own regulations to review,  
14 monitor and make changes to mitigation  
15 requirements by Wynn in the event that -- And  
16 hopefully, it won't come to pass. -- that the  
17 situation is any worse than projected in terms  
18 of traffic or other circumstances.

19           Rather a long winded beginning, but  
20 let me transfer this over to Rick Moore and  
21 Frank Tramontozzi.

22           COMMISSIONER ZUNIGA: If it's okay  
23 Mr. Tramontozzi and Mr. Moore, I do want  
24 emphasize and maybe have a question on a couple



1 of points you made and maybe they'll touch on a  
2 little later.

3 But perhaps for the record, we  
4 conducted this enhanced review, this enhanced  
5 process which included a public hearing 20 days  
6 or so ago, a little bit over two weeks. We had  
7 public comment before and all the way through  
8 was it last week?

9 MS. BLUE: Through the 19th.

10 COMMISSIONER ZUNIGA: Through the  
11 19th. I know Chairman Crosby makes a point of  
12 highlighting this, so, I will make it now. The  
13 Commissioners all go through all of those  
14 public comments. The staff of course goes  
15 through them. We received a lot of comments in  
16 this case, very thoughtful many of them. And a  
17 lot of that has been taken into account as we  
18 get into this review.

19 Will Mr. Moore be getting into our  
20 ability to require further mitigation or is  
21 that something we can later come back and --

22 MR. ZIEMBA: Why don't we perhaps  
23 have Rick's presentation, talk a little bit  
24 about monitoring, TDM measures and the like.

1 And then we can answer any questions.

2 MR. MOORE: Thank you, John,  
3 Commissioners. Frank Tramontozzi, as John  
4 mentioned, is with me this afternoon.

5 Let me just go back a little  
6 historically to bring you along in this full  
7 Section 61 Finding.

8 In the MEPA process, as a result of  
9 the final MEPA process there is a draft Section  
10 61 Finding issued by the Secretary. So, that's  
11 sort of the first touchstone.

12 Then that is looked at by each of  
13 the agencies. MassDOT looked at it. They  
14 modified it slightly. And they've issued their  
15 final Section 61 Finding, which as John said is  
16 now officially submitted. And that has been  
17 compared to your draft Section 61 Finding to  
18 make sure there's consistency and there's no  
19 inconsistency in the two.

20 From the MEPA draft Section 61  
21 Finding to the draft that you saw several weeks  
22 ago, there were two additions that were made  
23 that we talked about at the previous meeting.  
24 One was the lighting plan for Charlestown. And

1 the second one was an additional location in  
2 Somerville that was added to the monitoring  
3 plan. That was at Broadway and Lombardi Way.  
4 That was to deal with any potential unforeseen  
5 issues of backup traffic from Sullivan Square  
6 into Somerville. And it was raised in the  
7 Somerville comments. Those have not changed.  
8 They are still in the current document.

9           The document you are looking at now  
10 has one additional change in the monitoring  
11 program. That adds the Williams Street and  
12 Chestnut Street intersection in Chelsea. That  
13 was raised by the city of Chelsea to address  
14 the potential issue of cut through, primarily  
15 taxi type cut through from the airport to the  
16 casino. And that intersection would be along  
17 that cut through route. So, it'll be  
18 monitored. And if indeed that's an issue,  
19 there'll be the ability to address it.

20           In addition to that based on the  
21 comment letters that came in, there were three  
22 what I would call clarifications in the  
23 document. The first clarification had to do  
24 again with traffic monitoring and how it's

1 done. The Attorney General raised some issues  
2 about clarity and exactly how that monitoring  
3 plan would be undertaken.

4 So, there has been some  
5 clarification language added that indicates  
6 that the traffic should be counted at the peak  
7 hour on Friday afternoon and Saturday. Those  
8 are the times when the traffic will be counted  
9 and compared.

10 And then the comparison that  
11 triggers any relooking at the intersection was  
12 identified in the city of Boston surrounding  
13 community agreement and is further iterated in  
14 your agreement which identifies thresholds of  
15 10 percent over the projected traffic from the  
16 project that would trigger a relook, and over  
17 80 percent of the traffic that goes through  
18 Sullivan Square.

19 And I think without getting into the  
20 exact nomenclature, the language in there  
21 attempts to clarify those issues. So, that  
22 when the traffic monitoring is done, it will be  
23 clear. And when you compare what you get in  
24 several years once the casino opens with what

1 they projected, you'll have a good basis of  
2 comparison.

3           The second clarification deals with  
4 the water transportation. There was some  
5 discussion or some implication that the water  
6 transportation effort by Wynn was going to be  
7 decreased below what was in the supplemental  
8 final draft EIR. That is not the case.

9           The language in the supplemental  
10 draft EIR, which was approved and in the  
11 Section 61 Finding is in your Section 61  
12 Finding. There will be three boats that  
13 operate at about 10-minute headways during the  
14 peak hour to deal with that estimate of taking  
15 approximately six percent of the total traffic  
16 by boat to the casino. So, that language has  
17 been expanded and clarified in the Section 61  
18 Finding.

19           And then the last clarification has  
20 to do with highway safety audits. At all of  
21 these intersections that require improvements,  
22 MassDOT requires that highway safety audits be  
23 done. These are fairly detailed analysis of  
24 safety issues. And the recommendations are

1 generally put into categories of low, medium  
2 and high, if you will.

3           Typically, the low and medium  
4 improvements which are typically related to  
5 lane striping, signage, signal timing should be  
6 included in any of the design plans for those  
7 intersections. It makes sense. It's standard  
8 procedure for MassDOT.

9           And the clarification in your  
10 document really acknowledges the fact that  
11 these highway safety audits have already been  
12 done. They were submitted by Wynn on March 10.  
13 The document acknowledges that and identifies  
14 the level of improvements that need to be  
15 incorporated into the plans for these  
16 intersections. Again, it's more of a language  
17 clarification change. There is no fundamental  
18 change in the philosophy of the mitigation.

19           Now those changes deal with what  
20 John referred to, the first 56 pages of the  
21 document, which in total mitigate the impact  
22 from Wynn. And I believe it's the last two or  
23 three pages of the document that deals with the  
24 so-called long-term plan, which is separate

1 from, as identified by two secretaries, from  
2 the Section 61 Finding and the mitigation for  
3 Wynn.

4           And there are two conditions that  
5 John mentioned I'd just like to reiterate that  
6 are in that piece that deal with the long-term  
7 plan and how Wynn is to interact with the long-  
8 term plan.

9           Keep in mind as we talked several  
10 weeks ago, the long-term plan is being managed  
11 by DOT and it's got in 18-month horizon to look  
12 at regional issues with a focus on Sullivan  
13 Square.

14           The city of Boston in parallel to  
15 that process is coming up with a 25 percent  
16 design for Sullivan Square. The immediate  
17 improvements to Sullivan Square that will go  
18 beyond Wynn's mitigation and actually piggyback  
19 on Wynn's mitigation to deal with the whole  
20 Square issue.

21           That 25 percent design should be  
22 done well before the DOT study is done. So,  
23 the solution there whatever that solution may  
24 be, will be funneled into the long-term plan

1 and analyzed as the various other regional  
2 issues, whether they are transit or other  
3 roadway intersections in the area, whether it  
4 be a Wellington Square or whatever transit  
5 issue.

6           So, to some degree, the city of  
7 Boston -- Not to some degree, the city of  
8 Boston will determine what the long-term plan  
9 is for Sullivan Square. And the language in  
10 the Section 61 Finding although it refers to  
11 the long-term regional plan says that the  
12 Commission has the ability to reopen the  
13 Section 61 Findings if they feel that the long-  
14 term plan -- if they feel Wynn is not  
15 contributing their fair share to the long-term  
16 plan.

17           Now the language further goes onto  
18 talk about in and around Sullivan Square, and I  
19 would interpret that as to be essentially the  
20 plan that's coming out of the city of Boston.  
21 That would be the solution to Sullivan Square.

22           And when I would advise you to apply  
23 the fair share issue, it would be to that long-  
24 term plan that comes out of the city of Boston



1 that will fold into the regional plan. But the  
2 point here is that the Commission does have the  
3 ability in the Section 61 Finding to reopen the  
4 Sullivan Square mitigation.

5 And keep in mind that mitigation is  
6 about \$11 dollars now for the short-term plan  
7 and about \$25 million for the long-term plan.  
8 And then there's several other pots of money  
9 that could be contributed to Sullivan Square.  
10 All of that is part of Wynn's fair share.

11 If for some reason along the way  
12 based on Boston's decisions at Sullivan Square  
13 or potentially the regional planning decisions  
14 at Sullivan Square, if you feel that those  
15 monies are not equal to Wynn's fair share, you  
16 have the ability to reopen the hearing. That's  
17 the first point.

18 COMMISSIONER CAMERON: Can I ask you  
19 a question?

20 MR. MOORE: Yes.

21 COMMISSIONER CAMERON: We talk about  
22 proportionate or fair share. We haven't talked  
23 about a determining factor. Could you  
24 elaborate on that?

1                   MR. MOORE: Good question. What is  
2 fair share? I think from a transportation  
3 point of view, one way to look at it and the  
4 way we've looked at it in the past is the  
5 percent of traffic that Wynn is putting through  
6 Sullivan Square in relationship to the other  
7 traffic that's in Sullivan Square.

8                   And if you'll recall, we've talked  
9 about this before, on a Friday afternoon Wynn  
10 puts about eight percent of the traffic in  
11 Sullivan Square. On a Saturday afternoon it's  
12 about 19 percent. In the morning peak hour,  
13 it's minimal.

14                  So, the question is one of those  
15 numbers is operative or some combination of  
16 those numbers gives you a sense of what their  
17 fair share is.

18                  And then presumably you would  
19 compare that \$11 million, \$25 million plus any  
20 other monies that go from the city of Boston or  
21 the Commission or DOT that gets money from  
22 Wynn, any of that money that goes to the  
23 Sullivan Square would be attributable to their  
24 fair share. And then you have to make judgment

1 as to whether that is a fair share.

2 COMMISSIONER CAMERON: Thank you.

3 MR. MOORE: The next piece of the  
4 long-term plan cooperation by Wynn deals a  
5 little bit broader than just Sullivan Square.  
6 It says that Wynn will cooperate with  
7 recommendations and particularly related to any  
8 right-of-way issues that may come up in terms  
9 of particularly transit corridors that may come  
10 up in the planning process in and around the  
11 casino, any stop, new stops for instance on the  
12 transit line that goes right by the casino and  
13 that they would cooperate if there was a plan  
14 that required right-of-way acquisition that  
15 Wynn would cooperate obviously and particularly  
16 if it's on their property.

17 The second one has to do with  
18 cooperating with mass transit. It gets a  
19 little bit beyond the actual roadway  
20 improvements and the car issues on Sullivan  
21 Square and deals with the broader transit  
22 issues. And they would consider contributing  
23 to any transit mitigation that might help them  
24 that the Commission identifies as an

1 improvement that would help Wynn and suggest to  
2 Wynn that this is something that they should  
3 consider.

4           So, there's sort of a two barrel  
5 requirement of Wynn. One is the fair share of  
6 the Sullivan Square improvements, as I see it.  
7 And the second one is the cooperation with the  
8 more regional issues, most of which will  
9 probably deal with transit oriented  
10 development.

11           COMMISSIONER ZUNIGA: On that second  
12 point, Rick, you are alluding to transit  
13 possibilities as was John earlier. Let's say  
14 there was a stop in Everett, an additional stop  
15 in Everett on the commuter line that goes by  
16 the property, like Everett has wanted it for  
17 years, I suppose. That would have some  
18 beneficial effect to Wynn for all intents and  
19 purposes. And that gives -- That starts this  
20 notion of be considered for future additional  
21 mitigation.

22           MR. MOORE: Absolutely. That is a  
23 perfect example.

24           COMMISSIONER ZUNIGA: Okay.

1                   COMMISSIONER STEBBINS: Rick, we had  
2 a number of those kind of transit related  
3 suggestions provided to us in some of the  
4 commentary. I think Mr. Salvucci weighed in on  
5 some of the transit components being part of an  
6 urban ring plan. Is the urban ring plan being  
7 folded into the long-term working group's  
8 discussions, considerations?

9                   MR. MOORE: Yes. The long-term  
10 working group will look at -- There's been  
11 very, very, many alternative urban ring plans.

12                   The current urban ring plan which  
13 the DOT is carrying, although it is not funded  
14 and it is not on their list of projects, the  
15 one that they have sort of keep going doesn't  
16 go near the casino. It goes through Wellington  
17 Circle.

18                   But there've been other options to  
19 consider certain types of transit along that  
20 rail line that the Commissioner just mentioned.  
21 And it's my understanding that the DOT working  
22 group will not be confined by any prescribed  
23 previous plan. They'll look at whatever good  
24 ideas come along. And they may or may not

1 involve the Wynn site.

2 COMMISSIONER STEBBINS: Okay.

3 COMMISSIONER CAMERON: Rick, I know  
4 rapid bus transit was another. Could you just  
5 elaborate a little bit on some of these mass  
6 transit ideas or pieces of this that maybe part  
7 of this?

8 MR. MOORE: The urban ring has been  
9 around, as John said, for many decades. The  
10 idea is to start at Logan Airport and basically  
11 do a ring around Boston through Chelsea,  
12 through Somerville, through Cambridge into the  
13 Longwood Medical Center and all the way back to  
14 Logan.

15 And the idea is to have -- I guess  
16 the current idea is to have buses that travel  
17 on various different modes of transportation or  
18 light rail that travel on very different modes  
19 of transportation.

20 In some cases they're on a rail. In  
21 some cases, they're on a rail right-of-way on a  
22 road. In some cases, they're on a separate bus  
23 -- dedicated bus lane on a road which just the  
24 bus travels. And in some particularly

1 challenging places, the buses may actually go  
2 out into normal traffic and use the normal  
3 roadway. And it changes because of so many  
4 issues, as you can imagine, through that  
5 congested area whether you have right-of-way,  
6 all of those issues.

7           And this has been a project that's  
8 been on the books for many years. DOT still  
9 has it on the books. It is not in their  
10 current list of projects and funded, but they  
11 view it as a long-term benefit.

12           And in fact, the first link of that  
13 from Logan into Chelsea is underway. So, this  
14 is not completely pie-in-the-sky stuff, but  
15 it's very, very challenging given the right-of-  
16 way issues that are available.

17           COMMISSIONER ZUNIGA: Can I ask a  
18 question on the 25 percent design process here  
19 in parallel with the long-term working group?  
20 Ballpark, what is that date for the 25 percent  
21 design, just give me an idea.

22           MR. MOORE: I would think nine  
23 months but I am not taking that from the city  
24 of Boston.

1                   COMMISSIONER ZUNIGA: It's your  
2 date.

3                   MR. MOORE: But keep in mind that  
4 there'll have to be a number of public  
5 hearings. It's not like they are just taking  
6 the preferred plan and moving it to 25 percent.  
7 They're going back and doing some re-analysis.  
8 So, it will take some significant public  
9 interaction to build a consensus on a long-term  
10 plan.

11                   COMMISSIONER ZUNIGA: Yes, I guess  
12 that was going to be part of my second  
13 question. They are looking at a number of  
14 alternatives, correct? And all of that has to  
15 be vetted through the public process.

16                   MR. MOORE: Right.

17                   COMMISSIONER ZUNIGA: But it's fair  
18 to say that that will be done prior to the end  
19 of the regional working group because that has  
20 a timeline of about 17 months. Is that a fair  
21 statement?

22                   MR. MOORE: Yes, that is the  
23 profound hope.

24                   COMMISSIONER ZUNIGA: Okay, good.



1                   MR. MOORE: My comments are done.  
2                   So, I'll answer any questions, any other  
3                   questions.

4                   COMMISSIONER ZUNIGA: We jumped in  
5                   all the matters. Additional questions from  
6                   Commissioners for Mr. Moore?

7                   COMMISSIONER STEBBINS: I just had  
8                   one and I don't know if you can get to it. The  
9                   question about the boat traffic, I think the  
10                  new language says at least three. So, if Wynn  
11                  chose at some point, they could find a way to  
12                  move more boats in and out to help ferry people  
13                  over to the site that's a possibility, but it's  
14                  no less than three, correct?

15                  MR. MOORE: That's correct.

16                  COMMISSIONER ZUNIGA: I did have a  
17                  couple of questions. I think we alluded to  
18                  them already in the presentations. But maybe  
19                  for the record, and for my benefit, it might be  
20                  good to emphasize them.

21                  We received a letter from the city  
22                  of Somerville as part of this process, which  
23                  said that the panel of three arbitrators had  
24                  reached a favorable decision to Mr. Wynn -- to

1 the licensee but there was a dissenting  
2 arbitrator that raised a number of issues that  
3 according to the city have already come to  
4 fruition.

5 If anybody could speak to those when  
6 and how they have come to fruition and whether  
7 they have been addressed in this draft.

8 MR. ZIEMBA: Sure. We took another  
9 look after the comments we received from  
10 Somerville, we took another look at the  
11 arbitration proceedings what was put forward  
12 and a look at those intersections. And I'll  
13 let Rick go into that.

14 MR. MOORE: Somerville, their expert  
15 was I believe the planning director from the  
16 city of Somerville who spoke about a report  
17 that was done by MIT. The report was never  
18 submitted. So, nobody has ever seen the  
19 report. Presumably, it was done but it's not  
20 on the record.

21 Further, the report presumably  
22 indicated that there was an impact from the  
23 project on certain intersections in Somerville.  
24 I believe there were nine intersections that

1 were identified. And that's not surprising  
2 because that's exactly what Wynn said that if  
3 you just built the casino and did no mitigation  
4 there would obviously be impacts on  
5 intersections in the city of Somerville.

6           What MIT did not go and do is look  
7 at the impacts if you built all of the  
8 mitigation that Wynn is proposing. Of course,  
9 Wynn did that and suggested that there would  
10 not be any impacts. Further Wynn showed the  
11 number of vehicles that were going through a  
12 number of these intersections. And it was on  
13 the face of it de minimis traffic at these  
14 intersections, except for three which were, by  
15 the way, included in the MEPA document and  
16 analyzed fully through the process.

17           So, in our interpretation of the  
18 traffic, there is really no substantive  
19 information. In fact, quite the contrary,  
20 there was a great deal of information that  
21 suggested that these intersections had no  
22 impact from the casino. And if they did have  
23 some minor impact, they were mitigated.

24           Nevertheless, it appeared that the

1 one intersection we talked about which might  
2 have some back flow from Sullivan Square, we  
3 did add that to the monitoring plan.

4 So, we could not find really any  
5 credible evidence to support their contention  
6 that there was any traffic impact.

7 COMMISSIONER ZUNIGA: And that  
8 intersection is the -- I wrote down the Chelsea  
9 intersection. That was discussed the last time  
10 you were before us that additional intersection  
11 in the city of Somerville.

12 MR. MOORE: The intersection in  
13 Somerville is the Broadway/Lombardi  
14 intersection.

15 COMMISSIONER ZUNIGA: Yes. Did we  
16 discuss it last time?

17 MR. MOORE: Right, yes.

18 COMMISSIONER ZUNIGA: And it's now  
19 included in the draft findings.

20 MR. MOORE: It was actually in your  
21 draft the last time.

22 COMMISSIONER ZUNIGA: Just the  
23 comment from the city came after that but never  
24 mind.

1                   You also included the  
2 Williams/Chestnut intersection which is this  
3 potential cut through from people or taxis  
4 let's say from Logan Airport to the site. The  
5 language in the document says if there's a  
6 significant increase that we would look at it.  
7 Can that be measured? The word significant  
8 appears a bit of a judgment call.

9                   MR. MOORE: I think it was left that  
10 way because we are not talking about total  
11 traffic necessarily. We're talking more about  
12 a piece of the traffic.

13                   And I think when you look at the  
14 monitoring plan and then you look at the  
15 operation of the intersection, I think at that  
16 point it will be a judgment call that the  
17 traffic experts and the Commission can make and  
18 determine what is significant, rather than  
19 prescribing a number that may not be  
20 appropriate at the moment.

21                   I also believe Chelsea is looking at  
22 that entire corridor and is doing an evaluation  
23 of the entire corridor. So, there will be  
24 quite a bit of information focused on that

1 corridor in the next couple of years.

2 COMMISSIONER ZUNIGA: Okay. Any  
3 other questions for Mr. Moore?

4 COMMISSIONER CAMERON: Just kind of  
5 looking at this in totality. Obviously, you've  
6 looked at all of the comments as we have.  
7 You've incorporated those that you think are  
8 appropriate into the changes here. It sounds,  
9 although you didn't say it from your  
10 recommendation that it's your expert opinion  
11 that these changes will in fact mitigate all of  
12 the -- obviously, all of Wynn's issues and  
13 looking to the future with the working group  
14 are appropriate for that working group as well?

15 MR. MOORE: Yes. I have rarely seen  
16 a mitigation package as thorough and as  
17 extensive as this for a project like this. I  
18 think this is a very commendable job that the  
19 Commission is doing. And the mitigation is  
20 certainly appropriate and in many cases exceeds  
21 the so-called minimum standard that MEPA would  
22 require. So, I would recommend that you  
23 approve the Section 61 Findings.

24 COMMISSIONER STEBBINS: Rick, just

1 one other question. We had various comments.  
2 The leading comments that came in from the  
3 abutting neighbors in Charlestown have to do  
4 with lighting. And we've had constant  
5 communications about how tall the facility is  
6 going to be.

7           As I understated it, the height of  
8 the facility is not something that is  
9 referenced in Section 61 Findings. And the  
10 lighting plan is a local approval. It's not  
11 the approval of a state body or this  
12 Commission. I would expect our friends at Wynn  
13 are sharing that illumination plan, as much  
14 information as you can get out of an  
15 illumination plan with the folks in  
16 Charlestown.

17           My assumptions on the height and the  
18 local control over the illumination plan are  
19 those correct?

20           MR. MOORE: Yes. And the height  
21 issue is really -- typically, it's a zoning  
22 issue. And the Chapter 91 license is a de  
23 facto zoning process. And that's where the  
24 height issue is fully explored and dealt with,

1 height, shadow and wind primarily and lot  
2 coverage. So, those are typically zoning  
3 issues.

4 COMMISSIONER ZUNIGA: I was going to  
5 ask this question later, but since you  
6 mentioned Chapter 91, I'll ask it now. If we  
7 proceed with our favorable vote towards  
8 finalizing this Section 61 Findings, the  
9 licensee has the ability to do what? Of course  
10 with the background of the Chapter 91 appeal by  
11 the city of Somerville that is a separate  
12 permit.

13 MR. MOORE: If you recall, the  
14 Chapter 91 license jurisdiction is related to  
15 the water. And the jurisdictional line cuts  
16 right through the middle of the Wynn site. So,  
17 it actually doesn't cover the entire site.

18 So, technically Wynn even under the  
19 appeal while it's still under appeal could work  
20 outside the jurisdiction of the Chapter 91  
21 license. That's the half of the site that's  
22 farthest away from the river, obviously.

23 Practically speaking from a  
24 construction point of view that doesn't make a



1 great deal of sense, but certainly they could  
2 do some work that's outside that jurisdiction  
3 at risk of the outcome of the Chapter 91  
4 appeal.

5 COMMISSIONER ZUNIGA: Okay. So they  
6 would --

7 CHAIRMAN CROSBY: Just purely for  
8 informational purposes because this won't  
9 matter going forward. Is there a setback from  
10 the water? Is that what determines the line or  
11 how is that line determined?

12 MR. MOORE: It's based on a  
13 historical high tide location. So, you look  
14 back at old aerial photographs, old maps from  
15 the Revolution and you draw the old high tide.  
16 Typically, around Boston, most of it has been  
17 filled. So, the high tide line surprisingly  
18 can be quite a distance from the current  
19 bulkhead or current shoreline.

20 CHAIRMAN CROSBY: Okay.

21 MR. MOORE: So, it's a little  
22 history lesson of the site to come up with the  
23 line.

24 CHAIRMAN CROSBY: So, that's how it

1 gets in. I couldn't figure out how it gets so  
2 far into the land. So, whatever the high tide  
3 mark was "originally" whenever that was? What  
4 about before the glaciers came in?

5 MR. MOORE: I think we're dealing in  
6 hundreds of years and not in tens of thousands  
7 of years but good point.

8 CHAIRMAN CROSBY: Thank you.

9 COMMISSIONER ZUNIGA: So, the  
10 licensee would be -- it would be up to them  
11 really for all intents and purposes to proceed  
12 subject to that constraint of that Chapter 91  
13 permit?

14 MR. MOORE: Yes. I think they want  
15 to talk to the city of Everett and you folks.  
16 But yes they should be able to do work. For  
17 example, the access road, the service road that  
18 is outside Chapter 91 jurisdiction.

19 COMMISSIONER ZUNIGA: And I  
20 understand that there is some utility work.  
21 There's utility work in that access road that  
22 might be really good to do right away.

23 MR. MOORE: Exactly, exactly.

24 COMMISSIONER ZUNIGA: Thank you, Mr.

1 Moore and Mr. Tramontozzi. Any additional  
2 comments or questions for anybody here? If  
3 there are none, I have a motion. I have two  
4 motions actually. I will just explain them and  
5 then read them into the record.

6 We will vote to adopt the Section 61  
7 Findings as previously discussed here. But we  
8 also will be voting later or soon after to take  
9 the final agency action on the Region A as part  
10 of our Category 1 gaming license which is why  
11 we've divided this into two votes.

12 I will read them into the record and  
13 ask for a roll vote soon after. I move that  
14 the Massachusetts Gaming Commission find  
15 pursuant to Chapter 30 Section 61 and 301 CMR  
16 11.12(5) that all feasible measures have been  
17 taken to avoid or minimize impacts to the  
18 environment of Wynn MA LLC's Everett Project  
19 for the reasons stated in the proposed Section  
20 61 Findings that are attached here in the  
21 packet.

22 I further move that the  
23 Massachusetts Gaming Commission adopt the  
24 proposed Section 61 Findings regarding the

1 project pursuant to the Massachusetts  
2 Environmental Policy Act, MEPA, Chapter 30  
3 Sections 61-621, Chapter 23K Section 15(12) and  
4 301 CMR 11.12 as well as to 205 CMR 120.02 in  
5 the form attached hereto.

6 I further move that the Commission  
7 authorize Commissioners Cameron, Zuniga and  
8 Stebbins to execute the Section 61 Findings in  
9 the form attached here in the packet. And  
10 lastly move to authorize the Commission's  
11 General Counsel to take all necessary  
12 procedural actions to effectuate the Findings  
13 in accordance with the Environmental Policy  
14 Act, the Gaming Act and the regulations  
15 implementing each statute. Is there a second?

16 COMMISSIONER CAMERON: Second.

17 COMMISSIONER ZUNIGA: Any further  
18 discussion?

19 COMMISSIONER CAMERON: I would just  
20 like to say for the record that anyone here  
21 voting, I have worked extensively with Mr.  
22 Moore and Mr. Tramontozzi with all matters of  
23 mitigation. And really have asked a lot of  
24 tough questions, really come to understand

1 their expertise. And I really do have faith in  
2 the analysis they've done.

3 They are very, very thorough. They  
4 are very familiar with numerous projects  
5 throughout the Commonwealth and the kinds of  
6 work that was done by those projects.

7 So, I am just stating for the record  
8 that I think that they served us well with  
9 their advice and will continue to do so. This  
10 is an example of that work.

11 COMMISSIONER ZUNIGA: Yes, it sure  
12 is. Not only our consultants, our staff,  
13 General Counsel Blue, John Ziemba, others,  
14 Anderson and Kreiger our outside counsel and  
15 frankly Wynn. The people from Wynn have done a  
16 lot of work relative to getting ready to this  
17 point.

18 It is not easy to get to this point  
19 from their perspective as it is not necessarily  
20 for us either. But there's been a lot of work  
21 that has happened in the last months really,  
22 couple of years if you count when you started.  
23 And this is really a testament to that work.

24 Like Mr. Moore, I have not seen a

1 project with this kind of mitigation before,  
2 not in the Commonwealth and my limited  
3 construction experience not anywhere else. It  
4 is really a remarkable set of mitigation.

5 There's a second. All those in  
6 favor, I'm going to roll call, Commissioner  
7 Stebbins.

8 COMMISSIONER STEBBINS: Yes.

9 COMMISSIONER ZUNIGA: Commissioner  
10 Cameron?

11 COMMISSIONER CAMERON: Aye.

12 COMMISSIONER ZUNIGA: And  
13 Commissioner Zuniga votes aye. The ayes have  
14 it unanimously.

15 There is a second vote that I will  
16 read also into the record. This vote is to  
17 take final agency action on the Region A  
18 Category 1 gaming license.

19 Whereas the Massachusetts Gaming  
20 Commission has found that Chapter 30 Section 61  
21 and 301 CMR 11.12(5) that all feasible measures  
22 have been taken to avoid or minimize impacts to  
23 the environment of Wynn MA LLC's Everett  
24 project. The Executive Office of Energy and

1 Environmental Affairs number 15060, for the  
2 reasons stated in the approved Commission's  
3 Section 61 Findings regarding the project  
4 attached hereto; whereas pursuant to 205 CMR  
5 120.02(1) and following the Secretary of Energy  
6 and Environmental Affairs' certificate  
7 determining that the second supplemental final  
8 environmental impact report, SSFEIR, is  
9 adequate pursuant to MGL Chapter 30 sections 61  
10 through 62H and 301 CMR 11 and after 60 days  
11 have elapsed following publication of notice of  
12 the availability of the SSFEIR in the  
13 Environmental Monitor in accordance with 301  
14 CMR 11.12(4)(a) and 11.15(2), the Commission  
15 shall and hereby does reconsider the  
16 conditional license and shall either affirm,  
17 limit, condition, restrict, revoke, suspend or  
18 modify the conditional license in the  
19 discretion of the Commission.

20 Now therefore I move that the  
21 Massachusetts Gaming Commission take the  
22 following final agency action regarding the  
23 Category 1 gaming license for Region A: (1)  
24 Grant to Wynn MA LLC the Region A Category 1

1 gaming license for the Project pursuant to  
2 General Laws Chapter 23K and the Commission's  
3 regulation including 205 CMR 120.02(1) subject  
4 to all of the terms and conditions stated in  
5 Exhibit 2 to the conditional agreement to award  
6 the Category 1 license in Region A to Wynn MA  
7 LLC dated September 17, 2014 and the  
8 Commission's motion and vote dated November 6,  
9 2014 that was meeting number 138, transcript  
10 page 51 as amended by the Commission's motion  
11 and vote dated February 4, 2016 that was  
12 meeting number 178, transcript pages 30 and 31  
13 as further modified and amended by the terms  
14 and conditions, mitigation measures and other  
15 requirements identified in the Commission's  
16 Section 61 Findings for the Project;

17 (2) Incorporate by reference  
18 pursuant to 301 CMR 11.12(5)(b) and 205 CMR  
19 120(1), the Commission's Section 61 Findings  
20 into Wynn MA LLC license for the Project and  
21 require as a condition of the license that Wynn  
22 MA LLC comply with the terms, conditions,  
23 mitigation measures and other requirements  
24 identified in the Commission's Section 61



1 Findings;

2 And finally (3) require as a  
3 condition of the license a regular quarterly  
4 review by the Commission of compliance with the  
5 Commission's Section 61 Findings and the terms  
6 and conditions of the license.

7 You can see why I needed to read  
8 that.

9 COMMISSIONER STEBBINS: I'll second.

10 COMMISSIONER ZUNIGA: There's been a  
11 motion and a second. Any discussion? All  
12 those in favor, Commissioner Stebbins?

13 COMMISSIONER STEBBINS: Aye.

14 COMMISSIONER ZUNIGA: Commissioner  
15 Cameron?

16 COMMISSIONER CAMERON: Aye.

17 COMMISSIONER ZUNIGA: Commissioner  
18 Zuniga votes aye. The ayes have it  
19 unanimously. Thank you very much. Thank you  
20 very much.

21 COMMISSIONER STEBBINS: Thanks Rick,  
22 thanks Frank.

23 CHAIRMAN CROSBY: Thank you  
24 Commissioner on section 4(a). Congratulations

1 to our licensees. Thank you for all your hard  
2 work everybody. Is there any other business  
3 that was not anticipated from anybody? Do I  
4 have a motion to adjourn?

5 COMMISSIONER CAMERON: So moved.

6 COMMISSIONER ZUNIGA: Second.

7 CHAIRMAN CROSBY: All in favor, aye.

8 COMMISSIONER MACDONALD: Aye.

9 COMMISSIONER CAMERON: Aye.

10 COMMISSIONER ZUNIGA: Aye.

11 COMMISSIONER STEBBINS: Aye.

12 CHAIRMAN CROSBY: The ayes have it  
13 unanimously. We are adjourned.

14

15 (Meeting adjourned at 1:58 p.m.)

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1 ATTACHMENTS:

- 2 1. Massachusetts Gaming Commission April  
3 25, 2016 Notice of Hearing and Agenda  
4 2. Massachusetts Gaming Commission April 14,  
5 2016 Meeting Minutes  
6 3. Massachusetts Gaming Commission Section 61  
7 Findings Issued Pursuant to M.G.L c.23K  
8 and M.G.L. c.30, §61  
9 4. 205 CMR 116  
10 5. Amended Small Business Impact Statement  
11 205 CMR 116  
12 6. 205 CMR 134  
13 7. Amended Small Business Impact Statement  
14 205 CMR 134

15

16

17

18 GUEST SPEAKERS:

19 Rick Moore, City Point Partners

20

21 MASSACHUSETTS GAMING COMMISSION STAFF:

22 Ed Bedrosian, Executive Director

23 Catherine Blue, General Counsel

24 John Ziemba, Ombudsman

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C E R T I F I C A T E

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

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

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

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

WITNESS MY HAND this 25th day of April, 2016.



LAURIE J. JORDAN  
Notary Public

My Commission expires:  
May 11, 2018