

1 THE COMMONWEALTH OF MASSACHUSETTS

2 MASSACHUSETTS GAMING COMMISSION

3
4 PUBLIC MEETING #64

5
6 CHAIRMAN

7 Stephen P. Crosby

8
9 COMMISSIONERS

10 Gayle Cameron (present via telephone)

11 James F. McHugh

12 Bruce W. Stebbins

13 Enrique Zuniga

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15
16
17 April 18, 2013, 1:25 p.m.

18 PATHFINDER REGIONAL VOCATIONAL TECHNICAL

19 HIGH SCHOOL

20 240 Sykes Street

21 Palmer, Massachusetts

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

CHAIRMAN CROSBY: My apologies for the delays. There are pros and cons of new technologies. And today we are seeing a con.

But I nevertheless, a little late, at 4:30 (SIC) want to call to order the 64th public meeting of the Massachusetts Gaming Commission. This meeting is being held at the Pathfinder Regional Vocational Technical High School.

Even with this discombobulation, I do want to start our meeting as so many others have across Massachusetts and across the country with a recognition of what happened on Monday.

I was not able to hear all of the President's speech, but I heard from Commissioner McHugh that when the President spoke at the Cathedral in Boston, he talked about how what unites the American people is not ethnicity, not race, not religion but rather values. He mentioned at least liberty, equality, fairness and justice. And that when people attack us as they did on Patriots' Day, they attacked those

1 essential values.

2 And in respect for the people who were
3 killed and injured and for respect for those
4 values, I would like to have us take a moment of
5 silence.

6
7 (A moment of silence)

8
9 CHAIRMAN CROSBY: Thank you, that was
10 the Governor not the President. That was the
11 Governor who made those remarks. Okay. We will
12 go about our business.

13 First of all, I want to announce that
14 Commissioner Gayle Cameron is participating by
15 remote because of her geographic distance from
16 here. She'll be on speakerphone. As far as we
17 know, that connection is working well.
18 Commissioner Cameron are you with us?

19 COMMISSIONER CAMERON: I am, Mr.
20 Chair. I can hear you. Thank you.

21 CHAIRMAN CROSBY: Okay, good. We
22 hope you'll get the website as well. We
23 apparently are having some difficulty with the
24 Web, both video and audio. We will communicate by

1 Tweet and everything else we can think of. For the
2 people who are hopefully watching, if people
3 contact you, tell them to stick with us. We are
4 going to try to get it up and running. In the
5 meantime, I think we owe it to everybody here to
6 get going with this meeting.

7 Before I start, we are being hosted, as
8 I said, at the Pathfinder Regional Vocational
9 Tech. And several people from Palmer and from the
10 school are here and have made this possible.
11 Charlie Blanchard, whom I know from another life,
12 the Palmer Town Manager. Charlie, are you still
13 here? Thank you very much for your repeated help.

14 Dr. Paist, the superintendent of
15 Pathfinder, I know he was here. Thank you for
16 making the school available to us. Donald Blais
17 on the Palmer Town Council is with us. Thank you
18 very much. And Phil Hebert, the Palmer Council
19 President I believe is with us as well. Thank you
20 for having us here.

21 We have a particular guest, the
22 Chairman of the Mashpee Wampanoag Tribe, Cedric
23 Cromwell is here with other representatives of the
24 Tribe. In general, this is a not an open meeting.

1 We will not be having speakers. But because of
2 Chairman Cromwell's stature as the head of a
3 sovereign nation, we asked him if he would like to
4 have an opportunity to say a few words before we
5 begin the Region C discussion out of deference to
6 his status. And I think he has said he would. So,
7 when we get to Region C, we will as Chairman
8 Cromwell. Thank you to you and your associates
9 for coming.

10 We will start with our mundane
11 business, approval of the minutes, Commissioner
12 McHugh.

13 COMMISSIONER MCHUGH: Mundane. All
14 right, Mr. Chairman.

15 CHAIRMAN CROSBY: Nothing personal.

16 COMMISSIONER MCHUGH: The March 28
17 minutes were distributed and are part of your
18 packet. There are a couple of typos that have
19 already been picked up and reported. They will be
20 changed. But I'd welcome any other comments that
21 anybody has about the content of the minutes.

22 CHAIRMAN CROSBY: Any comments?
23 Commissioner Cameron?

24 COMMISSIONER CAMERON: No comments.

1 Well done as always.

2 CHAIRMAN CROSBY: Okay.

3 COMMISSIONER MCHUGH: Thank you,
4 mundane or not. I then move that the March 28
5 minutes with the correction of the typographical
6 errors be approved as presented.

7 CHAIRMAN CROSBY: Second?

8 COMMISSIONER STEBBINS: Second.

9 CHAIRMAN CROSBY: Because of having a
10 remote member, we will have a roll call vote,
11 Commissioner Stebbins?

12 COMMISSIONER STEBBINS: Yes.

13 CHAIRMAN CROSBY: Commissioner
14 Zuniga?

15 COMMISSIONER ZUNIGA: Yes.

16 CHAIRMAN CROSBY: Commissioner
17 McHugh?

18 COMMISSIONER MCHUGH: Yes.

19 CHAIRMAN CROSBY: Commissioner
20 Cameron?

21 COMMISSIONER CAMERON: Yes.

22 CHAIRMAN CROSBY: And the Chair votes
23 yes. So, the motion passes unanimously.

24 COMMISSIONER MCHUGH: The April 4

1 minutes, Mr. Chairman, I distributed this morning.
2 They've been prepared but because I only
3 distributed them this morning, I'm not going to ask
4 for a vote today. We'll take a vote the next time
5 around.

6 CHAIRMAN CROSBY: Great, thank you.
7 Administration, do we have an update on the master
8 schedule? This is our lifeline for those of you
9 who haven't seen it before that we use to try to
10 keep us on track and understand where we're going
11 and how we're going to get there.

12 COMMISSIONER ZUNIGA: They are no
13 updates to the schedule since the last couple of
14 weeks, Mr. Chairman. The schedule is here in case
15 we need to talk about it on the remarks of Ombudsman
16 Ziemba.

17 There is still an open question
18 relative to whether surrounding communities have
19 enough time after a host community agreement to
20 negotiate a surrounding community agreement
21 assuming a notion of involuntary disbursements.
22 That's something that bears significantly in the
23 schedule. We have not made any changes because we
24 have not concluded whether that time needs to be

1 extended or the trigger we thought. There is a
2 notion of surrounding communities that I believe
3 we were going to take next week.

4 CHAIRMAN CROSBY: Right. That's on
5 the agenda. I think the Ombudsman and Director
6 Day and his staff are going to make a presentation
7 to us on those issues next week, right.

8 COMMISSIONER ZUNIGA: Right. Along
9 those lines or in the same venue there are two
10 questions in my mind that bear discussing or
11 outline today and maybe discussing next week.
12 That has to do with the evaluation report timeline
13 from the IEB.

14 That's also something we discussed in
15 the past if we need to rethink duration or trigger
16 as represented differently from this schedule.
17 Those dates are in the near future, which are
18 dependent on how those investigations conclude,
19 which is also forthcoming. Those are some dates
20 that are again in the near future. We have not
21 changed them, but we need to continue talking about
22 them.

23 CHAIRMAN CROSBY: Is that something
24 that's being looked at by the staff? Or are you

1 just bringing this up now as a new?

2 COMMISSIONER ZUNIGA: It was a
3 question relative to the last report from Director
4 Wells. And it all is contingent on whether the
5 Category 2 investigations are progressing.
6 They're currently scheduled to begin concluding,
7 if that's the right way to frame it, late April.
8 And that date is approaching. That's essentially
9 the reason I bring it up. But we haven't changed
10 any dates at this point.

11 CHAIRMAN CROSBY: Okay. Great.
12 Anything else on the schedule anybody? All right.

13 We are mandated to elect our Secretary
14 and our Treasurer every year. We are just in the
15 beginning of our second year. Commissioner
16 McHugh, I think you were going to lead this
17 conversation.

18 COMMISSIONER MCHUGH: Yes, Mr.
19 Chairman. We are required to elect a Secretary
20 and a Treasurer each year. This year in addition
21 to electing -- Commissioner Zuniga is the
22 Treasurer, was elected last year. I was elected
23 the Secretary last year.

24 This year, in addition to electing a

1 Secretary and a Treasurer, I would like to have us
2 designate an Assistant Secretary, someone who
3 could function in the absence of the Secretary.
4 Secretary is usually around, but an Assistant
5 Secretary would be helpful to have if the Secretary
6 were not. And I also would like to have us
7 consider moving to a different form for the minutes
8 that we are using.

9 We are now using a set of minutes that
10 is extensive and I hope helpful to both the
11 Commissioners and members of the public. But
12 those minutes really are redundant of the
13 transcript that we are posting and are enormously
14 time-consuming to prepare.

15 We're getting a draft from the court
16 reporters, the stenographers. We revise the
17 draft and we review the revised draft. So, there
18 is a fair amount of time that goes into preparation
19 of those minutes. At a time, sometimes when we
20 have a number of other things to do and as a
21 consequence we fall behind slightly in the
22 preparation of the minutes.

23 There really is no reason, I think,
24 because the transcript is there and the video is

1 there posted on our website to do anything other
2 than give a brief summary of various discussion
3 topics. The votes should be recorded in the
4 minutes. That's a requisite. And we ought to
5 continue to do that.

6 But the remainder, it seems to me,
7 would be aided by a reference, a simple reference
8 in the minutes to the transcript. And ultimately,
9 I suggest, although we are not prepared to do it
10 yet, that the minutes could refer to the tape in
11 the same fashion.

12 Index the tape in a way -- We've got to
13 figure out how to do this. And then have the
14 minutes refer the readers to the tape, which is the
15 best record of what was actually said.

16 The only thing that I would like us to
17 vote on today is the Secretary, the Treasurer,
18 designation of Assistant Secretary. Then if
19 there are any thoughts about changing the minute
20 form, it would be good to discuss them. If not,
21 it seems to me to we ought to go ahead and proceed
22 in that fashion beginning with the minutes for
23 April 11, as the April 4 minutes are already
24 prepared and see what it looks like and whether we

1 like it or whether we want to go back to the old
2 form.

3 CHAIRMAN CROSBY: Comments on that
4 idea?

5 COMMISSIONER ZUNIGA: Just to
6 clarify, Commissioner, the Assistant Secretary
7 you are proposing would be a staff member?

8 COMMISSIONER MCHUGH: Actually, it
9 would be our General Counsel Catherine Blue, yes.

10 CHAIRMAN CROSBY: Other comments? I
11 like the convenience of having a synthesis that's
12 there. If a good tracking system, mapping system
13 can be made then that's probably just as good. I
14 think I'd have to see it.

15 So, let's do as you've said, which is
16 try it one week or however along. It certainly is
17 convenient. If you've got a good tracking system,
18 then it could work pretty well, a good keyword
19 tracking system.

20 If not, it's hard as the dickens to find
21 things in the transcript.

22 COMMISSIONER MCHUGH: Well, the
23 transcripts are all word searchable. All of the
24 transcripts are word searchable. And frankly,

1 that's how I go into the transcript. And that's
2 how I find things in the transcript. And that
3 works quite smoothly.

4 So, let's try it and let's see how we
5 like it. And in seeing how we like it, though I'd
6 request that we all keep in mind the cost-benefit.
7 Because I suspect that about five or six person
8 hours goes into preparation of the minutes every
9 week. And it's inevitable that you're going to
10 have some slight differences between the
11 transcript and the way the minutes interpret the
12 transcript. And in some cases, that's not
13 particularly helpful to have. So, there are some
14 costs. There are some benefits. So, we need to
15 keep those in mind.

16 CHAIRMAN CROSBY: Okay. So, I guess
17 we don't need to vote on that, I think. So, we'll
18 just go ahead and try it.

19 COMMISSIONER MCHUGH: We'll go ahead
20 and try it. Right.

21 CHAIRMAN CROSBY: Try it for a week or
22 two. Okay. Do you want to nominate a candidate
23 for Treasurer?

24 COMMISSIONER MCHUGH: Yes. I will

1 nominate Commissioner Enrique Zuniga, who has done
2 a terrific job this past year in many respects in
3 keeping our focus on the finances and keeping the
4 finances under control as well as attending to all
5 of his other Commission responsibilities. I
6 nominate him to be the Treasurer for the ensuing
7 year.

8 CHAIRMAN CROSBY: Second?

9 COMMISSIONER STEBBINS: I second that
10 nomination.

11 CHAIRMAN CROSBY: Does he get a pay
12 raise?

13 COMMISSIONER MCHUGH: No.

14 CHAIRMAN CROSBY: Beyond our
15 substantial powers.

16 COMMISSIONER MCHUGH: Right.

17 CHAIRMAN CROSBY: Any discussion on
18 the nomination for Treasurer? I will call the
19 roll, Commissioner Stebbins?

20 COMMISSIONER STEBBINS: Yes.

21 CHAIRMAN CROSBY: Commissioner
22 Zuniga?

23 COMMISSIONER ZUNIGA: Yes

24 CHAIRMAN CROSBY: Commissioner

1 McHugh?

2 COMMISSIONER MCHUGH: Yes.

3 CHAIRMAN CROSBY: Commissioner
4 Cameron?

5 COMMISSIONER CAMERON: Yes.

6 CHAIRMAN CROSBY: And the Chair votes
7 yes. Congratulations.

8 COMMISSIONER ZUNIGA: Thank you.

9 CHAIRMAN CROSBY: Would you like to
10 make a nomination for Secretary?

11 COMMISSIONER ZUNIGA: I would very
12 much like to return the favor and nominate
13 Commissioner McHugh to continue serving as the
14 Secretary of the Commission as he outlines with the
15 assistance of an Assistant Secretary. Equally
16 highlighting that he has done a terrific job and
17 I'm sure will continue to do so. So, I nominate
18 him as the Secretary.

19 COMMISSIONER STEBBINS: I second the
20 nomination.

21 CHAIRMAN CROSBY: Any further
22 discussion? I will call the roll, Commissioner
23 Stebbins?

24 COMMISSIONER STEBBINS: Yes.

1 CHAIRMAN CROSBY: Commissioner
2 Zuniga?

3 COMMISSIONER ZUNIGA: Yes.

4 CHAIRMAN CROSBY: Commissioner
5 McHugh?

6 COMMISSIONER MCHUGH: Yes.

7 CHAIRMAN CROSBY: Modestly?

8 COMMISSIONER MCHUGH: Modestly.

9 CHAIRMAN CROSBY: Commissioner
10 Cameron?

11 COMMISSIONER CAMERON: Yes.

12 CHAIRMAN CROSBY: And the Chair also
13 joins yes. The election is unanimous. Okay.

14 COMMISSIONER MCHUGH: And with it
15 came the designation of Assistant Secretary.
16 That was part of the motion; is that right?

17 COMMISSIONER ZUNIGA: Yes.

18 CHAIRMAN CROSBY: Yes. We come to
19 Western Mass. every month or so for meetings just
20 to keep our meetings moving around, since there's
21 so much action in Western Mass. Just coincidentally
22 we were here coming out on the 18th.

23 But one of the reasons we want to come
24 to Western Mass. is to keep in touch with the Casino

1 Career Institute, which is being spearheaded by
2 Holyoke Community College. And I see President
3 Messner is here. You and/or your troops want to
4 give us an update on where the project stands?

5 MR. MESSNER: Thank you very much.

6 CHAIRMAN CROSBY: Thank you. This
7 project was really begun by this community college
8 who took the reins, understanding that we were
9 going to have a tremendous need for people, for
10 hiring personnel.

11 We were going to be putting tremendous
12 pressure on the casino bidders to hire locally.
13 And we realized it is not fair to put pressure on
14 casino bidders to hire locally if we don't supply
15 an educated workforce who can do the jobs.

16 And Holyoke took the lead on suggesting
17 that a coordinated community college plan, which
18 we have partnered with -- And I will tell you for
19 the record, I have heard a number of times, most
20 recently from one of the deputy directors of
21 programs at the Boston Foundation that this was one
22 of the very first times, if not the first time, that
23 anybody has ever seen the community colleges
24 collaborate the way you all have orchestrated.

1 Among other things congratulations on that.

2 MR. MESSNER: Thank you very much.

3 Certainly, Holyoke Community College along with
4 Springfield Technical Community College has been
5 a privilege to take the lead on this.

6 We thought we would give you a brief
7 update on what's going on statewide as well as here
8 within the Western Region, provide you with the
9 opportunity to ask us whatever is on your mind
10 relative to the workforce issues. We have a
11 couple of questions ourselves that we would like
12 to put before the Commission and have some
13 discussion on.

14 Since we last met with the Commission
15 as a whole back in the late fall, we've made
16 significant progress in all three regions in
17 pushing ahead both in terms of getting our act
18 together internally, putting together regional
19 coalitions of workforce partners that are going to
20 play a role in providing a workforce for the casino
21 industry. As well as working externally, if you
22 will, with the casino developers in terms of
23 signing memorandums of agreement with them and
24 getting a better sense of what their needs are

1 going forward.

2 In the Western Region, I think we
3 indicated to you when last we met we've been
4 advantaged by the fact that most of the major
5 players, most of the developers have been known for
6 the last four, six, nine months and some even
7 longer than that. So, we've had the advantage of
8 being able to talk with them for quite some time.

9 Other regions, there's been more
10 uncertainty right up through the last couple of
11 months as to who the major players are going to be.
12 So, the Western Region continues in a sense to set
13 the template for how the Casino Careers Training
14 Institute is going to operate going forward.

15 In terms of what's been going on in the
16 Western Region then, back in January we had a
17 signing with three developers. That signing came
18 on the heels of several months of work on the part
19 of both Bob LePage, Jeff Hayden and their staff in
20 terms of working with these developers on the
21 outlines of the MOU.

22 Since that time, a fourth developer has
23 come on the scene. And just within the last week,
24 if I'm not mistaken, we've signed an MOU with them

1 as well.

2 That pattern now is being replicated in
3 the other two regions. I'm just referring here to
4 my cheat sheet. In the Greater Boston Region,
5 there is regional meetings are scheduled for late
6 April. In the Boston Region and if I'm not
7 mistaken in the Southeast we are using
8 sub-regional groups, which is to say one or two
9 community colleges working with one developer.
10 Another one or two community colleges working with
11 a second developer in terms of getting a sense of
12 what the needs are on the part of each of those
13 developers.

14 In the Western Region in turn, we've
15 had some intensive dialogues with other employers
16 and other employer groups who believe, I think with
17 some justification, that they are going to be
18 impacted by the advent of the casino industry and
19 the hiring process that's going to go on.

20 In that regard, we've established a
21 working group with area hospitality employers, and
22 are currently in the process of setting up a
23 workforce training program for those employers
24 focusing on customer service and other areas where

1 they think the greatest impact is going to be felt.

2 We've also established a working group
3 with the financial services industry. As I think
4 we've shared with you, other states have found that
5 that industry in particular tends to be impacted
6 with the advent of the casino industry.

7 We've also established regional
8 collaborations to increase English as a second
9 language and adult basic education with workforce
10 literacy programming in Springfield and other
11 areas where we feel that ABE/ESOL is going to be
12 a key component to training individuals that I
13 think the Governor and the State as a whole would
14 like to see have take advantage of the jobs that
15 are going to be available through the casino
16 industry.

17 That pattern, we believe, will then be
18 the replicated in the other two regions as well.
19 I just exhausted about what I know has been going
20 on, but these two gentlemen know a lot more. If
21 you want to briefly fill in, Bob or Jeff, on
22 anything I've left out.

23 MR. LEPAGE: I would just add that the
24 strategy of being able to supply the workforce for

1 the casino industry, I think, when we talked long
2 ago is a strategy that needs to be community wide
3 and region wide.

4 So, in each of these cases, the
5 dialogue with employers goes up and down. Our
6 service region from the border of Connecticut all
7 of the way to the border of Vermont and east and
8 west between Worcester and the Berkshires.

9 And the strategies are starting to
10 develop pathways, pathway strategies for example
11 of ABE. We've been working on some grant funding
12 and some State resources to start the process of
13 looking at how we can align our ABE, for example,
14 to a customer service certificate that would be of
15 value to the casino industry but is of equal value
16 to the hospitality industry and the financial
17 services industry.

18 So, that curriculum has been designed.
19 We have been told we've been awarded grant funding
20 from the State. We hope to hear on that. So, we
21 will start putting these programs in place as early
22 as October. That will allow us to start to scale
23 over a period of time. And I'd also note that
24 our --

1 CHAIRMAN CROSBY: This would be just
2 in Western Mass.?

3 MR. LEPAGE: This is first in Western
4 Mass. By grand definition, it is something that
5 we are going to get shared, so it's a replicable
6 process there. And that is through Comm Corp. to
7 start that process.

8 And it is that career pathway model
9 that I think that we talked about earlier that
10 would allow people to get a credential, to be
11 assessed for workforce readiness, remediated, get
12 a credential that would be recognized by industry.
13 That grant does include industry partners in it who
14 have agreed to hiring process and interview skill
15 process.

16 MR. HAYDEN: On that note, we have met
17 this week with Associated Industries of
18 Massachusetts as well as some other various trade
19 groups to talk about creating a career readiness
20 certificate that would be a statewide certificate
21 that would define the skill levels of individuals.
22 And we've been working with various software and
23 computer-based products that will help us do those
24 assessments but also provide the training to help

1 individuals meet the levels that are required for
2 specific jobs.

3 So, that's one piece to this where it
4 will have an impact not only on those who might be
5 employed in the casino industry, but it should
6 impact employment across the Commonwealth in all
7 sectors.

8 MR. LEPAGE: Just a couple of other
9 quick updates. We've continued work on building
10 out our community engagement work with
11 community-based organizations, adding them to our
12 regional collaborative, talking to them about how
13 things like child care, transportation issues will
14 be related to the workforce components of this.

15 Also, how that relates back to building
16 diversity within the workforce. So, those early
17 goals we talked about are being put in place and
18 are happening here in this region.

19 I would also add in this region that we
20 have had dialogues with organizations that you
21 would not necessarily consider being immediately
22 impacted by the development of casino industry
23 that being healthcare. We've had a number of
24 dialogues with the healthcare industry.

1 And their observations, I think, now
2 that planning for back of office as well as things
3 like culinary and customer service is an important
4 consideration. And again, working with them to
5 proactively partners as we are developing this
6 hospitality institute for those frontline
7 positions.

8 They as well as other employers in the
9 healthcare industry have noted that they currently
10 do background checks on their employees. So, they
11 are, as we've talked in the past, wondering how
12 that is all going to filter itself out because they
13 are concerned that they have a very vibrant
14 potential pool that may decide, as an individual
15 will, that they would like to go work in a casino
16 environment.

17 So, we're trying to work with them
18 proactively and say that the ripple could hit you
19 here. How do we start that process.

20 And then the last thing I'd talk about
21 in this region is we have been very fortunate, I
22 think, in that the developers have been patient I
23 guess is the way I would kindly say it when we have
24 had questions and continue to have questions about

1 things like how would benefits work? How do
2 salaries work? What type of occupations would you
3 classify as hot or difficult recruiting
4 applications? What are your timelines? That
5 they have been very forthright in sharing
6 information, providing written information, many
7 meeting information and phone follow-ups.

8 So, we're now taking and gathering all
9 of that so we can get some common general
10 descriptions of what it's like to work in a casino,
11 the titles with some consistency. Because as you
12 can imagine, each employer has different names and
13 terminologies.

14 So, we've gathered that from the
15 developers in this part of the State and started
16 that process in other parts of the State so that
17 we can get some consistency on what are the general
18 guidelines of how casino employment works by
19 department. What are those functions? What are
20 those wages? So, we've been in the research mode
21 but also in the community engagement mode here in
22 Western Mass.

23 MR. HAYDEN: That inventory of not
24 only jobs but also occupations will help us in

1 terms of the recruitment process as well as the
2 curriculum development process. So, it's
3 important to get that built now, especially as we
4 looked at potentially some of the slot machine
5 operators might be in motion at the end of this year
6 or early next year and all. So, time is getting
7 short in terms of getting ready to train people for
8 the various positions

9 On a statewide level in addition to
10 what the president mentioned about working to
11 develop the workforce regional groups and also to
12 start dialogues with potential developers and
13 operators, we've also had dialogue with several
14 entities in relation to the issue of the
15 individuals who develop problems with gaming.

16 So, we've worked with the Harvard
17 Medical Group in terms of their division of
18 addictions. And they've prepared some curriculum
19 that they are willing to share with us. They have
20 actually asked to join the collaborative as well.

21 We've also been working with other
22 organizations that have had a statewide impact in
23 terms of helping individuals with problem related
24 gaming. And they want to also offer various

1 courses, curriculum to train the employees in
2 terms of how to recognize issues and how to deal
3 with that effectively. So, that's a part of our
4 curriculum that we will be developing.

5 In addition on a statewide level, we
6 are hoping that in late May/early June we'll have
7 a webpage, a website that talks about the Career
8 Training Institute, starts to identify what the
9 recruiting process might be, what some of the jobs
10 are going to be, and the various contact
11 information and the links. So, hopefully we can
12 dovetail that with the website that the Commission
13 has.

14 CHAIRMAN CROSBY: Great.

15 MR. HAYDEN: I'm sorry?

16 CHAIRMAN CROSBY: I said great.

17 MR. HAYDEN: Thank you. And I think a
18 couple of the questions that we have relate to the
19 fact that we are beginning to get inquiries from
20 individuals about what are the jobs? Where are
21 they? What do I need to do to get ready?

22 So, we're getting questions about what
23 kind of credentials do I need? I've got a high
24 school diploma. What else do I need? We are

1 getting questions about what kind of background
2 checks are going to be done, the CORI SORI issue,
3 the financial background checks.

4 So, the more advice that the Commission
5 can put out in terms of that issue I think it would
6 be helpful from a recruitment point of view.

7 Also, from a curriculum development point of view
8 that information essential, because in terms of
9 the length of time that individuals might need
10 training, because they are facing multiple issues.

11 They might have a CORI SORI issue, but
12 at the same time they also might have educational
13 attainment issues, language issues and a variety
14 of things that need to be dealt with. So, a longer
15 or extended time pathway for them might need to be
16 developed. Obviously, as we build a curriculum,
17 that will need to be looked at.

18 I think it also would be important to
19 talk about how the training, and by training I mean
20 the recruitment, the screening, the actual
21 training, the job placement, all of those pieces
22 of workforce development, how they will be funded.

23 So, I think we need to -- And we've
24 talked in the past about gee, we need to put a plan

1 forward on that. And we are anticipating that as
2 you hire a staff person to work on workforce
3 development issues that we can begin that dialogue
4 when that person is hired.

5 CHAIRMAN CROSBY: Which we hope to
6 have within a week or two. We are very close.

7 MR. HAYDEN: And then also, I think,
8 issues of residency and reciprocity would need to
9 be dealt with. So, for example, in Western
10 Massachusetts, the Connecticut line being 10 miles
11 away from Springfield, 12 miles way from
12 Springfield -- Bruce help me out. - but certainly
13 whether or not individuals from other states, are
14 they going to have the opportunity for these jobs.
15 So, that issue, I think would need to be settled.

16 I also think in terms of the regional
17 workforce notion that we live with in Western
18 Massachusetts, that no city with any significant
19 number of jobs can say that 50 percent of those jobs
20 come from our residents. Mostly, it's a regional
21 approach to fill in those jobs.

22 So, questions around how jobs are going
23 to be looked at in terms of where they come from
24 in terms of the application process, I think, would

1 also be helpful for us.

2 CHAIRMAN CROSBY: Excuse me. Could I
3 just interrupt on that, Bob? If I heard you right,
4 I have heard representations from some of the
5 bidders about the percentage of people that they
6 will be hiring locally. I wouldn't want us
7 through you in any way to be suggesting a
8 preference or a predisposition for one strategy or
9 approach or another inadvertently through
10 something like what it sounded to me like you just
11 said.

12 It sounded like that could be
13 interpreted as taking a position on the
14 percentages that should be hired locally.

15 MR. HAYDEN: Right.

16 MR. MESSNER: And I think just in terms
17 of dealing honestly and openly with potential job
18 applicants, if a casino is established in town or
19 city X and we are getting many applicants from town
20 and city Y and Z, we need to be honest with them
21 relative to do you have a reasonable shot at these
22 jobs if you go through this training program or
23 not.

24 So, whatever clarity you can provide us

1 with on those sort of issues would certainly be
2 helpful for us but ultimately for the applicants
3 themselves.

4 CHAIRMAN CROSBY: We have very clear
5 evaluation criteria about how we will be looking
6 at issues like this for everybody to see, most
7 particularly the applicants. But we won't know
8 which of the various commitment levels we will be
9 buying into until we make the decision probably
10 February, March of next year.

11 So, you're going to have to be able to
12 accommodate both. But I just want to be
13 sensitive. I want all of the applicants to know
14 that first of all, you are not us. You are an
15 independent organization whose work with we are
16 supporting. But you be sensitive so that it
17 doesn't reflect on us to imply any kind of a
18 predisposition or favoritism.

19 MR. LEPAGE: I would just add to that
20 a recent experience with the City of West
21 Springfield in meeting relative to workforce of
22 the importance that I think as the ombudsman
23 person is doing their work and as the Pioneer
24 Valley Planning Commission is doing its work, the

1 dialogue of workforce and how it relates back to
2 things like mitigation agreements and host
3 agreements is starting to come up.

4 So, we're just trying to explain to
5 them those are not necessarily decisions that we
6 have anything to do with. But you should
7 understand how it works within your own
8 agreements. Ultimately, those agreements are
9 going to drive some of the strategy for the
10 workforce.

11 CHAIRMAN CROSBY: Right, that's fine.

12 MR. LEPAGE: But those dialogues are
13 happening pretty aggressively.

14 CHAIRMAN CROSBY: It's just be
15 sensitive to that issue, obviously.

16 MR. MESSNER: Do you have questions
17 for us?

18 COMMISSIONER ZUNIGA: Yes. I wanted
19 to highlight and remind the public that we issued
20 regulations, draft regulations for the RFA-2
21 process very recently. And they are out for
22 public comment. And we will be conducting
23 hearings.

24 We did not issue yet the form of

1 response for that RFA Phase 2, but we're working
2 on it as we speak. A particular group that can
3 offer a lot of insight into the pieces that have
4 to do with workforce development that are either
5 in regulation or by reference will be coming into
6 the form of response is of course the Casino Career
7 Institute, yourselves and your colleagues.

8 If you have some feedback for us
9 already, like you just outlined, but I would invite
10 you to do that also in the context of the regs. and
11 the form of response, because I think that would
12 be very helpful for everybody.

13 MR. MESSNER: Sure.

14 MR. LEPAGE: Thank you.

15 CHAIRMAN CROSBY: Great. And my only
16 observation, I talked about this briefly with
17 Jeff. It sounds like the Western Mass. template,
18 if you will, is coming along pretty well. But
19 Western Mass. is on the same schedule as Region A
20 and the slots parlor, which will be somewhere.
21 And it's coming on us. So, anything you can do.

22 And if you need our help -- As you well
23 understand, this was your idea, you and
24 Commissioner Stebbins. This is not a Western

1 Mass. project. It works for us and we are counting
2 on this project to help us in workforce development
3 throughout the Commonwealth.

4 So, if you're not getting the kind of
5 traction you need and you need our help, let us
6 know. But be sure that that's top of mind, even
7 I understand how pressing your own local needs are.

8 MR. MESSNER: And we appreciate that.
9 And I know my colleagues appreciate that in other
10 parts of the State. One of the advantages of being
11 here today is to reinforce to them the message that
12 I'm hearing that this is an imperative. We need
13 to get on with it. And I'm confident that they
14 will both hear and respond to that.

15 CHAIRMAN CROSBY: Good.

16 COMMISSIONER MCHUGH: I wonder if it
17 wouldn't be helpful, having in mind that we will
18 have a workforce development person hopefully on
19 board in the near future, to get something that he
20 or she could use to get up to speed quickly on this
21 in the form of a narrative.

22 I'm sure he or she will want to meet
23 with you, but something that lays out where we've
24 been, and what progress has been made and a

1 considerable amount has been. But also, that
2 highlights the places where you need answers from
3 us, because that's something to which, as the
4 Chairman said, he or she is going to be able to
5 devote some energy when they get aboard and have
6 them in some form so that we all could keep them
7 in mind and support the new Director's efforts
8 would be very helpful.

9 MR. MESSNER: We would be happy to do
10 that. It'd be an advantage, I think, to all
11 parties concerned.

12 COMMISSIONER MCHUGH: Right, good.

13 CHAIRMAN CROSBY: This is your baby,
14 Commissioner, any questions?

15 COMMISSIONER STEBBINS: No. I give
16 President Messner and Bob and Jeff a lot of credit
17 for what they've done so far. I know President
18 Messner is shortly turning in the reins of
19 president of the Community College Association.
20 But as I understand it, they are going to be
21 faithfully picked up by your counterpart at STCC.
22 So, we can kind of continue to move forward with
23 the momentum that we have.

24 I get regular updates from Bob.

1 They're obviously anxious to start working with
2 our workforce development person when they come on
3 board. The only kind of feedback I've given Bob
4 is on our master calendar we do have some kind of
5 placeholder timelines for their work, but together
6 we can work with them to kind of begin to fill in
7 some specific due dates and targets for some of the
8 things as we move along.

9 As our process becomes clearer, I think
10 that will give some clarity to kind of some
11 timelines we'll need to be mindful of as we go
12 forward.

13 CHAIRMAN CROSBY: That's a good point.
14 Anything else? Commissioner Cameron?

15 COMMISSIONER CAMERON: No. I'm
16 having trouble hearing everyone's comments but I
17 absolutely agree with Commission McHugh that a
18 document that really lays out where they could use
19 our help, whether that be levels of background
20 investigation or any other piece that they need
21 help from us would be a very valuable document.

22 CHAIRMAN CROSBY: Great. Okay.
23 Gentlemen, thank you very much.

24 MR. MESSNER: Thank you, appreciate

1 it.

2 CHAIRMAN CROSBY: Next up is public
3 education and information, our Ombudsman John
4 Ziemba will join us.

5 MR. ZIEMBA: Thank you, Mr. Chairman.
6 Commissioner Zuniga mentioned that we are doing a
7 lot of work on timeline. I've talked previously
8 how timeline is important to everyone in this
9 process.

10 We'll be working with Executive
11 Director Day and Director Wells. Obviously, the
12 scheduling of the finalization of our background
13 checks is tremendously important to the schedule
14 as well as all the of the concerns that we've
15 previously talked about for host communities,
16 surrounding communities and applicants. So,
17 hopefully we'll have some things for you to
18 consider next week.

19 One other thing I wanted to mention is
20 that we are still in the process of scheduling our
21 initial scoping/planning meetings for RPA
22 assistance. We had a meeting this morning here in
23 town with Palmer and Mohegan Sun and PVPC. And it
24 was an excellent meeting. It was directly in the

1 spirit of exactly the way that we hoped that this
2 process will work. And I want to thank all of the
3 parties involved.

4 CHAIRMAN CROSBY: So, Mohegan Sun has
5 agreed and Palmer have agreed to it. Great.

6 MR. ZIEMBA: Yes. We are working out
7 the scope of the details, how it could work. And
8 hopefully we'll have something available soon.
9 And the next step after we get some of the basics
10 down is then to take it to the potential
11 surrounding communities, outline the process, and
12 get their comments about how the process will work
13 and dive right into the work. So, that's a good
14 report from this morning.

15 CHAIRMAN CROSBY: Remind me the
16 status. There are a couple of other bidders and
17 host communities that have agreed already to use
18 the process?

19 MR. ZIEMBA: Nine out of the 11 said
20 yes or maybe. And we're in the process of
21 scheduling those nine out of the 11.

22 Commissioner Stebbins asked me about
23 the 10th of the 11, which was the Worcester
24 location. We have talked to the Central Mass.

1 Regional Planning Commission about them providing
2 that assistance. But I still need to reach out to
3 the applicant in that region.

4 We've talked briefly about how it would
5 work with the participants. But we haven't had
6 the in-depth conversations about how it's actually
7 going to work as planned in all of our planning
8 documents.

9 And then the final one remains as we
10 have a location hopefully in the near future.

11 CHAIRMAN CROSBY: Which ones have said
12 yes?

13 MR. ZIEMBA: I had previously provided
14 a list.

15 CHAIRMAN CROSBY: That's fine. No
16 problem.

17 MR. ZIEMBA: I don't have that in front
18 of me today.

19 CHAIRMAN CROSBY: That's fine. Are
20 you going to go to the host community issue?

21 MR. ZIEMBA: Yes.

22 CHAIRMAN CROSBY: I just wanted to say
23 one thing before you start. I just wanted to
24 remind everybody that what you see when we are

1 sitting here are deliberations of us trying to
2 figure out how to proceed on what are frequently
3 difficult issues. This is one. There's another
4 coming up later on.

5 We are prohibited by law from
6 discussing this amongst ourselves not in a public
7 meeting. We can talk one-to-one. No more than
8 two of us can get together to talk about these
9 things. We come into these meetings oftentimes
10 not knowing where the other person is coming from.

11 We have to brainstorm. We have to try
12 to figure out. We have to posit scenarios. We
13 have to take hypotheticals. We don't want
14 hypotheticals to be misinterpreted. But I just
15 want to remind people we are not here simply giving
16 pronouncements.

17 We're trying to work our way through
18 these complicated issues to a consensus that does
19 the best we can do to do this the right way. And
20 this is one of such issues and I just wanted to
21 remind people before we start.

22 MR. ZIEMBA: Great. In regard to the
23 emergency draft regulation, as you mentioned
24 Chairman, we discussed an emergency draft

1 regulation last week relative to the issue of
2 whether or not a host community could move forward
3 on a referendum prior to our determination of
4 suitability.

5 That was a long-standing policy of the
6 Commission, but it was never put into regulation.
7 And as we are now entering into a period whereby
8 communities are moving forward on their host
9 community agreements and maybe in the process of
10 potentially scheduling referendums, that the
11 Commission a couple of weeks ago noted that
12 obviously a policy does not have the force of law
13 to the extent that regulation does.

14 So hence, the Commission discussed
15 putting together an emergency regulation that
16 would codify the existing policy. And then last
17 week we discussed a potential exception that we
18 would include relative to the long-standing
19 policy.

20 I just wanted to mention that there
21 were a number of different comments that we had
22 from those that we received over our website
23 stating what is the emergency? I think it
24 might've been a misconversation of a conversation

1 that happened a couple of weeks ago, where the
2 emergency is that we have a policy but it's not a
3 regulation.

4 CHAIRMAN CROSBY: Right.

5 MR. ZIEMBA: So, that right now the de
6 facto is that communities could move ahead
7 without any determination of suitability.

8 CHAIRMAN CROSBY: Right.

9 MR. ZIEMBA: So, in regards to those
10 comments, we received approximately 17 comments
11 from members of the public. Notably we received
12 comments from citizens in Worcester and East
13 Boston including the group the No Eastie Casino.
14 We also received a comment from the City of
15 Springfield relative to their concerns on our
16 process.

17 The general flavor of the comments were
18 that it is important for citizens to be able to
19 review or know about suitability determination
20 prior to their vote. Some questioned as I
21 mentioned, some questioned what constitutes the
22 emergency of the emergency regulation. I think I
23 just addressed that.

24 First, I will note that the default

1 provision under our regulation that is being put
2 forward, the default provision is that unless --
3 the default provision is that no referendum shall
4 occur until and if the determination of
5 suitability by the Commission. So, there is the
6 default provision.

7 Under the draft regulation, there is a
8 process or an exception whereby communities could
9 move forward despite that prohibition if they do
10 two things, two notable things. First is that
11 they have the approval to move forward from the
12 governing body. And governing body is important
13 because the statute provides responsibilities
14 relative to the scheduling of referendums to the
15 governing body of communities.

16 And then the second aspect of that
17 exception would be that communities have to engage
18 in a public education effort of their citizens.
19 So, that is what the draft regulation currently
20 states.

21 So, in regard to some of the comments
22 that no referendum should occur until after the
23 determination of suitability, I will note that
24 that is the default provision of the regulation.

1 Communities, if they decide it is in
2 their citizens interest to move forward given that
3 the vagaries of the timetable that we discussed
4 last week, they can move forward, but again it is
5 after a vote of the local communities or after the
6 approval of the local communities.

7 And secondly, just because the
8 regulation is in place with the exception that
9 doesn't mean that the Commission is still not going
10 to move forward as quickly as we possibly can on
11 our determinations of suitability. So, that
12 potentially we could still have determinations of
13 suitability before the elections despite even a
14 community voting to basically opt out of the
15 prohibition.

16 For those communities that wish to move
17 forward prior to the Senate special-election date,
18 I think we've noted that it would be very difficult
19 for us to get back with our determinations of
20 suitability prior to that date for Category 1
21 applicants.

22 For Category 2 applicants, we are very
23 much anticipating that prior to that Senate
24 special-election date that we will have our

1 determinations of suitability.

2 CHAIRMAN CROSBY: Which is June 25.

3 MR. ZIEMBA: June 25. So, I think
4 some of the comments of the citizens, the
5 Commission shares those desires that we have
6 determinations of suitability prior to a vote.
7 But we cannot make that promise as we discussed
8 last week in all cases.

9 And that gets to one of the comments
10 that we received from the City of Springfield where
11 the City of Springfield noted that when it first
12 adopted this policy in its conversations with the
13 Commission, there was anticipation that hopefully
14 all of the investigations would be concluded by a
15 point in time to enable it to move forward with a
16 June election.

17 And given that every community has to
18 publish its host community agreement and then have
19 a 60- to 90-day period before the referendum, there
20 is a lot of difficulties in regard to scheduling.
21 So, they asked for further clarification of that
22 policy from us.

23 CHAIRMAN CROSBY: Further
24 clarification, they wrote in support of the option

1 to get out.

2 MR. ZIEMBA: Actually, the comment
3 that we received predated our vote to proceed with
4 a comment on that period. We received it
5 literally as we were talking about it last week.

6 CHAIRMAN CROSBY: Okay. But they
7 encouraged us to do what we ended up doing.

8 MR. ZIEMBA: Yes. It was a little bit
9 more vaguely worded, but I think what we have done
10 at least in the spirit of providing more
11 flexibility to communities that want to move
12 forward was entirely consistent with the City of
13 Springfield's letter. I don't think they
14 specifically called obviously because they didn't
15 know about how we are constructing it about that
16 process.

17 CHAIRMAN CROSBY: Got it.

18 COMMISSIONER MCHUGH: And we haven't
19 received additional comments since then?

20 MR. ZIEMBA: We have not received
21 additional comments from the City of Springfield.

22 So, I think that the process that we
23 identify here remains. Despite the comments, it
24 remains a reasonable one. I would note that the

1 words that we put on the page were meant to be the
2 words that were put on the page. And there's
3 specific timing aspects of what we put on the page.

4 CHAIRMAN CROSBY: On the page?

5 MR. ZIEMBA: On the draft regulation.
6 As in we are asking communities before they move
7 forward and schedule a referendum that they should
8 have a determination or approval of the governing
9 body prior to the request from the applicant for
10 a referendum vote. So, that that preserves or
11 that is a true indication that the community wants
12 to move forward in advance of a suitability
13 determination.

14 Again, I think every community in the
15 ideal world would like a determination of
16 suitability to be done before the referendum vote.
17 But it's just that there is absolutely no
18 guarantees of how we need to proceed with these
19 investigations and for the factors we identified
20 last week, we need to complete these
21 investigations in a full manner to make sure that
22 every one of our applicants that moves forward is
23 truly suitable.

24 CHAIRMAN CROSBY: And as you pointed

1 out, this doesn't bear only on the June 25 date.

2 MR. ZIEMBA: Correct.

3 CHAIRMAN CROSBY: It could very well
4 bear on an election referendum date in September,
5 given the 60 days before that would be July and who
6 knows where we'll be in July.

7 MR. ZIEMBA: So, as communities move
8 forward to schedule their referendums or are
9 getting close to executing their host community
10 agreements even towards the June dates, they need
11 to be in communication with us as they make their
12 determinations on whether or not they move forward
13 with the vote that is anticipated in here.

14 And if they have tremendous concern
15 about any risks of the referendum date being
16 waylaid or delayed at any point, that the default
17 provision that they can exercise here is to move
18 forward with the prior approvals.

19 CHAIRMAN CROSBY: Right.

20 MR. ZIEMBA: Because we just cannot
21 provide that guarantee. We'll do everything that
22 we can to give people a good estimate of when it
23 could occur, but especially with appeals and
24 adjudicatory hearings as we discussed last week,

1 there's just no way for us to provide that
2 guarantee.

3 CHAIRMAN CROSBY: Right.

4 MR. ZIEMBA: So, if people need a
5 guarantee they would need to exercise the option.

6 CHAIRMAN CROSBY: Okay. So, we have a
7 proposition on the table from the staff, which we
8 leaned towards last week but decided to refrain
9 from final action until we had the chance to hear
10 feedback.

11 Commissioners, thoughts, reactions?

12 COMMISSIONER MCHUGH: I had a
13 question, and I must say I didn't focus on this last
14 week as I was reading this. That question is why
15 the prior to a request by an applicant? Why does
16 the governing body have to approve holding an
17 election before the suitability determination
18 before it's asked by the applicant to hold an
19 election? That request triggers a number of days
20 and the like.

21 MR. ZIEMBA: That was included
22 specifically because last week we talked about
23 some of the vagaries in the law of what would happen
24 if an applicant put forward a request for a

1 referendum. That sets in motion the 60 to 90 days
2 such as that the ability to call back that election
3 could conflict with a regulation regarding a
4 prohibition.

5 So, the thought was we would like the
6 determination if a community wants to move forward
7 ahead of a prior suitability determination that
8 they should make that judgment prior to a point
9 where potentially you might have a legal conflict
10 between our regulation and the statute.

11 COMMISSIONER MCHUGH: So, as a
12 practical matter, it may work that the potential
13 applicant gives a heads-up that we may be seeking
14 from you an election.

15 MR. ZIEMBA: Yes.

16 COMMISSIONER MCHUGH: The governing
17 body goes ahead with doing what it does. And then
18 the formal application comes and the deadline only
19 starts then -- I mean, the clocks starts to run.
20 That's one way it could play out. I'm just trying
21 to think of how a governing body would know.

22 MR. ZIEMBA: One could contemplate
23 that there could be provisions in a host community
24 agreement governing when the request could be made

1 as well.

2 COMMISSIONER MCHUGH: Right, right.

3 MR. ZIEMBA: But one other important
4 aspect of the prior approval is that we anticipate
5 the public education campaign to be conducted
6 during that window. And there would be some time
7 needed for the community to forward the documents
8 stating here is our statement that we wish to issue
9 to the citizens. Commission, does this include
10 that minimum elements in addition to whatever they
11 want to include.

12 It's obviously -- There's flexibility
13 for communities on when they would send out that
14 notice to their citizens but obviously, it would
15 have to occur prior to the election.

16 COMMISSIONER MCHUGH: And there's one
17 other ambiguity I'd recommend to your
18 consideration and if we vote on this, I'd
19 recommend to us. And that is at the beginning of
20 (B) we say prior to the election, because otherwise
21 this is susceptible of being read as that (B) has
22 to be accomplished prior to the request as well.
23 So, that's just a modification to make it clearer.
24 I think the logic of it is clear.

1 MR. ZIEMBA: Right. And actually
2 technically, one could conduct a public education
3 campaign after the election because it's not
4 specified here.

5 COMMISSIONER MCHUGH: Right.

6 MR. ZIEMBA: I can't imagine that
7 someone would do that.

8 COMMISSIONER ZUNIGA: You alluded to
9 this, but isn't the applicant will limit their
10 request for the election one condition is that they
11 have a host community agreement executed. Is that
12 the case?

13 MR. ZIEMBA: Yes.

14 COMMISSIONER ZUNIGA: To the prior
15 point, the governing body would know effectively
16 that that's forthcoming.

17 MR. ZIEMBA: Yes.

18 COMMISSIONER ZUNIGA: So, our
19 prerequisite is very feasible for the governing
20 body to request that approval, if you will, because
21 there's a host community agreement prior to that
22 request for the election.

23 MR. ZIEMBA: Right. That's exactly
24 right.

1 COMMISSIONER MCHUGH: Ys. But it
2 might not automatically flow from the execution of
3 the host, but it could be in the host community
4 agreement. That's right.

5 CHAIRMAN CROSBY: That might be
6 something you might want to just send a note out
7 to everybody, the kind of thing that could get lost
8 in the shuffle, like we hadn't really noticed it
9 ourselves. Just inadvertently they might breach
10 that if you don't give them a heads-up on it.

11 MR. ZIEMBA: We will and hopefully
12 anyone listening today, especially if they are
13 moving forward quickly, they need to know that.

14 CHAIRMAN CROSBY: Speaking of
15 listening, is the Web working?

16 MS. REILLY: Audio is up, video is
17 intermittent.

18 CHAIRMAN CROSBY: Audio is clear?

19 MS. REILLY: Audio is staying, yes.

20 CHAIRMAN CROSBY: Okay, good. I'm
21 sorry.

22 COMMISSIONER ZUNIGA: I am very much
23 in support of this regulation as drafted with the
24 nuance modification that Commissioner McHugh

1 points out.

2 I think in general, like a good
3 regulation, it reflects a policy intent but it also
4 recognizes that a minimum working exception and
5 sets forth the parameters for those exception.
6 Because like Ombudsman Ziemba articulates well, we
7 cannot guarantee the dates by which a final
8 suitability determination will be made.

9

10 (Teleconference interruption)

11

12 COMMISSIONER MCHUGH: Are you still
13 there, Gayle?

14 COMMISSIONER CAMERON: I am. I just
15 hit a button to continue with you all.

16 COMMISSIONER MCHUGH: Good, good. I
17 hit a button, we are all still together good.

18 COMMISSIONER CAMERON: And I can
19 actually see you for the first time as well.

20 COMMISSIONER MCHUGH: That's great.
21 How do we look?

22 CHAIRMAN CROSBY: Where were we at? I
23 lost track.

24 COMMISSIONER ZUNIGA: I'm just

1 acknowledging my full support of the regulation as
2 recommended here.

3 CHAIRMAN CROSBY: Are there other
4 comments?

5 COMMISSIONER MCHUGH: Yes. As I said
6 the last time, I was initially strongly in support
7 of requiring the suitability investigation to be
8 finished before we allowed this.

9 But considerations of the impact on the
10 communities and the length of time understandable
11 that these are taking, coupled with the notion that
12 with knowledge that they have the community at
13 their back, applicants may be more persuaded to
14 engage in serious negotiations, serious funding of
15 studies and the like convinces me that this is the
16 route to go.

17 And I'm glad Ombudsman Ziemba
18 described what the emergency was, because a couple
19 of the comments seemed to think -- understandably
20 were confused about that. But I think it's clear
21 that we do need to do something and do it now,
22 because the election season is upon us.

23 CHAIRMAN CROSBY: I pretty much agree
24 with that. I think the changed circumstances as

1 we've talked about many times about why some of
2 these background checks may be running longer.
3 We, of course, didn't know about the special
4 election when we first made this rule.

5 And I'm reminded that the way the law
6 was written had we gone forward with the
7 applications the way the law was written, there
8 would have been no opportunity at all for the
9 background checks to precede the referendum.

10 This was an additional step that we
11 added to the process, which I think was a good step
12 but I think with the steps we've added in here,
13 making it so clearly a choice of the community that
14 that brings it back under what should reasonably
15 be within the right of the community, which is well
16 within the local control mandate of the law in
17 general.

18 So, that's a tortured way of saying I
19 get there as well although I had some issues with
20 it at first.

21 I just have one question. Do you think
22 there should be any dates? This talks about we
23 have to see -- The Commission has to see the content
24 of the notice for approval prior to dissemination.

1 And we have to talk about -- something else.
2 Should there be anything about dates, numbers of
3 days or weeks prior to the election when various
4 of these things should happen?

5 MR. ZIEMBA: I think I anticipated
6 that we needed some flexibility and we wanted to
7 give communities some flexibility in how they
8 would get the information out to their voters.

9 CHAIRMAN CROSBY: Okay. I think what
10 we are saying here as we've said repeatedly in this
11 process is the Legislature gives a lot of control
12 to the locals. And we're saying here under these
13 circumstances we would give this to the locals as
14 well. And presumably they will be as well
15 motivated as anybody to protect the interests of
16 their voters.

17 MR. ZIEMBA: Right.

18 CHAIRMAN CROSBY: Ipso facto, in that
19 case we don't need that protection. So, I buy
20 that.

21 COMMISSIONER ZUNIGA: Right. But
22 whether there would be a minimum number of days
23 let's say of a public education campaign or whether
24 we leave that open? Is that one of your concerns,

1 Mr. Chairman?

2 CHAIRMAN CROSBY: I think we do have to
3 approve the plan.

4 COMMISSIONER ZUNIGA: Right. Let's
5 just hypothetically that they conduct a public
6 education campaign that lasts for two days before
7 the election. One could argue that that is not a
8 very robust public education.

9 CHAIRMAN CROSBY: My point was who are
10 we to tell the mayor and the city council of the
11 town how to look out for the interests of their
12 people.

13 In the context of the law that was
14 written, I think that would not be our role.

15 MR. ZIEMBA: Just as a point of
16 clarification, what is subject to prior approval
17 is the statement that is mailed to the citizens.
18 But not the full plan because it could include many
19 different types of things. In order not to create
20 further uncertainty within communities, we are
21 asking them to file with us that plan but no
22 preapproval.

23 CHAIRMAN CROSBY: Right. Okay.
24 Other comments on this?

1 COMMISSIONER CAMERON: Mr. Chair, I
2 just have one comment.

3 CHAIRMAN CROSBY: Okay.

4 COMMISSIONER CAMERON: And that is I
5 agree with everything that has been said. I think
6 this plan can work. But I think it's important to
7 note that the suitability investigations will be
8 a stand-alone process. A yay or nay vote will not
9 affect if there is an issue with suitability that
10 will be brought before the Commission. And I
11 think the public will be protected because that
12 process will continue no matter what the vote is.

13 CHAIRMAN CROSBY: And I think that is
14 part of what we will be saying in this notice. But
15 thank you, Commissioner Cameron, because I think
16 that is an important point to emphasize.

17 COMMISSIONER STEBBINS: John, do you
18 see the approval of the information being a staff
19 level approval or a Commission level approval?

20 MR. ZIEMBA: I was anticipating that
21 it would be a staff level approval but that's a very
22 good point.

23 CHAIRMAN CROSBY: It says forward to
24 the Commission.

1 MR. ZIEMBA: Okay.

2 CHAIRMAN CROSBY: So, it's our if we
3 want it.

4 MR. ZIEMBA: I think that's
5 appropriate.

6 CHAIRMAN CROSBY: We could delegate it
7 to the staff if we want to. But what it says is
8 forward it to the Commission.

9 COMMISSIONER MCHUGH: But don't we
10 want it -- I can see us here rewriting these notices
11 in these meetings. We would anticipate that it
12 would come to the staff. The staff would review
13 it. The staff would bring a recommendation to us
14 and we'd act on it. That would be the process.

15 CHAIRMAN CROSBY: Which is
16 increasingly what's happening with everything,
17 right. Now that we have staff.

18 COMMISSIONER MCHUGH: Right.

19 CHAIRMAN CROSBY: Okay. Do we have a
20 motion?

21 COMMISSIONER MCHUGH: I'd move that we
22 accept -- that the Commission promulgate an
23 emergency regulation in accordance with -- in the
24 form has been placed before us but with insertion

1 of the words prior to the election at the beginning
2 of subparagraph (B).

3 CHAIRMAN CROSBY: Can I have a second?

4 COMMISSIONER ZUNIGA: Second.

5 CHAIRMAN CROSBY: Any further
6 discussion? I will call the roll, Commissioner
7 Stebbins?

8 COMMISSIONER STEBBINS: Yes.

9 CHAIRMAN CROSBY: Commissioner
10 Zuniga?

11 COMMISSIONER ZUNIGA: Yes.

12 CHAIRMAN CROSBY: Commissioner
13 McHugh?

14 COMMISSIONER MCHUGH: Yes.

15 CHAIRMAN CROSBY: Commissioner
16 Cameron?

17 COMMISSIONER CAMERON: Yes.

18 CHAIRMAN CROSBY: And the Chair votes
19 yes. Again, unanimously five to zero. The
20 motion passes. Thank you.

21 I am going to call a quick recess. And
22 then we will get to our Region C conversation.

23
24 (A recess was taken)

1 CHAIRMAN CROSBY: We will reconvene
2 the 64th meeting of the Mass. Gaming Commission.
3 If everybody would take their seats and we will
4 move to item number five -- Sorry, item number six,
5 Region C.

6 I mentioned earlier that we have the
7 Chairman of the Mashpee Wampanoag Indian Tribe
8 with us. And we've asked him because of his
9 stature in our community if he would like to say
10 a few words. And Chairman Cromwell said he would.
11 Welcome.

12 CHAIRMAN CROMWELL: Small chairs,
13 large bodies, small chairs.

14 Good afternoon, Commissioners. First
15 of all, I want to offer my condolences from the
16 Mashpee Wampanoag Tribe to all of those who were
17 affected or impacted by this senseless bombings
18 that took place at the Boston Marathon. We as a
19 community, as a state will stick together on this,
20 very important, and as a nation as well.

21 Also want to recognize my Tribal
22 representatives, Secretary Stone, Treasurer
23 Hendricks, Councilman Foster and Councilwoman
24 Trish Keliinui from my Tribal Council, our Tribal

1 Government as well as our Tribal Elders and Tribal
2 community that have come to Western Mass. for the
3 Mass. Gaming Commission meeting.

4 Here today, I ask you in light of all
5 you've heard over the last two weeks to reconsider
6 your decision to open up Region C to commercial
7 bids today and to not open to Region C to commercial
8 bids.

9 Since this issue was raised over a
10 couple weeks ago, we've received outpouring
11 support from many people in supporting our Tribal
12 initiative, but also we've been on the receiving
13 end of threats and insults and many things that
14 should not be repeated like we should have
15 exterminated the Tribe when we had a chance to.

16 Unfortunately, this is not new to us.
17 Over the last 400 years, we've experienced a long
18 succession of broken promises, our land taken, our
19 original rights impacted just to name a few. But
20 we've never given up as a Tribal nation.

21 We believe we have trusted partners in
22 the Governor and the Legislature, which have
23 worked with us to ensure hundreds of millions of
24 dollars to the Commonwealth while respecting our

1 Tribal rights.

2 Your plan to pave the way for four
3 casinos, two in Southeastern Massachusetts not
4 only undermines the Legislature and the Governor
5 but according to the State's own consultants
6 report, which I'd like to read: A tribal class
7 three casino, perhaps even a class two casino in
8 Massachusetts could have a significant negative
9 impact on commercial casinos in the State.
10 Especially if a commercial casinos is located near
11 a tribal casino, the situation would have
12 potentially disastrous effects.

13 On commercial casinos in the
14 Commonwealth, the tribal casino in this case would
15 potentially contribute no tax money to the
16 Commonwealth and would obviously cause decline in
17 gross gaming revenues to commercial casinos.

18 And that was by the Spectrum Group,
19 August 1, 2008, very important information.

20 It not only jeopardizes the commercial
21 project in Southeastern Mass., but projects in
22 every region of the State as evidenced by the
23 letter submitted to Commission from MGM. I'm not
24 going to reiterate all of the different arguments

1 that we've made up to this point. Although, we
2 will continue to believe that you do not have the
3 legal authority to do this.

4 But again, I ask you do not interfere
5 with the compact in process. Do not undermine the
6 Governor and the Legislature. Do not interfere
7 with our federal rights. Do not pave the way for
8 four casinos. Do not put at risk hundreds of
9 millions of dollars and thousands of jobs. Do not
10 rush this decision today.

11 CHAIRMAN CROSBY: Thank you very much,
12 Mr. Chairman.

13 CHAIRMAN CROMWELL: Thank you. Small
14 chairs, big body.

15 CHAIRMAN CROSBY: With that kickoff,
16 we are here to think again about the proposition
17 that we had on the table I guess it was two weeks
18 ago. As usual, I think we will start out with
19 Commissioner McHugh to try to set the stage for our
20 subsequent conversation.

21 COMMISSIONER MCHUGH: Mr. Chairman,
22 we had an extensive discussion last time before we
23 elected to put the question out for public comment
24 about the various considerations and the various

1 issues that were wrapped up in the decision-making
2 process -- our decision-making process I should
3 say.

4 And today I thought it would be helpful
5 just to start this by putting up the question on
6 which we've asked for public comment so that
7 everybody understands what the question was. And
8 then look at the implications of a yes answer and
9 a no answer very quickly. The implications of a
10 yes answer being essentially those that we
11 discussed the last time. The implications of a no
12 answer being likewise. And then begin the
13 substantive discussion.

14 So, up on the board before us now is the
15 question. The question on which the Commission
16 has sought public comment is whether the
17 Commission should or should not open Region C to
18 commercial RFPs with the Commission deciding
19 whether to issue a commercial license to an
20 applicant taking into account economic and other
21 circumstances as they exist at the time of the
22 licensing decision in light of the statutory
23 objectives that govern expanded gaming in the
24 Commonwealth.

1 That really is a question that contains
2 two parts. Should the Commission open Region C to
3 commercial applications and decide the question of
4 whether to issue commercial license at the time the
5 licensing process is complete someplace down the
6 road?

7 The second slide that I'd like to put
8 up there now just takes that question and
9 deconstructs the implications of it that we
10 detailed last week in the outline of questions and
11 issues that we looked at.

12 If the answer to the question is yes,
13 then the Commission will take the following steps.
14 The Commission will issue a commercial Phase 1 RFP.
15 The State and Federal land in trust process will
16 be unaffected and will proceed as it has before.

17 When the Commission issues the
18 commercial RFP, it will simultaneously set a
19 deadline for the responses, for the Phase 1
20 responses. That's the same thing we are doing now
21 in the other regions. And again, the Tribal State
22 and Federal land in trust process will be
23 unaffected and will continue as before.

24 After we receive the Phase 1

1 applications and process them, the Commission will
2 make as its third step a Region C commercial
3 application suitability determination for each
4 applicant, if there's more than one. Again, the
5 Tribal Federal land in trust process and the State
6 processes will proceed unaffected and continue as
7 before.

8 And after the suitability
9 determinations are made, the Commission would
10 issue a site-specific Phase 2 RFP and a deadline
11 for responses. And the Tribal processes would
12 continue.

13 At some point, the deadline for the
14 commercial responses would be received. And then
15 the Commission, using the criteria it will use in
16 Regions A and B, will make a decision about award
17 of a commercial license after taking into account
18 the economic consequences of what then appears to
19 be the status of the Tribal State and Federal land
20 in trust process, the contents of the Phase 2
21 responses, the regional and statewide gaming and
22 other economic conditions then existing and then
23 forecast, and other relevant considerations.

24 This acknowledges that this entire

1 process is playing out against a plastic fluid
2 landscape. There are proposals, for example, now
3 before the State Legislature to approve Internet
4 poker. There are reports about the revenue
5 streams that are being generated in various
6 places. There are licenses that we're about to
7 issue and licenses that will have some geographic
8 locations that's now undetermined.

9 So, the idea of this is that the
10 decision on a commercial license in Region C, if
11 the answer to this question is yes, will depend on
12 how all of those factors appear at the moment of
13 truth as it were.

14 And based on the schedule for Regions
15 A and B, it is likely that the Commission will be
16 in a position to make its Region C licensing
17 decision toward the end of 2014. So, between now
18 and the end of 2014 the State process proceeds.
19 The Tribal State Federal land in trust process
20 proceeds. The other environmental circumstances
21 over which we have no control would proceed. And
22 we make a decision based on all of that in the end.
23 So, that's if the answer to the question is yes.

24 If the answer to the question is no,

1 which is the next slide, Region C remains closed
2 to commercial applications until the Tribal State
3 and Federal process is completed with a favorable
4 or unfavorable decision. Or the Commission is
5 able to conclude that all necessary favorable
6 decisions will not be forthcoming. So, Region C
7 will remain closed until those moments arise.

8 I suppose the Commission could make a
9 judgment later on to go through the process we are
10 just going through now, but that certainly is not
11 in the near horizon.

12 So, it seems to me that those
13 succinctly state the alternatives. The yes
14 answer will have these alternatives. The no
15 answer will have that alternative. So, that's out
16 there as a discussion starter.

17 We did ask for public comments. We got
18 a large number of public comments, many in the last
19 couple of days since the weekend. And we got some
20 by telephone. We got some by telephone and some
21 as we requested by email.

22 All of the email responses have been
23 posted on the Web, I believe, or will shortly be.
24 They have been posted.

1 CHAIRMAN CROSBY: All email
2 responses?

3 COMMISSIONER MCHUGH: Have been
4 posted on the Web. And I think it's quite fair to
5 say that the overwhelming content of those
6 responses was give the Tribe more time. And I
7 think that is a fair characterization. They're
8 there. They can be read by individuals and they
9 can make judgments for themselves.

10 But many of them thought that this was
11 an either/or proposition. Either you give the
12 Tribe more time or you cut the Tribe's time off.
13 And I think viewers will have to make -- viewers
14 of the email responses that are on the Web will have
15 to make that decision for themselves. But I think
16 that is how many people interpreted the question
17 and how they answered it. And so, that is a
18 summary, I think, of the responses.

19 CHAIRMAN CROSBY: You didn't mention
20 the voicemails.

21 COMMISSIONER MCHUGH: I think the
22 voicemails and the telephone calls were the same.
23 I think the overwhelming response overall, I meant
24 to say that. And if there was any ambiguity, I

1 apologize. But I think the overwhelming response
2 was give the Tribe more time.

3 And the voicemails and the telephone
4 calls were hard to capture as opposed to -- apart
5 from a yes or no kind of thing. But I think the
6 fair assessment was to give the Tribe more time.
7 And I think the telephone calls reflected the
8 content and thrust of the emails. So, I think it
9 was uniform across the board.

10 So, that brings us to where we are today
11 and sets the stage for the discussion and the
12 decision that we need to make today.

13 CHAIRMAN CROSBY: Just for starters,
14 is everybody comfortable with that description of
15 the decision process? There's even been amongst
16 ourselves, I think, at the end last week, part of
17 the reason we slowed down is we weren't sure
18 exactly even amongst ourselves what we were
19 talking about. But this is an attempt to clarify
20 that proposal, not only for ourselves but for
21 everybody else.

22 Commissioner Cameron too, is everybody
23 in agreement with Commissioner McHugh that that is
24 the decision tree that we are facing?

1 COMMISSIONER CAMERON: Could you
2 repeat that Mr. Chair? It was not clear.

3 CHAIRMAN CROSBY: I just was asking
4 whether everybody agrees with Commissioner
5 McHugh's sort of description of the decision tree
6 of the issues that we're having to address. So
7 that there is no ambiguity about what questions
8 we're addressing today.

9 COMMISSIONER CAMERON: None
10 whatsoever. For me, it lays the issues out and
11 talks about what the results will be if it's a yes
12 or a no answer. So, no I don't see any ambiguity.

13 CHAIRMAN CROSBY: Okay, great. Thank
14 you. So, let's discuss. Who is next?
15 Commissioner Zuniga, I know you have an approach
16 here.

17 COMMISSIONER ZUNIGA: Yes. I want to
18 emphasize the two-step process here that is true
19 for everybody, not just Region C, and some of the
20 principles we have as a mandate in the legislation.

21 The best time to evaluate the viability
22 of anybody, any license in any region is with a
23 response in front of us. Even though there is a
24 lot of great renderings and proposals reported in

1 the media for all of the other regions, we won't
2 really know for sure whether any of the other
3 applicants are proposing - or exactly what they are
4 proposing until the receipt of the site-specific
5 proposal, That can then be analyzed, can be
6 reviewed for the assumptions behind it, financial
7 considerations, strategic plans, number of jobs,
8 etc.

9 So, as we contemplate this process, I
10 think it's important to highlight that the
11 licensing point, that step two that is somewhere
12 in the future for all regions, but specifically for
13 Region C in the future is the decision point.

14 Now today is not an inconsequential
15 decision point, but I think what would be most
16 important for us, contemplating that there is this
17 process already on its way, the State Tribal and
18 Federal process, that it would have, one would like
19 to imagine, progressed in some fashion between now
20 and the point of contemplating award of a license
21 by virtue of what's being received. So, I only
22 wanted to emphasize that as an important piece.

23 The second piece is really that a
24 principle for all regions, for all licenses, for

1 all applicants is that there is a lot of factors
2 that go into deciding whether one applicant is
3 better than the next.

4 CHAIRMAN CROSBY: Can I just make one
5 clarification?

6 COMMISSIONER ZUNIGA: Sure.

7 CHAIRMAN CROSBY: So, you are talking
8 about if we did open for commercial and there were
9 applicants, because the Tribe is not an applicant.
10 The Tribe's status is its independent status,
11 independent of our application. So, you're
12 talking like if there were a commercial process
13 then the considerations about those applicants
14 would be relevant.

15 COMMISSIONER ZUNIGA: Right, but I'm
16 drawing a parallel that this is true for Region A
17 and B as well.

18 CHAIRMAN CROSBY: Right, I understand
19 that.

20 COMMISSIONER ZUNIGA: It's sort of
21 like when we think we can sell our house for
22 whatever, it's all in theory until we have somebody
23 willing to pay whatever they are willing to pay for
24 our house if we're going to sell it.

1 So, that's a very important piece that
2 is now in the future by the nature of the process
3 that we are required to undertake, a lengthy
4 investigation process, there's Phase 2, which
5 makes sense -- Phase 1 and Phase 2.

6 CHAIRMAN CROSBY: And interesting, if
7 I may interrupt you, both have spoken this. And
8 I hadn't quite thought of this before, but an
9 analogous point is, Commissioner McHugh sort of
10 referred to, we will be making decisions on the
11 licensees for A and B probably after we've made a
12 decision on the slots parlor.

13 COMMISSIONER ZUNIGA: Correct.

14 CHAIRMAN CROSBY: The applicants A and
15 B have no control over that, but it will impact our
16 decision. But that will be one of the many
17 contextual issues that we will address when the
18 time comes. Some are within the control of the
19 applicant. Some are within the control of us, and
20 others are not. And that's a perfect analogy.

21 COMMISSIONER ZUNIGA: Right.

22 CHAIRMAN CROSBY: Somebody's
23 application could be prejudiced by our decision to
24 where we locate the slots parlor unbeknownst to

1 them at the time of their application.

2 COMMISSIONER ZUNIGA: Correct.

3 Correct. And it's so dynamic, this gravity
4 models. I was having a hard time trying to figure
5 out because unlike the example that we know well
6 of Missouri when they bid out the ninth license and
7 all other licenses were already fixed, the three
8 respondents they evaluated with what the
9 incremental license would do to the other
10 licenses. And they were able to make good
11 decisions based on that.

12 Here, we have a very complex, a very
13 dynamic process in which modeling would be -- it's
14 really hard at this point. There's no fixed
15 points.

16 But I also want to emphasize the point
17 that Commissioner McHugh made well, which is that
18 we will be following the same principles if we were
19 to open this region, that is opening Region C as
20 we are on the Region A and B. The same
21 regulations, nobody's suggesting that there would
22 be different regulations.

23 CHAIRMAN CROSBY: Same evaluation
24 criteria.

1 COMMISSIONER ZUNIGA: Same evaluation
2 criteria. We would be looking at jobs. We'd be
3 looking at finance. We'd be looking at
4 mitigation. And the thing that's important to
5 highlight here is that there is the potential
6 presence, we don't know when, but there is the
7 potential presence of a Tribal operation. Some
8 say it's imminent. Some say it's much later.

9 But any license that we evaluate, this
10 is particular true for Region C, but this applies
11 to a few of our slots parlor licensees -- I'm sorry,
12 applicants that are not too far distance from
13 Taunton. So, there would be some impact in the
14 future to those licensees, the potential
15 licensees. I should emphasize that difference
16 between applicants and licensees.

17 So, all of those things would have to
18 be considered. Again, the best and only time to
19 consider them are with a specific proposal in front
20 of us. One that could be dissected, could be
21 analyzed, could be questioned for assumptions
22 behind it, could be modeled for a number of
23 factors. Those are two key points that I wanted
24 to talk about.

1 CHAIRMAN CROSBY: Thank you, those are
2 interesting. Anybody else further thoughts?

3 COMMISSIONER MCHUGH: I have a number
4 of thoughts that I want to get to at the appropriate
5 time. But I just wanted to pick up on that,
6 because as I was thinking about this in the last
7 couple of weeks, but thinking about it as we all
8 have for a while, it seemed to me that obscured in
9 a lot of the stuff that's gone back and forth is
10 a key consideration.

11 I think we, in our discussion last
12 week, this may have been fuzzied up a little bit
13 too. That is that the Tribal status and the Tribal
14 pursuit of its Federal land in trust application
15 is not -- is a fact. It's not a something that
16 places the Tribe in competition with others for a
17 license.

18 The Tribe could if we decide to open the
19 Region C to commercial applications, the Tribe
20 could compete for the commercial license. In
21 fact, the compact itself talks about that. And
22 what would happen if it did. And what would happen
23 if it were awarded that. So, that was part of the
24 bargaining between the Tribe and the Governor.

1 But they don't have to. It's a
2 sovereign nation. The compact is a government to
3 government document. And the land in trust
4 process is another government to government
5 interchange. So, the Tribe does not have to
6 compete with anybody. And as a consequence of
7 that, everybody else has to make plans,
8 calculations and decisions around the status of
9 the Tribal application. It is a fact that is there
10 and has to be dealt with.

11 So, an approach that makes the decision
12 point about a year, almost two years down the road,
13 as you suggested Commissioner, gives us the
14 opportunity to see all of the factors as they then
15 exist and make a commercial application decision
16 in light of all of those factors including the fact
17 of the Tribe's progress.

18 The Tribe is predicting that it will
19 have the land in trust process completed by then,
20 indeed much earlier than that. And if so, that's
21 a fact that we have to take into account and make
22 decisions about.

23 So, it's important, I think, that we
24 make that clear. That the Tribe is not part of the

1 bargaining or competitive process. The Tribe's
2 status is a fact that we have to take into account
3 in making contingency plans. And that we have to
4 keep in mind.

5 COMMISSIONER ZUNIGA: I also wanted to
6 mention that a nuance along those lines, a nuance
7 of Region C or a difference in Region C along those
8 facts that Commissioner McHugh articulates.
9 Region A and Region B we can consider conceivably
10 we can guarantee a regional monopoly. There is
11 value. Because the legislation sets that forth in
12 the statute.

13 CHAIRMAN CROSBY: Unless another
14 tribe is recognized and gets land in trust.

15 COMMISSIONER ZUNIGA: That's right.
16 Unless the Legislature itself decides to open up
17 -- to give us the authority or anyone else really,
18 to give us the authority to award more licenses.

19 But as it stands now, Region A and
20 Region B those competing for that license can be
21 reasonably assured that there will be no other
22 casino operation in that Region. And they can
23 make assumptions about it. And there is value in
24 that regional monopoly, if you will.

1 Because of the process that
2 Commissioner McHugh well has articulated,
3 summarized here, but articulated before, not so
4 much in Region C because it has this other barrier.

5 There are potentially bidders who
6 claim that they could put a proposal in that region
7 that acknowledges that and perhaps deals with that
8 in. I go back to my earlier point, we won't know
9 until we have a proposal in front of us, if we have
10 a proposal or more than one proposal.

11 But one would hope and they are
12 informed as to this process, how long it takes,
13 what will it mean for their operation. And the
14 fact that unlike Regions A and B there is not so
15 much this regional exclusivity.

16 There is a timing element and that
17 counts and that factors in. But there is no in
18 that case for a commercial bidder anyway, a
19 regional monopoly I would say.

20 CHAIRMAN CROSBY: Yes. One
21 background data point that I don't think I shared.
22 In response to a letter from representatives of the
23 Tribe, I responded and was told who the consultants
24 were that had said to us that their judgment was

1 -- our consultants' judgment was that it would be
2 years not months before the casino were awarded --
3 before the land in trust was awarded. That was
4 Michael & Carroll.

5 Michael & Carroll then got a phone call
6 from a lawyer for the Tribe whose name I think is
7 Judy Shapiro. I'm not sure I have that right,
8 who's been very involved in Indian law for a long
9 time. They talked to her, I think, twice. They
10 told me that they respected her tremendously that
11 she was very good.

12 And that she basically iterated to them
13 or has been reiterated to us her conviction that
14 the land in trust process is being handled very
15 expeditiously by DOI and BIA. And that it would
16 happen soon. And I think she said the timeframe
17 similar to what the Chairman has said, which is the
18 end of this year.

19 And Michael & Carroll -- the bottom of
20 Michael & Carroll was that that meant something to
21 them. That they thought there was probably
22 substance behind the intent of the Department to
23 move as expeditiously as possible on this. And
24 that that might have some impact on the length of

1 time.

2 They nevertheless felt that in their
3 experience, and they too have fair amount of
4 experience in this, it was highly unlikely that it
5 would happen in the timeframe that the Tribe and
6 that Lawyer Shapiro was saying. For what it's
7 worth that was their reaction after talking to the
8 lawyer. And I just wanted to make sure everybody
9 had heard that.

10 Other thought processes or analyses
11 here? How you're getting to a conclusion, if you
12 are?

13 COMMISSIONER STEBBINS: Again, Mr.
14 Chairman, as you alluded to earlier, we have
15 somewhat of a clumsy process where we have to use
16 meetings like this to brainstorm.

17 I guess one of the initial questions or
18 one of the initial concerns I had is that in the
19 intervening time period between when we said we
20 would wait 90 days, a new compact has been
21 negotiated. I've reviewed the new compact.

22 CHAIRMAN CROSBY: The 90 days, just to
23 be clear, there's been some misunderstanding about
24 this. The Tribe asked for 90 days to get the

1 Legislature to approve the new compact, which we
2 did -- which we granted. It turns out the compact
3 didn't get to the Legislature until 90 days, but
4 that was what the 90-day delay was for.

5 COMMISSIONER STEBBINS: Right. I
6 invite my colleagues' comments or concerns about
7 this. I have some reservation to moving the
8 commercial process forward while there is a
9 negotiated compact, albeit waiting legislative
10 approval.

11 The first time the compact was
12 introduced, the compact had a timetable as to when
13 it would be needed to be acted upon. We don't have
14 that clarity this time around. I would even
15 suggest that there's some elements of the compact,
16 of the new compact that if you read the decision
17 of the BIA in the previous compact, we draw some
18 concerns about its future into question.

19 But I feel some hesitation and
20 reservation in terms of - And again, I invite each
21 of your thoughts and comments on this. -- is to
22 whether we are necessarily holding up another
23 entity of State government with proceeding with
24 its work.

1 CHAIRMAN CROSBY: Say that again? I
2 didn't get that last --

3 COMMISSIONER MCHUGH: I'm not sure I
4 understand that.

5 COMMISSIONER STEBBINS: I have some
6 reservation as to -- And again, I invite your
7 thoughts. -- as to if we make a decision today to
8 proceed with a commercial RFP application process
9 whether we are essentially impacting the process
10 that still the Legislature has to take in terms of
11 scheduling a vote on the compact.

12 COMMISSIONER MCHUGH: How would we be
13 doing that?

14 I ask that question because it seems to
15 me, and help me if I'm misunderstanding this, it
16 seems to me that until the point of decision, which
17 I'm hypothesizing, it may come a little earlier or
18 a little later, is late 2014. Until that point of
19 decision, everything on the Tribal side stays the
20 same.

21 And the commercial side proceeds as its
22 proceeding in A and B now. I think in the last set
23 of discussions, the last discussion we had, the
24 hypothesis I articulated in that summary was that

1 the compact would be approved by the BIA by
2 mid-August or September. One has no control.

3 So, the hypothesis is that that would
4 happen that it would continue to move forward.
5 And this time around, the BIA has given technical
6 support to the Tribe and to the Commonwealth so
7 that it doesn't run up on the shoals that it ran
8 up on the last time.

9 CHAIRMAN CROSBY: Perhaps.

10 COMMISSIONER MCHUGH: For planning
11 purposes, it seems to me realistic to assume that
12 that compact is going to get -- is likely to get
13 approved for planning purposes. We have no
14 control over it. We don't know about none of these
15 things until they are.

16 COMMISSIONER ZUNIGA: I would
17 actually argue that the Federal Tribal process
18 will continue even after a future decision point,
19 but your point is well taken.

20 I would like to emphasize one thing.
21 Like any other license in Region A and B, any other
22 license that we request responses for, we are not
23 required to award it. This is clear in the
24 legislation.

1 We are required to analyze what good it
2 does to the Commonwealth, and we may award. We are
3 not a public works department, let's say, that has
4 been mandated to request a public works project
5 that has already been approved for funding and that
6 ought to go to the best responsible bidder. This
7 is not such a procurement, such a request for
8 application.

9 We would have to be convinced in the
10 future that the viability of a license
11 commercially in that region, but any other region
12 is viable. And that it brings all of the benefits
13 that we are forecasting and others are forecasting
14 and are set forth in the legislation.

15 So, taking a step today or any time in
16 the future towards opening a region for requests
17 for applications does not bind this Commission
18 really to have to award it. I think that was
19 obvious but I think it bears repeating. That this
20 two-step process does not and should not undermine
21 any efforts by anybody else whether it's the other
22 agencies, the Legislature itself or the Federal
23 Tribal process. But I think that was already
24 summarized well.

1 CHAIRMAN CROSBY: In response to the
2 question you are raising, Commissioner Stebbins,
3 it seems to me that -- I don't know whether it'll
4 affect. I don't know what it will do. I don't
5 think there is any way to predict what our action
6 or lack of action, whatever our decision is will
7 have on the Legislature. I simply don't know how
8 we could calculate what that is.

9 I think, if you could look at our
10 experience on the 90-day delay, the compact didn't
11 get signed until the day before our meeting. We
12 said at the end of 90 days. If we hadn't set that
13 deadline, I don't know if there'd be a compact.

14 I think having us take the ball and
15 make decisions does in fact, at least in some
16 quarters, trigger action. It's maybe action and
17 reaction. What the net of that I don't know is.
18 But somebody has to act here, and it's we. And I
19 think to predict what the action will be is
20 impossible. There may be a reason to predict that
21 some action is more likely to happen if we act than
22 not.

23 The other thing, this is just for
24 myself, to me the issue is not the compact. The

1 possibility that there wouldn't be a compact was
2 so unanticipated that the Legislature never
3 addressed it, never addressed the possibility that
4 the compact would not have been approved if it was
5 approved by the Legislature by July 31 of last
6 year.

7 That's not the issue to me. I assume
8 the compact or at least I'm happy to assume -- the
9 Tribe tells me it'll get done. So, I guess it'll
10 get done. I don't know. That's not the issue.
11 The issue to me, the real unknown that's the fly
12 in the ointment here, if the question were land in
13 trust is a no-brainer. It's going to get done if
14 the compact -- as soon as the compact gets done.
15 I don't think we'd be having this conversation.

16 The issue is land in trust. So,
17 whether the compact were done or not, I at least
18 would still be entertaining this conversation.

19 COMMISSIONER MCHUGH: I am going to
20 pick on that and just go through, if I might for
21 a second, the thought process that I used here.

22 It seems to me we have to start with,
23 and I go back to Chairman Cromwell's thoughts, we
24 have to go back to our power to do this. And I

1 simply read 91E differently. If 91E prohibits us
2 from doing this, it's game over. And that's a
3 simple question of law to be decided. I just don't
4 think it does and I've articulated that before.

5 So. you start with the proposition that
6 we have discretion to interpret the statute. This
7 is a fair reading of the statute that is within our
8 jurisdiction to enforce. And that reading is that
9 we have the power to open commercial bids. We must
10 open them under certain circumstances, but we may
11 open them under others. So, we start from that
12 point.

13 We've discussed the compact issue.
14 And I had nothing further to add there. I proceed
15 on the assumption that it will be executed.

16 But the land in trust issue is the
17 issue. And in that issue is the Carcieri
18 decision. That is one of the big problems in
19 there. And I know that it has been said to be a
20 top priority. I know that it's been said to be
21 something that the Solicitor is considering
22 actively. But that is not going to be the subject
23 of a separate announcement according to what Kevin
24 Washburn said to me in the phone call that I had

1 to him. That's advice to him that will find its
2 way into the overall trust decision.

3 The legislation, as I view it,
4 manifested an intent. And this is an intent that
5 is determined in the normal way by looking at the
6 structure of the statute, the language the
7 Legislature used, the clear problems with which
8 they were trying to deal. And the Legislature
9 manifested, it seems to me, a general suggestion
10 that Region C not be left behind, and gave the
11 Commission discretion as to how to insure that
12 Region C was not left behind.

13 In the event that the Tribal sees
14 thoughtfully and aggressively and carefully
15 pursued as they are being ultimately failed. So,
16 that's something that the Commission has the
17 responsibility to look at and the discretion to
18 deal with in a what-if danger mitigation fashion.

19 But importantly, I don't think waiting
20 is an option. We have defendants in a lawsuit in
21 the Federal Court now. The First Circuit has made
22 a decision, the last seven pages of which talk
23 about how the longer we wait without an undefined
24 deadline, the more the wait begins to look like a

1 violation of the equal protection clause of the
2 14th amendment.

3 So, simply doing nothing, it seems to
4 me, feeds into the clear indication. The First
5 Circuit didn't decide that issue. But the longer
6 we wait without some kind of a plan for allowing
7 events to proceed to a predetermined decision
8 point, one of which is supporting the IGRA process,
9 which a wait will do, the more the wait is simply
10 undefined, the more it looks like it may be in
11 violation of the equal protection clause.

12 And we can't tell with certainty,
13 unless we take some steps, how long that wait will
14 be. As the First Circuit pointed out, the compact
15 contains a provision saying that in the event that
16 this land in trust application is unsuccessful --
17 I know the Tribe believes and one would hope that
18 they are right that that's not going to happen.
19 But if it is, then they have the right under the
20 compact to find other land and start a new land in
21 trust process with respect to that other lead.

22 So, the wait is not necessarily
23 terminated by a negative decision on this land in
24 trust application. It would be terminated, of

1 course, by a positive determination but the Tribe
2 has already predicted when that would happen.

3 So, it seems to me that taking a
4 position that allows the Tribal process to proceed
5 and at the same time sets us up to take a look at
6 whether to issue a commercial license at the end
7 of a generous amount of time is really the best
8 course to take.

9 That allows the Tribe to move forward
10 unencumbered. It allows the Tribe to continue its
11 process. And if it's projections are correct, by
12 early next year, their application, their land in
13 trust process will finish. And they will have the
14 land in trust and can proceed with the construction
15 that they've been planning and working on with the
16 citizens of Taunton for so long.

17 Opening up the commercial application
18 doesn't automatically reduce the Commonwealth's
19 share of gaming revenue. Even an award of a
20 license doesn't do that because under the compact,
21 the Commonwealth's share only drops if another
22 casino actually commences operation in the same
23 region.

24 So, the mere fact the step we're taking

1 today doesn't affect the potential for that full
2 17 percent from the Tribe's operations that come
3 to the State.

4 On the commercial side we are not
5 proceeding on a parallel the way we were in the past
6 in the sense that if the Tribe is successful we
7 automatically stop the commercial side. We are
8 going to look at the commercial side on a
9 functional basis in essentially the same way that
10 we're looking at it elsewhere. And that's an
11 option. That other option, the parallel track one
12 was one we discussed in December. But this is
13 different.

14 We look at all matters as they existed
15 at the time of the decision. We take a look, as
16 you so well articulated Commissioner, at things in
17 the same way we've looked at them in other regions.
18 We have in our application evaluation criteria
19 said that all applicants have to present us with
20 an economically viable proposal. And that we're
21 interested in new revenues rather than revenues
22 that cannibalize existing businesses.

23 So, we have to take into account what
24 is an existing business as the time of our

1 decision. And whether the viability of the
2 applicant would depend on cannibalizing revenues
3 that are going to that business rather than pulling
4 in revenues from another place.

5 And if the Tribe is there that's one of
6 the businesses that one would have to consider.
7 And we to consider all of the criteria including
8 the one that we all know and cannot ignore. And
9 that is whether Region C can support two casinos.
10 And the Commonwealth can support four. And all of
11 the studies suggest it can.

12 So, we're not ignoring the four casino
13 warnings that we've been well apprised of and have
14 considered to this point. So, it seems to me that
15 in terms of mitigating the risk, of allowing the
16 Tribe to proceed, recognizing where the Tribe has
17 gone, allowing it to continue that process, but at
18 the same time, doing a realistic bit of planning
19 for what happens if the Tribe is not successful is
20 the responsible thing to do and is the sound
21 exercise of our discretion under the statute and
22 a sound way of fulfilling our statutory obligation
23 to look at all of the decisions of the
24 Commonwealth, Tribe include.

1 The Tribe I think of as an important
2 part of the Commonwealth's history and population.
3 So, I think this respects everybody's rights and
4 is a sound way of exercising the difficult
5 responsibility in this area that we have. So, I
6 would be in favor of doing this.

7 CHAIRMAN CROSBY: Commissioner
8 Cameron, do you want to add?

9 COMMISSIONER CAMERON: Yes, Mr.
10 Chair. Once a while I do have an opinion. This
11 is a difficult issue for me. I very much respect
12 the Tribe's right to proceed with this process.
13 And I had to understand that in fact this does --
14 this plan that we are contemplating does in fact
15 respect the rights and the ability to move forward.

16 The other issue I struggled with
17 personally was the legality. What really -- what
18 is realistic and what does past practice show us
19 about land in trust and challenges after the fact.
20 And I know one of the letters from the Tribe's
21 attorney urged us to reach out to gaming who had
22 knowledge of Tribal gaming process. And I think
23 we've done that.

24 I know I spent a lot of time speaking

1 with our gaming lawyers who really walked through
2 these issues with me, past practice, what's
3 probable, what has changed. I also spent time
4 speaking with our own legal staff about different
5 pieces of this process and what it meant and our
6 ability to do this.

7 So, after educating myself to a place
8 where I can feel comfortable, I am supporting this
9 plan. Again, I point out the fact that it was
10 important to me that the Tribe had the ability to
11 move forward. But it's also important that we as
12 a Commission look out for the region as a whole.
13 And I was persuaded by comments from citizens and
14 Legislators about Southeastern Mass. and the need
15 for this kind of economic development and not
16 falling behind.

17 So, after really wrestling with all of
18 these issues and understanding it, I believe I am
19 in support of this plan for the reasons
20 Commissioner McHugh just articulated. And in
21 speaking with people who I think have real
22 knowledge of this process and timeframes, it does
23 allow us to move forward and see how these things
24 play out.

1 And Commissioner Zuniga's point is
2 well taken as well about seeing the quality of the
3 bids and not having the obligation. What is best
4 for the Commonwealth? And I believe this plan
5 will allow us to see that. That is something we
6 can't do now with the status call. So, I am
7 supporting this plan.

8 CHAIRMAN CROSBY: Thank you. I'd
9 like to do what everybody else has done, which is
10 sort of walk through my thought process. It's
11 hard for me as well. And I wish the Legislature
12 had given us clear signals on this. I don't think
13 they did.

14 For me, the fundamental issue is the
15 inability to tie down with any degree of certainty
16 when the land in trust issue will happen. The
17 Tribe says with emotion and conviction that it'll
18 happen soon. Others say that it's a long time
19 away. And I personally have no way to come to a
20 conclusion as to when it is likely -- when it will
21 happen.

22 I believe as Commissioner McHugh said
23 that we have the clear authority to do this, but
24 that is a matter of law, which will be decided if

1 somebody chooses to challenge that.

2 The law does say, as Commissioner
3 McHugh said, that under certain circumstances we
4 must issue an RFP. But that is if "the Commission
5 determines that the Tribe will not have land taken
6 into trust by the US Secretary of the Interior. If
7 the Commission determines that the Commission
8 shall consider bids for a Category 1 license in
9 Region C."

10 For us to determine that the Tribe will
11 not get land taken into trust by the US Secretary
12 is to me an impossibility. Because at anytime
13 Congress could make that decision. And maybe the
14 Supreme Court could make a decision. It's an
15 impossibility for us to come to that conclusion,
16 which suggests to me that there is a sense of some
17 degree of reasonableness, some degree of arbitrary
18 authority or independent authority on our part to
19 figure out how to deal with that ambiguity.

20 So, then I tried to think through okay,
21 as I said the other day, there are no good solutions
22 here. There is only trying to figure out the least
23 bad solution. So, as I walked through the
24 different alternatives, if we wait on the Tribe for

1 I don't know whether it's the end of the year or
2 early 2014, but whenever they say the land in trust
3 application happens. And that fails, that
4 promised deadline is not met, the Commonwealth
5 loses the \$85 million license fee from a commercial
6 applicant. The Commonwealth loses a hundred
7 million or so in revenues for every year that this
8 unknown delay goes on. And the Commonwealth loses
9 whatever the economic development and jobs impact
10 is of the construction of a commercial facility.

11 If we proceed and the Tribe succeeds on
12 the schedule that they say they will proceed on,
13 then I think there is a substantial likelihood for
14 a host of reasons, some of which I'll speak to, that
15 when we get to our decision point that we would go
16 with the Tribe's proposal.

17 The commercial bidders will have
18 misled us. The commercial bidders will have
19 premised their application on something which
20 turns out to be false that the Tribe will take years
21 to get their land in trust. And they might well.
22 There is no guarantee of this. But the commercial
23 bidders having misled us about how about how long
24 land in trust would take may well lose at the end.

1 If we proceed and the Tribe fails to
2 meet its deadline, as they have said they can meet,
3 then we will have selected a commercial
4 alternative and Southeastern Mass. interests will
5 have been protected.

6 It seems to me and I understand where
7 this is where I sit and there are folks in the
8 audience who sit in a different place, but it seems
9 to me that amongst these undesirable options, the
10 Tribe has the least to lose of all of the invested
11 parties of us going forward the way that we are
12 going forward.

13 The Tribe actually has the opportunity
14 to win. If the Tribe does what the Tribe says it
15 will do, then it has by the far the best chance to
16 end up getting what it wants. And that is a
17 powerful head start.

18 There is one other point here that I
19 wanted to make. If we go commercial and the
20 compact -- and the Tribe gets the compact approved,
21 just the compact approved, there may well be no
22 commercial bids.

23 And I quote a letter from K.G. Urban,
24 the only identified interested commercial party at

1 this point. They said the proposed compact if
2 approved will choke off competition even if the
3 region has been opened by the Commission due to the
4 unnecessary and absurd economic advantage being
5 provided to the Mashpee.

6 Forget unnecessary and absurd economic
7 advantage. Ignore that part. But K.G. Urban
8 says that the mere approval of a compact will, in
9 its words, choke off competition.

10 So, no matter which route we choose, it
11 seems to me to use a figure of speech, the Mashpee
12 holds the best hand down any of the routes that we
13 choose, including the one we are contemplating
14 today, with the most options available to them with
15 the least prejudice to their long-term case. If
16 they perform as they say they will with the compact
17 and land in trust this year, they very likely will
18 get what they want, no matter what else anybody
19 does.

20 So, I too conclude that I reiterate
21 among unattractive options that going with the
22 plan that we got on the table is the right way to
23 go. Commissioner Stebbins, anything else?

24 COMMISSIONER STEBBINS: No. I

1 appreciate the input and the thoughts of my
2 colleagues. And I appreciate their viewpoints.

3 CHAIRMAN CROSBY: Okay. Any more
4 discussion, Commissioner Zuniga?

5 COMMISSIONER ZUNIGA: To summarize my
6 position like others have done, I would also be in
7 support of answering yes to this question that is
8 posed here today to open the region, and see what
9 proposals may or may not come and how they come,
10 if that's the case.

11 CHAIRMAN CROSBY: Any other comment,
12 discussion? Commissioner McHugh, it may be best
13 to have you tee up a motion.

14 COMMISSIONER MCHUGH: I move
15 colleagues that the Commission open Region C to
16 commercial RFPs with the Commission deciding
17 whether to issue a commercial license to an
18 applicant after taking into account economic and
19 other circumstances as they exist at the time of
20 the licensing decision in light of the statutory
21 objective that govern expanded gaming in the
22 Commonwealth and the discretion with which the
23 expanded gaming statute clothes the Commission.

24 CHAIRMAN CROSBY: Second?

1 COMMISSIONER ZUNIGA: Second.

2 CHAIRMAN CROSBY: Any further
3 discussion? Okay. I will poll the Commission,
4 Commissioner Stebbins?

5 COMMISSIONER STEBBINS: Yes.

6 CHAIRMAN CROSBY: Commissioner
7 Zuniga?

8 COMMISSIONER ZUNIGA: Yes.

9 CHAIRMAN CROSBY: Commissioner
10 McHugh?

11 COMMISSIONER MCHUGH: Yes.

12 CHAIRMAN CROSBY: Commissioner
13 Cameron?

14 COMMISSIONER CAMERON: Yes.

15 CHAIRMAN CROSBY: And the Chair also
16 votes yes. The motion passes unanimously.

17 I think that is our last item. Any
18 other business? Thank you folks for coming to
19 join us. Sorry about the technological problems.
20 And we wish you all well. I guess we have a motion
21 to adjourn.

22

23 (Meeting adjourned at 3:40 p.m.)

24

ATTACHMENTS:

1. Massachusetts Gaming Commission April 18, 2013 Notice of Meeting and Agenda
2. Massachusetts Gaming Commission March 28, 2013 Meeting Minutes
3. Written Responses Regarding Host Community Referendum Emergency Regulation
4. Massachusetts Gaming Commission State and Tribal Licensing Processes in Region C: Safeguarding Rights and Options
5. Written Responses Regarding Region C Options

SPEAKERS:

Jeffrey Hayden, Holyoke Community College
Robert LePage, Springfield Technical Community College
William Messner, Holyoke Community College
John Ziemba, Ombudsman

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
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WITNESS MY HAND this 19th day of April 2013



LAURIE J. JORDAN

My Commission expires:

Notary Public

May 11, 2018

