

THE COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION
PUBLIC MEETING #116

CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

Gayle Cameron

James F. McHugh

Bruce W. Stebbins

Enrique Zuniga

April 3, 2014 10:30 a.m. - 4:33 p.m.

HYNES CONVENTION CENTER

900 Boylston Street, Room 200

Boston, Massachusetts

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

2

3 CHAIRMAN CROSBY: I am calling to
4 order the 116th meeting of the Massachusetts
5 Gaming Commission today at the Hynes Auditorium
6 at 10:30 on April 3.

7 We are going to add a brief moment
8 business with a few remarks from Colonel
9 Cameron.

10 COMMISSIONER CAMERON: Mr. Chair, I
11 would just like to ask for a moment of silence
12 for our two brave firefighters who tragically
13 lost their lives last week.

14

15 (A moment of silence)

16

17 COMMISSIONER CAMERON: Thank you.

18 CHAIRMAN CROSBY: Thank you. It's
19 quite striking. If you didn't see the
20 firehouse outside, it's quite striking and
21 quite moving.

22 Commissioner McHugh, the approval of
23 the minutes.

24 COMMISSIONER MCHUGH: The approval

1 of the March 20 minutes will be deferred until
2 out next meeting, Mr. Chairman.

3 CHAIRMAN CROSBY: Okay. Executive
4 Director Day, item three administration.

5 MR. DAY: Thank you, Chairman. Good
6 morning, Commissioners. I am going to be real
7 quick on the general -- I don't have a general
8 update today, but I will respond if the
9 Commission might happen to have any questions.
10 If that's not the case, I will refer to Jill
11 for introduction of the next topic.

12 CHAIRMAN CROSBY: Okay.

13 MS. GRIFFIN: Commissioners, I am
14 here to highlight activities regarding
15 diversity that have taken place since the award
16 of the Category 2 slots license to Penn
17 National Gaming. Then I will also introduce
18 Penn National's diversity plan to the
19 Commission.

20 Prior to reading the diversity plan,
21 I have to say I went back into our own
22 transcripts even before I was hired to the
23 transcript of the diversity and inclusion
24 education forum that happened on September 19,

1 2012 for advice from our experts and to put
2 Penn's diversity plan into perspective.

3 And I took a couple of comments that
4 I thought you might find interesting. Ms.
5 Cleghorne was one of the panelists. And she
6 said as we say in the law past performance is
7 the best indicator of future performance.

8 Also Dr. Fred McKinney of the
9 Greater New England Minority Supplier
10 Development Council remarked there are only a
11 very small proportion of corporations in
12 America that I would call having a world-class
13 supplier diversity program. Most are not
14 there, but what's important is that they have a
15 path to get there that they have a commitment
16 among the senior management to get there. So,
17 I do think it is important to ask senior
18 management of the applicants to share with the
19 Commission what their diversity and inclusion
20 plans are.

21 Commissioners, as you all know, Penn
22 National has a strong record of diversity and
23 inclusion in both hiring and purchasing. I'd
24 like to add that we have representatives here

1 from Penn National. And we have others on the
2 way, CEO Tim Wilmott and Eric Schippers, the
3 Senior Vice President of Public Affairs are on
4 their way from the airport and anxious to get
5 here.

6 Karen Bailey, Vice President of
7 Public Affairs is here. Alison Stanton who is
8 the Director of Community Affairs for Turner
9 Construction and Emil Giordano who is Turner
10 Project Executive is here as well.

11 The plan is I'm going to comment on
12 their diversity plan. They are here for
13 questions as well. Following this meeting,
14 we'd release it for comment to our vendor
15 advisory team and other folks who are
16 especially interested in diversity.

17 CHAIRMAN CROSBY: So, they haven't
18 seen it yet? That was one of my first
19 questions.

20 MS. GRIFFIN: They have not seen it
21 yet. And we wanted to introduce it to the
22 Commission. Commissioners are not voting on it
23 today on the plan but it is required that you
24 approve it. The plan is that on the 17th we

1 have it on the docket for you to actually
2 approve the plan. So, in between now and the
3 17th we will get feedback from our advisors who
4 care very much about the issue of diversity.

5 I would like to say that Penn
6 National has hit the ground running in regards
7 to outreach to diverse communities for the
8 design and construction phase. They attended
9 the first meeting with the Massachusetts Gaming
10 Commission's vendor advisory team on March 24.
11 I might say they were available for some very
12 direct questions and feedback. The group
13 really appreciated their responses.

14 They have outreached to the
15 Massachusetts Supplier Diversity Office, SDO,
16 and with the Greater New England Minority
17 Supplier Development Council, both of whom
18 Turner partners with and had existing
19 relationships with. This was to alert the
20 member subcontractors to opportunities that are
21 already available.

22 They have outreached the
23 Massachusetts Small Business Development Center
24 Network Southeast regional office. And they

1 hosted a subcontract opportunity event on March
2 25 in which myself and Director of Licensing,
3 David Acosta, and other staff attended. There
4 were 150 businesses in attendance. It was
5 extremely well attended.

6 They have also communicated with the
7 Veterans Business Owners Initiative in Bedford
8 and Worcester, and are working with the
9 Massachusetts Building Trades Council.

10 So, pursuant to condition seven and
11 nine of the Massachusetts Gaming Commission's
12 Category 2 license, Penn National has submitted
13 to the Commission the affirmative action plan
14 for the design and construction phase of
15 Plainridge Park Casino. The plan is entitled
16 Diversity Plan for Design and Construction
17 Phase of Plainridge Park Casino. It was
18 developed by both Penn and their construction
19 management team, Turner Construction.

20 The plan highlights opportunities
21 and systems to maximize participation by a
22 diverse group of contractors, as well as
23 ensuring that those contractors maintain
24 diverse employee basis. Penn based this plan

1 on research that they did regarding existing
2 programs in the Commonwealth. They looked at
3 baseline participation goals for public
4 projects in the Commonwealth. And they looked
5 at participation rates of similarly sized
6 projects in the region. They also looked at
7 the current availability of businesses and
8 workforce participation -- participants in that
9 region to meet these designations.

10 Then they also based a lot of their
11 information on the 2010 Disparity Study that
12 was prepared for the Division of Capital Asset
13 Management entitled Race, Sex and Business
14 Enterprise.

15 So, as a result of this research,
16 they have set some participation goals for the
17 project regarding design and construction
18 subcontractors. Eleven percent for minority
19 and women business enterprises. That is the
20 participation goal. They have a participation
21 goal for veteran business enterprises and that
22 is three percent.

23 The labor participation goals
24 outlined by Penn National exceed those of

1 Administrative Bulletin 14, which is the A&F
2 Bulletin 14, the state contract goals 15.3
3 percent minority and 6.9 percent women.
4 Massachusetts has not yet established baseline
5 veteran participation goals. So, Penn design
6 and construction workforce goals are 16 percent
7 minority and seven percent female and a
8 priority placed on opportunities for veterans.

9 So, these diversity goals will
10 enable Plainridge Park Casino project to be
11 reflective of the region's diversity and either
12 meet or exceed those goals set by the Executive
13 Office of Administration and Finance Bulletin
14 14.

15 Do I have any questions from the
16 Commissioners?

17 COMMISSIONER CAMERON: I have a
18 couple. I read the plan. I thought it looked
19 -- It really appeared to me that this licensee
20 is taking this challenge and taking it
21 seriously and put together an effective plan
22 here.

23 The word participation, what do we
24 mean by that? Are we talking about actual

1 numbers of people employed when we say
2 participation?

3 MS. BAILEY: I'm Karen Bailey, Vice
4 President of Public Affairs for Penn National
5 Gaming. For participation on the workforce
6 side that is head count. On the vendor side
7 that is percent of dollars of what we call
8 qualified spend, which is outlined in the
9 definitions in the document.

10 COMMISSIONER CAMERON: And the only
11 other thing I saw, and I did see it once is
12 what's really important with a plan like this
13 is that you continually evaluate because there
14 may be some areas where you can make a change
15 midstream to be more effective with the plan.

16 So, I didn't see a lot about
17 evaluation. But I did see on page 12 the
18 process allows the team to address any
19 discrepancies. So, I assume when you say
20 discrepancies, you're talking about if you are
21 falling short with your goals, you'll take a
22 look and see why and try to address that. Is
23 that what that refers to?

24 MS. BAILEY: Correct. Yes, we

1 actually are required to submit a quarterly
2 report of our progress throughout the
3 construction phase. We'll be obviously working
4 much more closely with Jill and her team, with
5 the director, excuse me, and her team
6 throughout the process in getting that granular
7 information.

8 And then there is the corrective
9 action process that we will go through if we
10 are falling short particularly on the
11 workforce, because there is going to be a
12 considerable amount of diligence in making sure
13 that we're meeting the goals on the workforce
14 as it takes a little more effort to keep tabs
15 on that, quite frankly.

16 So, anywhere we see that falling
17 short with any of our subcontractors, they will
18 be addressed and a plan will be put in place
19 and submitted to the Commission as well and to
20 the staff.

21 COMMISSIONER CAMERON: Excellent.
22 The last question, how did you do with your --
23 You had kind of job fair for subcontractors.
24 How did you do? Was there a fair amount of

1 diversity folks show up at that event?

2 MS. STANTON: I'm Alison Stanton
3 with Turner Construction. And the event was
4 targeted at minority businesses, woman
5 businesses and veteran businesses and local
6 businesses as well. It was open to the public,
7 but that was the goal. So, I would say that
8 probably 80 percent of the businesses that
9 showed up were MBE, WBE or veteran status as
10 well.

11 COMMISSIONER CAMERON: Impressive
12 that you're taking this very seriously.

13 CHAIRMAN CROSBY: Anybody else?

14 COMMISSIONER ZUNIGA: I have a
15 couple questions since the representatives from
16 Penn and Turner are here. Have you decided or
17 established a project delivery system, what
18 kind of contracting scheme between Penn and
19 Turner you're going to operate under?

20 MS. BAILEY: Are you talking about
21 just our contract in general?

22 COMMISSIONER ZUNIGA: Yes, CM at-
23 risk or design build?

24 MS. BAILEY: That's something I'd

1 like to get back to the Commission on and the
2 specifics of that. Unfortunately, my head of
3 construction is not here. I know that they are
4 working with Turner right now in terms of our
5 agreement. We are also actually working with
6 your Licensing Division on the needs from a
7 licensing perspective of Turner. So, we'd be
8 happy to get back to you on that.

9 COMMISSIONER ZUNIGA: Okay. Because
10 a lot of the subcontracting participation could
11 really hinge on how that is. So, I'd be very
12 interested in learning more about that. Also,
13 do you have a project labor agreement, remind
14 me, on the site?

15 MR. GIORDANO: Yes.

16 COMMISSIONER ZUNIGA: Will you be
17 looking at apprenticeship programs? Is there
18 anything under that labor agreement that you
19 can exercise now -- the apprenticeship programs
20 are generally a very good strategy to enhance
21 diversity participation and workforce
22 development. So, if you could tell us a little
23 bit about that I'd be very interested.

24 MR. GIORDANO: Sure. It's

1 interesting that you ask that. The project
2 labor agreement does not address that but I did
3 meet yesterday with the building trades in
4 Southeastern Massachusetts with all of the
5 union representatives. And they actually
6 brought to the table that they would like to
7 get us involved with the local voc. tech.
8 programs in the area. We are very open to do
9 that. So, we are going to take that step with
10 them.

11 MS. STANTON: And another
12 organization that we work with closely here is
13 the Building Pathways pre-apprenticeship
14 program. I know that that is a Boston-based
15 program, but would like to try to incorporate
16 something similar to that understanding that
17 the pipeline needs to be in advance.

18 CHAIRMAN CROSBY: Is that the
19 Asian/American Civic Association? Whose is
20 that organization?

21 MS. STANTON: No. So, Building
22 Pathways is a nonprofit. It's actually Brian
23 Doherty and Mary Volgo with the Construction
24 Institute that started the program.

1 But the goal of their program is to
2 increase minorities, females and Boston
3 residents going into the apprenticeship
4 programs in Boston. They do all of their
5 outreach to those individuals in the city. So,
6 trying to expand upon that for the
7 Commonwealth.

8 MS. BAILEY: And in addition, we've
9 actually already instituted onto our website
10 and our social media efforts and our other
11 media efforts is to attract other workforce
12 participants. And basically setting up a basic
13 application process that we then forward over
14 to the building and trades organization for
15 consideration. That has both a minority
16 workforce goal for the purposes of a minority
17 workforce as well as to attract local residents
18 to the project as well.

19 COMMISSIONER MCHUGH: I wanted to
20 ask and may be this goes to Turner about the
21 corrective action process that's detailed on
22 paragraph three on page 13 of this plan-- it's
23 not detailed, it's mentioned.

24 CHAIRMAN CROSBY: Your erstwhile

1 associates have just arrived, Mr. Wilmott and
2 Mr. Schippers are here.

3 COMMISSIONER MCHUGH: And I wondered
4 if you could just expand on what that involves.

5 MS. STANTON: Certainly. So, where
6 the corrective action meeting is mentioned, the
7 main focus of the corrective action is for the
8 workforce piece. But it is also incorporated
9 for minority and woman business and veteran
10 business participation as well. But a lot of
11 that effort is an early preconstruction in
12 trying to make sure that goals and commitments
13 are achieved and agreed to way before we even
14 make an award.

15 The corrective action in this piece
16 here would be once the sub is coming on-site,
17 they've already agreed to the percentages for
18 workforce. Are they actually working towards
19 those goals?

20 So, we have a regular meeting with
21 them on-site, a preconstruction meeting where
22 we discuss what they've committed to and what
23 the goals were. Then their core crew comes on.
24 They start to increase their workforce. And

1 right away if we see that as their workforce is
2 increasing or even their core crew, if their
3 core crew is not reflective of the goals on the
4 project, then we'll bring that team in and say,
5 okay, you need to submit to us a plan on how
6 you're going to rectify this.

7 It would happen immediately. It's
8 not something that we're checking in on a
9 monthly basis. We'll be doing the weekly
10 payrolls, collecting those every week so that
11 we're on top of it from a week-to-week basis.
12 And if that corrective needs to happen week
13 one, then it happens week one.

14 And then they will owe to us a plan
15 on how they're going to increase those goals or
16 why they're not meeting those goals.

17 COMMISSIONER MCHUGH: I take it
18 you've done this before.

19 MS. STANTON: Yes, yes.

20 COMMISSIONER MCHUGH: What happens
21 if after the corrective meeting, the goal still
22 isn't met?

23 MS. STANTON: It's definitely
24 something that then we would elevate to Penn

1 and speak with them about -- Any time a company
2 isn't meeting the goals, they're going to have
3 reasons why. So, we would need to look at that
4 reasoning and then discuss with Penn what our
5 next steps would be.

6 Again, this would happen early. It
7 would never be they're off the site and they're
8 gone. We want to address this and be proactive
9 early on in the process.

10 COMMISSIONER MCHUGH: I think it's
11 an excellent plan. I ask the question because
12 we seem to be resetting the established order
13 in Washington these days. And there are issues
14 there. So, I think treading the fine line that
15 you are treading is an excellent and aggressive
16 way to achieve these goals and anticipate the
17 future. So, that's great.

18 MS. STANTON: Thank you. And we
19 appreciate collaboration with this as well,
20 insight that you can offer us on that process.
21 We are open to that. Any insight is definitely
22 appreciated.

23 COMMISSIONER ZUNIGA: Commissioner,
24 I think you are alluding to something that I

1 was previously asking, which if Penn holds the
2 contract with all of the subcontractors, which
3 I doubt that would be unwieldy, there's a lot
4 more leverage to do corrective action. So, as
5 some of these subcontracts are let out that's
6 an important time to exercise this kind of
7 leverage and discussion. But I look forward to
8 your answer relative to the project delivery
9 system.

10 MS. BAILEY: And that leverage
11 obviously is between us and Turner and our
12 contract. This is something that we've done
13 numerous times over the course of the past
14 several years throughout the country. Turner
15 has been a great partner in that in different
16 places, which is probably why they are at the
17 table today, one of the reasons they're at the
18 table today.

19 COMMISSIONER ZUNIGA: Yes, I don't
20 doubt it.

21 CHAIRMAN CROSBY: Were you alluding
22 to the quotas issues and constitutional
23 challenges?

24 COMMISSIONER MCHUGH: I was trying

1 to be oblique about that. But yes, that's
2 exactly where I was going.

3 CHAIRMAN CROSBY: Because I was on
4 the same thing. One of the questions I was
5 going to ask is what are the penalties for
6 noncompliance. And I don't know exactly the
7 subtleties of the law here. And we want to
8 stick within it more or less, but still get the
9 job done. So, is there a constraint on
10 applying penalties?

11 COMMISSIONER MCHUGH: I think that
12 the thoughtful answer we just got from the
13 Turner representatives about if the goals are
14 not being achieved, examining why the goals are
15 not being achieved and getting the reasons for
16 their non-achievement. And then making a
17 decision as to what if anything can be done
18 about it in a constructive manner is a
19 thoughtful and appropriate way to steer between
20 Scylla and Charybdis. And particularly
21 difficult because we don't know where either
22 Scylla and Charybdis is today.

23 CHAIRMAN CROSBY: Right. Scylla is
24 okay but Charybdis is a problem.

1 COMMISSIONER MCHUGH: Charybdis is
2 on the move. That's what I was trying to get
3 at.

4 CHAIRMAN CROSBY: I think this is
5 something that in the review done by some of
6 our outside advisors that presumably are really
7 well informed better than we at least are, not
8 maybe not better than you, but better than we
9 are on what is the best practice, what is the
10 most rigor that can be applied here.

11 We do know from having looked at
12 your materials and actually other of the
13 bidders as well that interestingly enough, the
14 casino companies tend to be about as good in
15 their track records on issues of diversity and
16 cultural inclusion as any group of industries.
17 And I don't know whether it's because of market
18 sensitivity exactly or what. But there's a
19 lot of pushback from the minority community
20 particularly the minority business community
21 that has heard from other industries a lot of
22 warm and fuzzy and promises and best efforts
23 and we'll do our best and we're good doobies,
24 and disappointing performance.

1 So, trying to find the line between
2 Scylla and Charybdis I guess is really
3 important. And we want to be able to assure
4 folks. We don't want to just say look at what
5 they did. I understand the point you made that
6 past history is a guide. But we want to be
7 able to assure people that there's enough rigor
8 here that this is going to be for real. Go
9 ahead others.

10 COMMISSIONER ZUNIGA: Just a
11 complement to that. This is where plans like
12 this, systems in place prior to can have
13 hopefully a really good effect. Not just
14 looking at the results, but looking forward to
15 how this can be implemented.

16 COMMISSIONER MCHUGH: On a much more
17 minor scale, a little detail, I thought that ad
18 that was in the Globe and some of the other
19 papers recently was a terrific start both in
20 terms of its content and the symbolism of the
21 pictures in the ad. I thought that was very
22 impressive. And I was delighted to see it.

23 COMMISSIONER CAMERON: Since the
24 leadership team is here, welcome. I would like

1 to just point out that the speed of the leader
2 is really important in issues like this too.
3 It does filter down through an entire
4 organization. If the team knows that the
5 leadership believes in this and they're behind
6 this, my experience is that the results that
7 are achieved are usually better.

8 MR. WILMOTT: Mr. Chairman,
9 Commissioners. Mr. Schippers and I apologize
10 for our tardiness attributed to USAir out of
11 Philadelphia. It is something from a diversity
12 and inclusion standpoint that touches my office
13 almost on a weekly basis. And our results in
14 Toledo and Columbus, I'm well aware of. Our
15 efforts now under construction in Dayton and
16 Youngstown, Ohio I am aware of. And we'll also
17 be monitoring from my level and others at the
18 top of the organization the efforts here in
19 Plainville.

20 COMMISSIONER MCHUGH: That's
21 terrific.

22 COMMISSIONER STEBBINS: One of the
23 issues we talked about the other day with the
24 Vendor Advisory Team and I think it was

1 expressed by both Penn and Turner that they
2 greatly appreciated the working relationship
3 with Jill and that group. I think Turner
4 attested to the fact that a lot of the people
5 that were generated for the vendor fair you had
6 came through the connections of the Vendor
7 Advisory Team. Not to knock media and
8 advertisement, but sometimes word of mouth and
9 the relationship with our Vendor Advisory Group
10 work well.

11 One of my initial concerns is
12 knowing that this is such a short construction
13 timeline. Not to place a big administrative
14 burden on you, but one of my thoughts or
15 recommendations might be to see if we could
16 have a more frequent reporting process. I know
17 you'll stay in touch with Jill and the Vendor
18 Advisory Team, but seemingly doing it every
19 quarter, quickly we're going to find ourselves
20 at the end of that construction timeline with
21 not a lot of wiggle room to kind of make some
22 these adjustments with you.

23 MS. STANTON: And specifically when
24 it comes to the awards for the contracts

1 themselves. And we appreciate that you
2 understand and respect that process. We are
3 communicating with Penn on a regular basis for
4 every single buy what it is that we are going
5 to try to do. A lot of times, the approach
6 would just be to speak with the awarded
7 subcontractor. Just say you're not an M or a W
8 or a V. Who are you going to bring to the
9 table? And what we're trying to do is to talk
10 to all of the subs that are bidding the job to
11 make them aware and say come to the table in
12 advance.

13 All of this information that we're
14 collecting in preconstruction we'll be
15 reporting to Penn live every time we have
16 communication. Then as we move forward with
17 actual reports, the reports that will be
18 generated for you all quarterly, we'll be
19 submitting to them on a weekly and monthly
20 basis. So, we will be following -- So, that if
21 you did need information in between, as Karen
22 was referring to the granular information we'll
23 have that on a live basis.

24 MS. GRIFFIN: Commissioner Stebbins,

1 they'll also be reporting on a much more
2 frequent basis to our OPM Pinck and Company.
3 So, that information will be available.

4 MS. BAILEY: And we are a very
5 aggressive owner. We're hands-on. We don't
6 just hand the project off and wait to open, to
7 be handed the keys, if you will. And one of
8 the things that's obviously a benefit of that
9 is that when we look at the bid packages and we
10 look at the market place and what's available
11 to us to utilize, it allows us to also rejigger
12 how we're going to structure even bid packages.

13 Can we break it up into smaller
14 pieces so we can provide greater opportunities
15 or more opportunities for more vendors and
16 things like that. So, that ongoing
17 communication that hands-on type management
18 that we have really speaks to that so that we
19 can adjust and meet the goals that we have set
20 out for this project.

21 COMMISSIONER STEBBINS: And we
22 realize kind of overlaying this whole issue is
23 agreements that Penn had to make between host
24 communities, surrounding communities, for these

1 business relationships as you're moving
2 forward. Okay. Thank you.

3 CHAIRMAN CROSBY: Others? While
4 you're here, all of you, are you familiar with
5 the CORI constraint the criminal records
6 constraint in our legislation? Do you know how
7 that reads and works?

8 MR. SCHIPPERS: Yes. We are
9 familiar with it and are still awaiting some
10 guidance as to how to apply that in our hiring
11 practices. We want to maximize opportunities.
12 We want to have an opportunity to give second
13 chances if we are allowed to do so. But it's
14 still, I guess, a bit of an evolving subject.
15 So, we would love some additional dialogue and
16 guidance on that.

17 CHAIRMAN CROSBY: I was interested
18 in your -- There is a movement afoot to amend
19 that legislation to take out the automatic
20 death-nailer essentially, the automatic
21 disqualification at least for non-gaming
22 service type employees, which on the face seems
23 like a pretty good idea. But I wondered if you
24 had an opinion on that and would you be

1 supportive, would you recommend that kind of a
2 change?

3 MR. SCHIPPERS: We would be
4 supportive. In all of our jurisdictions, it's
5 usually left to the regulators to determine but
6 we're always looking for opportunities as I
7 said to maximize job opportunities for those in
8 the community who deserve a second chance and
9 who are not going to be about involved in some
10 of those money handling operations. Tim?

11 COMMISSIONER STEBBINS: How has it
12 worked in Ohio?

13 MR. WILMOTT: I was going to say
14 many jurisdictions apply I think what you're
15 thinking of in the non-gaming, non-cash
16 handling areas. There is relaxation over past
17 indiscretions that allow people to get a second
18 chance. Many states however do apply a higher
19 level of scrutiny in the gaming positions,
20 surveillance positions, cashiering positions
21 where there is the access to negotiable funds.

22 COMMISSIONER ZUNIGA: This doesn't
23 really apply fully to the subcontractors in the
24 construction trades.

1 CHAIRMAN CROSBY: No, it doesn't.

2 COMMISSIONER ZUNIGA: You were
3 talking about more the operations.

4 CHAIRMAN CROSBY: Yes. And since
5 they were here and I think we are still working
6 on where we're going to come down. But if we
7 do, it's important for us to have a note that
8 Penn will support us in the legislative change
9 if we go for that.

10 MR. SCHIPPERS: Yes, absolutely.

11 CHAIRMAN CROSBY: You asked these
12 original questions, these threshold questions
13 to guide your plan, the publicly available
14 information on participation rates, baseline
15 participation goals, host and current
16 availability of business and workforce
17 participants. What did you learn there? What
18 were the sort of guiding data points that got
19 you to these numbers?

20 I'll start out by saying these
21 numbers seem modest to me. They don't reflect
22 the minority makeup of the population in the
23 targeted region. So, I would've thought you
24 might set at least set aspirational goals that

1 were really stretch goals. And maybe if you
2 ended up here, that wouldn't be too bad but it
3 would be okay. But it doesn't strike me as a
4 really strong aspirational goal. So, I'm
5 wondering what data got you to where you are.

6 MS. STANTON: I think to us this
7 would not be an aspirational goal either. When
8 we were drafting this plan, we were going back
9 and forth to is this the be-all end-all or is
10 this a draft, a work in process where we can
11 work together and come to what we might be able
12 to achieve.

13 So, we came up these goals based on
14 Massachusetts general Laws and the Disparity
15 Study which really was the only true data that
16 I could find that was saying based on the
17 demographics and based on the businesses that
18 are available in construction, this is what the
19 Commonwealth recommends.

20 So, we went with those goals and we
21 suggested those goals based on that but the
22 hope is to exceed those, most definitely. And
23 I don't disagree with you that in looking at
24 them on face value, they do appear to be lower

1 than what you would hope to achieve. So, we
2 set the goals based on what the law suggests
3 but we do hope to exceed those goals.

4 COMMISSIONER ZUNIGA: Jill, don't
5 they on par with Bulletin 14 that you have
6 talked about before? This is in line with some
7 of the public works.

8 CHAIRMAN CROSBY: I know, but that's
9 the point that we're are trying to do better.
10 We're trying to change. The whole idea is to
11 use the leverage, use the opportunity to make a
12 difference not just to sort of hit the norm.

13 I would like feedback from our
14 advisory group on how they would structure
15 this. You all know this better than I do. If
16 you have a higher target, you are probably
17 going to have more of a chance of getting
18 there. If this is your target, it's going to
19 be harder to go beyond it.

20 So, it's something I'd like some
21 feedback on. Both the strategy -- I know
22 you're familiar with this, and you do do this.
23 And I appreciate that. And apparently do it
24 well. The strategy of setting goals as well as

1 what will the market bear. And is this a high
2 enough target for us?

3 MS. GRIFFIN: Absolutely, we will
4 release that information today.

5 CHAIRMAN CROSBY: I guess that's it
6 for me. I would take a hard look at those
7 numbers. Anything else on this topic?

8 MS. GRIFFIN: No.

9 MR. DAY: Mr. Chairman,
10 Commissioners, so we will post this report for
11 comment and then come back and plan on the 17th
12 meeting to take it up for consideration for a
13 vote.

14 CHAIRMAN CROSBY: Right. Jill, did
15 you alert our advisory group and all of these
16 other folks that we know are interested in this
17 to what's going on now and encourage people to
18 watch this?

19 MS. GRIFFIN: I didn't do it in
20 writing but folks do know that this is on the
21 agenda and we'll actually try to get them here
22 in person for the 17th.

23 CHAIRMAN CROSBY: Okay.

24 COMMISSIONER STEBBINS: We did talk

1 about it at our meeting the other day.
2 Everybody on the Vendor Advisory Team was aware
3 of the upcoming date, was aware of the receipt
4 of the plan. And I think subsequent to that we
5 decided we would share it and get everybody's
6 feedback. That meeting a week and a half, two
7 weeks ago everybody knew this was coming in the
8 door.

9 CHAIRMAN CROSBY: There's a PR
10 communications issue here as we've talked
11 about. We and you need to be sensitive to
12 doing everything we can possibly do to make
13 sure everybody knows what we are doing in
14 addition to doing what we are doing.

15 There has been some shortcomings in
16 that for reasons we're not sure of. So, taking
17 an opportunity to email everybody in the world
18 to say turn on your computer at 10:30 on
19 Thursday because we're going to be talking
20 about this. Also, the ad that Jim referred to,
21 did you circulate that to everybody? Has
22 everybody seen that?

23 MS. GRIFFIN: Yes. I think what you
24 are referring to is the ad regarding the vendor

1 fair. Is that what you are referring to?

2 COMMISSIONER MCHUGH: Yes, that's
3 right.

4 MS. GRIFFIN: The ad regarding the
5 vendor fair was in not only the Globe but the
6 Boston Business Journal, the Banner, El Mundo,
7 I think, the Sun Herald. Additionally, I
8 emailed that to the Vendor Advisory and to some
9 of the other individuals who I know care about
10 diversity.

11 CHAIRMAN CROSBY: Good. Okay.
12 Great.

13 MS. GRIFFIN: We're trying to keep
14 people in the loop.

15 CHAIRMAN CROSBY: Right. Good.

16 COMMISSIONER ZUNIGA: This document
17 and a summary of this discussion, it occurs to
18 me that it would be a great blog post that we
19 could email everybody who follows us as well as
20 everybody who gets updates from our MGC
21 comments to get some of those comments. But
22 especially, of course, the advisory group now
23 that we have reviewed these comments, we would
24 really love their feedback -- this document

1 rather, we would really like their feedback.

2 MS. GRIFFIN: Perhaps we can even
3 have guest bloggers.

4 CHAIRMAN CROSBY: Yes.

5 COMMISSIONER STEBBINS: Keep in mind
6 we have in another 60 days we'll be getting
7 another plan which will deal with the
8 operational vendor plan as well.

9 CHAIRMAN CROSBY: Right. And it's
10 appreciated that the senior executives took the
11 time to come here. That by itself says
12 something.

13 MR. WILMOTT: My pleasure. Now I've
14 got to go back to Logan and get my luggage, I
15 hope.

16 CHAIRMAN CROSBY: It's just about
17 coming off the carousel now.

18 Next? Thank you all very much.
19 Next is me, right?

20 MR. DAY: Yes, it is.

21 CHAIRMAN CROSBY: I think it's worth
22 running through each of these points. This
23 topic is proposed legislative changes by
24 various parties particularly the bidders. And

1 the beginning of a process of us determining
2 which ones we think we want to be supportive of
3 and which ones do indeed require legislative
4 support. I assume everybody has had a chance
5 to read this. But I think it's important
6 enough that we start to set our position on
7 each of these things.

8 The big enchilada is the present
9 requirement that at every winning of \$600 that
10 the games be stopped and the winner be issued a
11 W-2 and actually pay state withholding taxes.
12 As I've said, we talked about this in another
13 venue with Todd's and other people's help, we
14 think it probably would only apply to slots.
15 But even at that, it's a major problem. It's a
16 major competitive problem. It's a major
17 administrative problem.

18 And it seems pretty clear that the
19 best practice would be to adopt the federal
20 standard which would be to make it simple would
21 be when the winnings of \$1200 a W-2 is issued,
22 the tax is not actually collected. And to use
23 the federal standard of permitting a gambler to
24 offset winnings or losing against winnings, or

1 winnings against losings for purposes of
2 eventually paying their income tax if they can
3 document their winnings and losings
4 appropriately.

5 We've already made that decision.
6 We've sent it to the Statehouse. They know
7 what we think. But they're awaiting our advice
8 on other issues because some of them -- they
9 want to deal all of that package together. So,
10 let's just run through these.

11 There is the issue that affects all
12 of us, including us about the potential of the
13 repeal referendum. Approximately, July we will
14 be hearing what the SJC says. If they let it
15 go forward, it will be voted in November.
16 There are a whole host of issues and problems
17 again for everybody including us with that
18 uncertainty hanging out there. But this to
19 address the issues before the Gaming Commission
20 and our vendors.

21 There are all of these license fees
22 which are triggered by the award. And there
23 are the presumed kind of management tools that
24 we would impose, management metrics that we

1 would impose on folks on construction schedules
2 and how quickly are they moving and are they
3 meeting their timeframes and so on, and in the
4 case of the Category 1's, the 10 percent
5 deposit, which is obviously a very big deal.

6 And the big issue is the \$85 million
7 licensing fee, the one-time licensing fee. We,
8 I think, have written our regs. in such a way
9 that we can deal with this if the time comes.
10 I don't think there's much to talk about more
11 with that.

12 There are however a host of other
13 problems that if we give an award than the
14 bidders, the winner, the licensee will have
15 triggering mechanisms in the host community
16 agreements that means certain kinds of payments
17 start. They'll have probably triggering
18 agreements and options on land, etc., etc. And
19 I don't know what we can do on that score other
20 than to talk with them. They just asked that
21 we try to be supportive. I'm not sure if there
22 are other solutions.

23 Does anybody have any other thoughts
24 about any of those two categories?

1 COMMISSIONER MCHUGH: I think when
2 we're considering the financial plan that we
3 adopted a few months ago put in place a variety
4 of alternatives that deal with the licensing
5 fee and the ways to approach the licensing fee.
6 We have a number of ways to do that.

7 And a lot of -- some of the others
8 including the 10 percent investment deposit
9 would be triggered by the way we handle the
10 license award. So, we have, I think, the
11 flexibility to deal with that. And insofar as
12 the award triggering other obligations on the
13 part of the applicant, we have the same
14 flexibility as to how we award the license.

15 What we don't have a solution for I
16 think is the expiration of option agreements.
17 And I'm not sure there's anything we can do
18 about that because if the option agreements
19 have dates certain than the licensee and the
20 person giving the option are the only people
21 that can fix that unless there's a clause in
22 there that's already fixed it.

23 I don't think there's anything more
24 we can do about that except be sensitive to it

1 and be told by the applicant if they've got
2 that kind of a problem and listen to the
3 applicant's proposed solution to the extent
4 that we can help with it.

5 CHAIRMAN CROSBY: Yes. The process
6 will be the same -- Presumably, the process
7 will be the same as it was before that we will
8 deliberate. We'll make a tentative decision
9 conditional upon the likely winner, the
10 selected winner agreeing to the present
11 conditions whatever they are.

12 And at the moment the law is what
13 the law is. And if at that point maybe nobody
14 has a problem. Maybe people are willing to
15 take the risk. Just like the slots parlor,
16 they put up their \$25 million there was no
17 problem. That may be the case with the
18 Category 1's as well. In that case, fine.

19 But if there is pushback then we can
20 work with them as you say to try to work that
21 out.

22 COMMISSIONER MCHUGH: Right.

23 CHAIRMAN CROSBY: We are more than
24 welcome anybody who is representing clients, we

1 understand this problem. And as I said, we
2 have it ourselves. So, we are more than open
3 to any ideas anybody's got, suggestions about
4 what we can do.

5 On-site daycare problem, I'm going
6 to just quickly. The bidders have read this to
7 mean there's a requirement for an on-site
8 daycare facility. And with the help of real
9 lawyers, Todd and Artem, we don't think that is
10 indeed what it says. There is considerations.
11 We have to think about it, but we think we can
12 handle this with regulations.

13 What we want to do, I'm not
14 suggesting, whether we want to require it or
15 not require it, we haven't joined that issue
16 yet. But we don't need legislative help on
17 this issue.

18 Questions or thoughts?

19 The tax revenues --

20 COMMISSIONER MCHUGH: Let me just
21 make it clear as we go through this. You've
22 done a really thoughtful job of going through
23 this. The Commission hasn't voted on it. So,
24 as you say we have decided or we don't think,

1 you are speaking in terms of you and the legal
2 team?

3 CHAIRMAN CROSBY: Yes, right.
4 Sorry.

5 COMMISSIONER MCHUGH: No, no.

6 CHAIRMAN CROSBY: By all means
7 that's exactly right. I am now speaking as a
8 single Commissioner with the help of some
9 outside help. And that's the antecedent to
10 this. Thank you.

11 COMMISSIONER MCHUGH: So, now is our
12 opportunity to say yay or nay or our --

13 CHAIRMAN CROSBY: Yes. And I think
14 we are going to have to decide sometime fairly
15 soon on these things. If anybody's got ideas
16 on any of these, whether you're predisposed or
17 not.

18 COMMISSIONER MCHUGH: I would say
19 with respect to that one, I fully agree with
20 that assessment. I think there's many ways to
21 handle that without putting it in the middle of
22 the slot machines.

23 CHAIRMAN CROSBY: Right.

24 COMMISSIONER ZUNIGA: Including

1 benefits, cash benefits for an alternative.

2 COMMISSIONER STEBBINS: We saw our
3 Category 2 licensee make other arrangements to
4 meet essentially the thrust of this provision
5 that didn't involve anything on-site, but I
6 certainly found met the intention of the
7 legislation and was actually a creative way to
8 get it done.

9 COMMISSIONER MCHUGH: Right.

10 CHAIRMAN CROSBY: So, the next one
11 is the tax rate. Both Wynn and MGM are looking
12 for a promise that the tax rate of 25 percent
13 won't be changed. I don't believe --
14 Certainly, we can't make that process. It's
15 not within our authority. I don't think the
16 Legislature can make it either, although you
17 changed the language a little bit that sort of
18 suggests that maybe they could if they wanted
19 to in some way or other?

20 I took it out and said neither the
21 Commission nor the Legislature has the
22 authority to bind itself or future Legislatures
23 on this issue. And you changed the wording
24 slightly.

1 MR. GROSSMAN: I think that's true
2 as a general principle, but I didn't have a
3 chance to really research that type of issue.
4 So, I thought it'd be helpful just to couch it
5 a little bit.

6 CHAIRMAN CROSBY: Okay. If there's
7 any possibility that that's wrong, then we
8 should know about that. So, do do that further
9 research. I thought that was a slam-dunk that
10 no Legislature could bind a future Legislature
11 on something like this. If I'm wrong, we need
12 to look into that.

13 COMMISSIONER ZUNIGA: But the
14 argument is an important one, which is the
15 total investment amount is the minimum that was
16 established by legislation that we later
17 clarified with regulations and the tax rate go
18 hand-in-hand.

19 So, there's a real financial concern
20 if that gets changed afterwards. But the
21 comment here is totally on point. There's
22 nothing that we could do or even promise. All
23 we can say is we understand that this is a
24 consideration but it would not be our decision.

1 CHAIRMAN CROSBY: Right. We might
2 want to think about this. It might be
3 something you think about, Commissioner Zuniga.
4 We might want to think about just as a matter
5 of principle making a statement that on this
6 issue and on the other license parameter issue
7 of granting the Category 2 license holder table
8 games for example or more slot machines or
9 something.

10 I haven't thought hard about this,
11 but on the face of it, it seems to me like the
12 rules are the rules. And people are putting
13 up, as you say, certain amount of money, making
14 certain commitments, making certain
15 investments, understanding what the rules are
16 and calculating their financial return and
17 financial exposure accordingly. And it would
18 certainly not be fair or good public policy to
19 change those in any material way. We might
20 want to say that just as a matter of principle.
21 You might want to think about that.

22 COMMISSIONER ZUNIGA: In addition to
23 that, we already have a lot of documents to
24 that effect. We have the Spectrum report that

1 was updated from 2008 and 2010. We have a lot
2 of market assessments from HLT, a different set
3 of the consultants that have looked at this.
4 So, there's a lot that we can say and reference
5 in terms of thoughtful analysis where this is a
6 key consideration.

7 COMMISSIONER MCHUGH: I think it'd
8 be worthwhile to think about touching on each
9 of these points as we make a set of
10 recommendations to the Legislature. Certainly,
11 the things that even if we think require
12 legislative changes or can't be accomplished
13 like binding a future Legislature I think would
14 be helpful to say something about it and let
15 them at least know what we're thinking. So, I
16 subscribe to that.

17 CHAIRMAN CROSBY: I think so too.
18 So, that concludes item number four, the
19 license parameters.

20 COMMISSIONER ZUNIGA: Can I go back
21 to something?

22 CHAIRMAN CROSBY: Sure.

23 COMMISSIONER ZUNIGA: The first
24 sentence here in item number four reads that

1 there's concern by one of the applicants that
2 the Category 2 license might offer -- the
3 Legislature but perhaps implicitly here the
4 Commission might offer table games, might let
5 the Category 2 offer table games.

6 Is the concern here relative to
7 electronic table games or is the concern here
8 relative to amending the legislation to change
9 the rules for the Category 2, which only can
10 offer slots?

11 CHAIRMAN CROSBY: The summary
12 language that Artem wrote is the potential for
13 the Legislature to allow Category 2 licensees
14 to offer table games sometime in the future
15 poses a serious threat to long-term stability.
16 So, I don't think -- I think they're probably
17 talking about real table games. I don't think
18 they're joining the issue about electronic
19 table games. They certainly didn't say that.

20 COMMISSIONER MCHUGH: I'd like to
21 find out a little bit more detail of what there
22 concern is, because the technology here is
23 rapidly changing. And it's not hard to
24 envision a slot machine for all intents and

1 purposes as a table game.

2 CHAIRMAN CROSBY: I'm not sure how
3 material it would be -- This is not a
4 rhetorical question. I do not know how
5 material it would be if the number of positions
6 didn't change, if you substituted an electronic
7 like table game for one of your 1250 slot
8 machines. I'm not sure that that would really
9 make much difference.

10 COMMISSIONER CAMERON: I think the
11 issue is one of those electronic table games
12 can seat six or eight people.

13 CHAIRMAN CROSBY: Well that's
14 different. If that's what you're talking
15 about, absolutely. Yes.

16 COMMISSIONER ZUNIGA: That's one
17 dimension, but another one is just what
18 Commissioner McHugh is saying. The technology
19 is such that it could develop very quickly.
20 And an electronic slot machine could one day be
21 very similar in terms of experience to the
22 actual table game. And if that's exactly what
23 we are talking about, or if that's part of the
24 concern, then I think we need to think about

1 it.

2 CHAIRMAN CROSBY: It's certainly
3 issues we have to address whether it's part of
4 MGM's concern or not. All of these issues,
5 these are now posted. They are on our website.
6 We will be asking for feedback on all of these
7 positions from any interested parties,
8 particularly applicants.

9 The capital expenditure, this is a
10 funny one. Basically, the applicants believe
11 that the obligation under the law is a 3.5
12 percent minimum capital investment in upkeep if
13 you will, period. And they're asking for
14 various kinds of relief, let it be an average,
15 let it be up to us. The law I think is
16 misdrafted. And it's not really clear in the
17 law the actual statute that there really is a
18 requirement, an obligation.

19 So, I think that we conclude that
20 because of the careful reading of the statute
21 that there is not a legislatively mandated
22 annual 3.5 percent obligation. It's clear what
23 the Legislature is looking for which is the
24 assurance at a certain level of investment

1 they're maintaining these facilities. And I
2 think we can take that message, we, we think
3 that we can take that message from the
4 Legislature and implement it on a rational way
5 which would be compatible with what the bidders
6 are asking for. And the bottom line that we
7 don't need legislative help on this one.

8 COMMISSIONER ZUNIGA: I agree with
9 the bottom line, but I think the imperative
10 word here, the key word here is net. The
11 statute says the aggregate amount equal to 3.5
12 percent of net gaming revenues.

13 I think an argument could be made,
14 and maybe this is something that we could
15 easily draft a regulation and then ask for
16 public comment just like we do on every
17 regulation we issue. That net gaming revenues
18 could equate to EBITDA or actual earnings after
19 all of the taxes, after all of the operating
20 costs.

21 And 3.5 percent of that number is a
22 lot more doable certainly than 3.5 percent
23 of --

24 CHAIRMAN CROSBY: -- of the gross

1 revenue.

2 COMMISSIONER ZUNIGA: Now the
3 legislation doesn't say gross revenues. I read
4 that to be that we could easily because the
5 word here is net that we could take a position
6 that what we really mean is earnings before all
7 of the non-cash depreciations -- costs like
8 depreciation, etc.

9 Now if that's the case, if that's
10 still a concern by the applicants relative to
11 the amount that would be required we could also
12 look at it just like you, Mr. Chairman, were
13 talking about.

14 When I first read this section, it
15 didn't occur to me as -- This clarification may
16 be necessary but it certainly is something that
17 we could clarify by regulation.

18 CHAIRMAN CROSBY: I hadn't noticed
19 that. That's a very good pickup. And I was
20 just asking Commissioner McHugh whether net
21 gaming revenues is a defined term.

22 COMMISSIONER ZUNIGA: I don't think
23 it is.

24 CHAIRMAN CROSBY: He's checking to

1 make sure.

2 COMMISSIONER MCHUGH: It is not.

3 CHAIRMAN CROSBY: The bottom line,
4 we do not think we're going to make a
5 recommendation to the Legislature on this for
6 action. We will have to discuss it ourselves
7 on we want to implement this, but we've got
8 time to do that one.

9 COMMISSIONER MCHUGH: Yes. And the
10 proviso may take this entirely off the table.

11 CHAIRMAN CROSBY: The what?

12 COMMISSIONER MCHUGH: The proviso in
13 that section provided that if they submit to us
14 a plan, the 3.5 percent and we approve it, the
15 3.5 percent.

16 COMMISSIONER ZUNIGA: There's also
17 another practice in the industry, the real
18 estate industry perhaps the gaming industry as
19 well, which is to maintain a capital reserve
20 equal to 3.5 or whatever number. This number
21 rings very true to the capital reserve that
22 I've seen in real estate projects.

23 So, we could take an alternative
24 position that it's important to maintain a

1 reserve that they can draw upon with a minimum
2 of 3.5 percent of say the asset, the total
3 value of the asset not revenues. But that's a
4 little bit more complex because the statute
5 does talk about net revenues. But anyway, just
6 an alternative.

7 CHAIRMAN CROSBY: So, this is in
8 your regs. pipeline. This a big interesting
9 policy issue we've got to talk about, but we
10 don't need legislative support is the bottom
11 line.

12 Number six is somewhat similar to
13 the on-site daycare. This has been something
14 that some of the bidders got a little phonetic
15 about but again we think they're misreading the
16 statute.

17 COMMISSIONER ZUNIGA: No, it's the
18 health treatment center.

19 CHAIRMAN CROSBY: Yes, the mental
20 health treatment center.

21 COMMISSIONER ZUNIGA: You mentioned
22 daycare center.

23 CHAIRMAN CROSBY: It's similar to
24 the daycare center, similar in that we think

1 the applicants got a little excited when they
2 read it and read something that was not there.

3 We do not think that this does
4 include a legislative mandate to have in the
5 facility an on-site treatment center for people
6 with problem gambling problems. That's one of
7 the things we can consider under this statute.
8 We could do that if we thought it was the right
9 thing to do, but we don't have a legislative
10 mandate to do that.

11 So, our advice is that we not take
12 this up with the Legislature, not make a
13 recommendation to the Legislature and we deal
14 with it ourselves under the regs.

15 COMMISSIONER ZUNIGA: Once again, I
16 agree with the bottom line. I actually I'm
17 familiar with Fallsview Casino and a couple of
18 other examples in Canada where they do have
19 resource centers, office fronts where people
20 can be counseled that are entirely separate
21 from the casino and from the resort and from
22 the hotel. But can be accessed very quickly by
23 somebody who has been given a referral or a
24 suggestion or anybody who passes by.

1 So, there are many ways in my view
2 to perhaps comply with "on-site" that is
3 certainly not on the casino floor which would
4 be a little counterintuitive obviously.

5 CHAIRMAN CROSBY: Bottom line is we
6 have the flexibility to deal with this. Now
7 we'll probably follow Director Vander Linden's
8 advice on how we want to implement this what we
9 do want to do, whether that's the right
10 solution or something else.

11 This one is complicated. We still
12 don't know for sure what it is that -- This is
13 the section item number seven in my memo,
14 section 25G that talks about pooling dealer
15 tips and distributing them to only dealers,
16 essentially. And we've got competing views
17 from the unions on this. Do you want to speak
18 to this Todd? You look like you were --

19 MR. GROSSMAN: I was just taking a
20 breath. No, go ahead.

21 CHAIRMAN CROSBY: So, we're not
22 exactly sure what it is that either the unions
23 or the casinos are concerned about here.
24 There's the consensus I think that the house

1 should not get a share of people's tips. I
2 don't think anybody is looking for that. But
3 it maybe there are different definitions of
4 tips -- of house.

5 The unions say nobody in the
6 supervisory position. I think the MGM or Wynn
7 says the employer shouldn't get a share. So,
8 there's a lot of definitional issues. They're
9 apparently, it seems like there are -- Maybe
10 David Acosta can help us with this. But it
11 seems like there are people who are a part of
12 the pit crew who are not supervisors who some
13 people think should get some of the dealer
14 tips. That is a bone of contention depending
15 on where you sit.

16 So, we're still working to clarify
17 this. And we'd appreciate feedback from
18 anybody on what exactly the issues are here.

19 COMMISSIONER MCHUGH: There's at
20 least four issues that jump out at you here.
21 And I think we really do need some work on
22 this. That is pooled tips as opposed to
23 individual tips. And my understanding is that
24 the poker dealers in particular don't like

1 pooled tips. And that's not the customary
2 practice even if there's pooling for others.

3 Then in addition to having a pool,
4 then the second sentence is we decide how the
5 pool is be distributed. And I think that's
6 where the applicants, particularly Wynn jumps
7 in and says no, that's not a good idea.

8 Then there is the key gaming
9 employee exclusion from the tip pool, which is
10 a part of the Commonwealth's current law in
11 other areas. And has bred enormous amounts of
12 litigation over the last three or four years,
13 because it has been a common practice to
14 include head waiters, for example, in the pool
15 distribution. And that's produced litigation
16 and refunds and a lot of things. So, there's a
17 lot in this area that we need to think about
18 and get more input on before we can make some
19 decisions.

20 COMMISSIONER ZUNIGA: I wonder if
21 this is something that is happening in number
22 nine, but we will get to that, if the way we
23 clarify by regulation the key employees now
24 overlaid with language here in this statute

1 relative to sharing those tips. The confluence
2 of those language in the statute here and
3 regulation elsewhere is what really gives
4 genesis to some of these concerns.

5 COMMISSIONER MCHUGH: Yes. I don't
6 have any answers at the moment.

7 CHAIRMAN CROSBY: Yes, I don't
8 either.

9 MR. DAY: Mr. Chairman, just from my
10 perspective, this whole pooling issue and the
11 tips can be extremely important as well because
12 it also has tax compliance issues relative to
13 the reporting, the federal reporting of the
14 taxes. So, it can cause a lot of difficulty
15 depending on how it goes about.

16 Also with control of the tips and
17 the process of where those tips are collected
18 and distributed. Ultimately, they can add to
19 the table itself and the security of the table
20 as well. And the concept of supervisors and
21 pit supervisors or key gaming employees being
22 involved in tips is pretty old. That's one of
23 those things that I think are very important to
24 continued security of the operation.

1 So, this has been debated in several
2 jurisdictions. And the pooling, I agree with
3 the Judge. The poker dealers are definitely
4 usually not in favor of pooling, but in many
5 cases polling is a very effective way to deal
6 with the house paying games in particularly.

7 CHAIRMAN CROSBY: Is this one we
8 should ask Michael and Carroll to give us some
9 advice on, sort of do an assessment of best
10 practices and sort of tee up issues and to get
11 some advice.

12 COMMISSIONER CAMERON: Yes. I would
13 think that would be helpful. I would like to
14 see who does what in what jurisdictions and the
15 reasons behind that. That would be helpful.

16 COMMISSIONER ZUNIGA: A very literal
17 read of the section, of the first part of the
18 section would have me believe that this applies
19 only to dealers. That the pooling is for
20 dealer tips amongst other dealers, not
21 necessarily other employee classification.

22 So, I don't know if the concern is
23 that this could be broader than it actually is.
24 That is certainly the point that Commissioner

1 McHugh makes is an interesting one. Are we
2 distinguishing or are we thinking that a dealer
3 of blackjack is different from a dealer in
4 poker? I guess I don't know. We'd love a
5 little bit more feedback. But a read of this
6 in my opinion is very narrow, is really limited
7 only to dealers.

8 CHAIRMAN CROSBY: I think that's
9 right.

10 MR. DAY: And might say it depends
11 to a certain degree on what the Commission
12 would define in its regulation, if it wants to
13 define dealers. Obviously, there's blackjack
14 dealers but there's craps table also dealers.
15 So, it's not necessarily particular card games
16 either.

17 This concept that's actually here,
18 it's been my experience that this in my opinion
19 is pretty well-written. It gives the
20 Commission a pretty solid basis to start from.
21 This is a real controversial issue that if left
22 it's a tough issue for the Commission to
23 resolve if it's not supported by a statute.

24 So, just a little input from my

1 direction. I think the statute covers it about
2 as good as you could in a statute in much more
3 detail than I've seen in many cases.

4 CHAIRMAN CROSBY: So, you believe
5 that dealers should pool tips. But only
6 dealers should be compelled to pool tips by
7 law. And that it's appropriate for us -- the
8 Commission shall determine how they are
9 distributed. And you think that's the right
10 way to go, but only to dealers.

11 MR. DAY: The distributing point has
12 to be part of the regulation. And I think who
13 constitutes dealers I think the Commission has
14 flexibility. The concept of pooling I think is
15 very effective and I know it does address
16 concepts such as withholding tax compliance
17 issues and consistent reporting of tax on tips.
18 Because that can be a real controversial
19 subject within a gaming establishment as well.

20 So, I'd say the basic thing is the
21 pooling, the supervisors are not allowed to
22 have tips. And then the distribution at least
23 leaves that up to the Commission's discretion
24 to draft rules. The foundation of this to me

1 is pretty effective.

2 COMMISSIONER ZUNIGA: But our
3 determination could be one that on the one hand
4 could give the parties say a union negotiating
5 representing the dealers and the employer the
6 ability to negotiate that for example or put it
7 in their labor agreement. Or all of the way in
8 the other end to be as prescriptive as possible
9 in dictating that distribution and anywhere in
10 between. We could do that. This Commission
11 could do that by regulation.

12 MR. DAY: From my perspective, I'm
13 just trying to make the point that I think the
14 essential elements for having clear
15 requirements for the tips and how they're
16 collected are essential to the security of the
17 games. And I think the basics in this
18 statutory section help that.

19 CHAIRMAN CROSBY: Okay. I'm not
20 quite sure why it's up to us. I don't know why
21 this wouldn't be something for the operators to
22 work out. But let's do get some advice from
23 Michael and Carroll about this.

24 COMMISSIONER MCHUGH: Also solicit

1 advice from the unions and from the applicants.
2 I think reach out particularly to them. They
3 have a well-formed -- Director Day has given us
4 a well-formed approach to this. And I'm sure
5 they have well-formed approach to it.

6 CHAIRMAN CROSBY: Yes. Applicants
7 or unions in the room, we need help from you
8 guys to exactly tell us what it is you're
9 trying to get at here. We can't quite figure
10 it out.

11 This is somewhat true of the next
12 one too. Item eight is reports of
13 complimentary services. This calls for a
14 pretty elaborate reporting service of the
15 comps. delivered. Both Wynn and MGM called for
16 repeal of these sections altogether as
17 administratively burdensome, incompatible with
18 other jurisdictions and an invasion of
19 customers' privacy.

20 Have we got any more developments on
21 this? We were looking into the New Jersey
22 statute which in the short form looks like it's
23 pretty much the same thing, which would belie
24 the concern that nobody else does this. Have

1 we got any more information on that on how it
2 works?

3 MR. GROSSMAN: No. I actually have
4 reached out to Michael and Carroll and will be
5 getting more information on Tuesday about how
6 this works. But it is true that this appears
7 to have been taken from the New Jersey statute.

8 COMMISSIONER CAMERON: Which all of
9 their regulations have been modified in New
10 Jersey.

11 MR. GROSSMAN: This is actually a
12 statute.

13 COMMISSIONER CAMERON: It is and
14 that remains to this day?

15 MR. GROSSMAN: As far as I can tell.

16 CHAIRMAN CROSBY: So, you've already
17 asked Michael and Carroll for advice on this?

18 MR. GROSSMAN: Yes.

19 CHAIRMAN CROSBY: Comprehensive
20 advice?

21 MR. GROSSMAN: Yes.

22 CHAIRMAN CROSBY: Okay. Great.
23 Cashless wagering, apparently there has been a
24 development. I'm going to let Todd and Rick

1 handle this one. Wynn and MGM called for
2 repeal. Again, it's not quite clear to us what
3 it is. We're not entirely sure what they were
4 talking about as a cashless wagering system or
5 exactly what problems people have with it.

6 MR. DAY: Just from my perspective,
7 I think it is interesting that cashless
8 wagering and rewards system, it's included in
9 the same section because based on my
10 experience, the cashless wagering system, we
11 even talked about that with our slot standards
12 not that long ago as a possibility do we want
13 to do just that? Or do we want to do both cash
14 and cashless wagering?

15 COMMISSIONER ZUNIGA: I think that
16 is precisely why this is a concern. If we did
17 all cashless then it's very broad.

18 MR. DAY: Of course, the slot
19 standards, the systems can also have set your
20 wager limits and those kind of elements right
21 in the slot standard itself. So, it's not
22 dependent as far as I can see on cashless
23 wagering system.

24 And the reward programs are pretty

1 -- Those are pretty essential. Most licensees,
2 I believe, those are essential to their
3 business and ability to provide incentives and
4 bring people in and associate with the
5 establishment.

6 I just thought as we move forward, I
7 think, the concept between cashless wagering
8 system and tying it to a reporting requirement
9 does seem a little unusual. I think at least
10 from my perspective it is something that may
11 merit some kind of a clarification one way or
12 the other.

13 COMMISSIONER ZUNIGA: I think that
14 this a good reason to rethink our position of
15 requiring that all slots be cashless.

16 CHAIRMAN CROSBY: What did you say?

17 COMMISSIONER ZUNIGA: You'll
18 remember one draft of the slots standards had
19 Mr. Glennon suggesting that there be no cash
20 input into the slot machines but rather the
21 kiosks say where you could preload a card,
22 which could make every slot machine here a
23 cashless wagering device.

24 MR. GROSSMAN: I would just step in

1 and say, after further discussions, we've been
2 talking about the slots regulations at some
3 length lately that I think you'll see in the
4 next draft that comes before you that provision
5 removed, the cashless wagering.

6 COMMISSIONER ZUNIGA: Great. That's
7 my point from before that this language coupled
8 with that initial draft would be very
9 burdensome as per the applicants suggest here.

10 MR. GROSSMAN: I think that's right.
11 And I would just to put a finer point on
12 everything, I think the key issue here is in
13 our determining what cashless wagering really
14 is and what the scope of it is and how it's to
15 be distinguished from the rewards programs.

16 And I think we are still educating
17 ourselves as to how this works as a practical
18 matter on the gaming floor. Once we figure
19 that out, it may obviate the need to discuss
20 some of reporting requirements and what have
21 you. I think part of the concern raised by
22 some of the applicants was the fact that it was
23 somewhat or it is somewhat unclear what we mean
24 by cashless wagering. If you read the

1 definition of cashless wagering system, it
2 exempts ticket in, ticket out type processes.

3 So, I think we're still in the
4 process of trying to get our arms around what
5 exactly we mean by cashless wagering and how
6 this section would apply to that.

7 CHAIRMAN CROSBY: There's a few
8 clarifications though that I think were not
9 reflected in the concerns that MGM and Wynn
10 expressed. All this does is allow a gaming
11 establishment to offer this system to
12 individuals.

13 If some individuals do select to
14 participate in this cashless wagering system
15 and manage their own betting that way, then the
16 law requires a monthly statement to the patron
17 and an annual report by zip code anonymized --
18 anonymous to the Commission.

19 So, there is no information about
20 individual betting coming to us, coming to the
21 Commission. There is no requirement that they
22 have this, that they do the cashless wagering.
23 It's simply that they allow the system to
24 appear. And then there's the monthly

1 requirement and I have no idea whether the
2 monthly requirement is onerous or not.

3 So, we are going to continue to
4 define cashless wagering system and understand
5 again, exactly what it is about this statute,
6 this section that the applicants are concerned
7 about because it wasn't clear to us from the
8 submissions what the exact problem is.

9 COMMISSIONER ZUNIGA: There's
10 another set of regulations. All of these
11 regulations start to now affect each other not
12 just the slots standards and this language but
13 also the responsible gaming regulations. So,
14 we need to be cognizant that they begin to be
15 very much interrelated as we move forward with
16 this drafting.

17 CHAIRMAN CROSBY: Okay. So, we
18 don't know whether legislative action is
19 required on this one or not. The next one is
20 the obligation of the licensee when a \$600 or
21 more award -- win occurs and the payment is
22 being made and the tax is being taken out, to
23 at that same time check some kind of a database
24 to look for unpaid child support or overdue

1 state taxes.

2 We have talked with DOR. Is there
3 anything new from them? I didn't read your
4 memo, your email.

5 MR. GROSSMAN: I think the bottom
6 line with this section here when it comes to
7 past due child-support and past due taxes is
8 that it seems as though that's something that
9 the Commission will be asked to keep in place
10 though it will likely need to be reconciled
11 with any changes that are made to the other
12 parts of the section, if any.

13 For example, if the limit is moved
14 from \$600 to \$1200 and if the reporting versus
15 withholding standard is changed, then this
16 section here will need to be reconciled with
17 that.

18 CHAIRMAN CROSBY: I think we are
19 clear that whichever threshold we end up using,
20 it should be the same one. So, if the
21 Legislature accepts our, goes with our
22 suggestion that the threshold for W-2 be moved
23 from \$600 to \$1200 then all of these other
24 thresholds should go with it that are triggered

1 now to the 600. I think that is pretty
2 straightforward. I don't think anybody would
3 disagree with that.

4 But even if we change the threshold,
5 we're not sure that there is a system -- that
6 there will be a system in place where on a
7 real-time basis the person who's getting the
8 payment of the \$1200 can be checked to see
9 whether not they've got a deadbeat dad
10 obligation or an unpaid tax obligation.

11 At the moment, the Commonwealth
12 can't do that. They don't have the ability to
13 do it. They say that within a couple of years
14 they will, but we don't know when for sure that
15 would happen. So, if they don't have the
16 ability to do it at this point, I think having
17 somebody check a paper file that's a month old
18 or a couple of weeks old is horrifying.

19 So, if they can't do it in a real-
20 time basis like that when the payment is being
21 made with 99.9 percent accuracy, then I think
22 we would have to strongly urge that this be
23 changed at a minimum.

24 COMMISSIONER MCHUGH: What does the

1 Lottery do? Do we know?

2 CHAIRMAN CROSBY: It's very
3 different because it's not a real-time payment.

4 COMMISSIONER MCHUGH: I understand
5 that. But what do they do?

6 CHAIRMAN CROSBY: They do do it.

7 CHAIRMAN CROSBY: Do they look at a
8 book that's a month old or do they go online
9 someplace?

10 COMMISSIONER ZUNIGA: No. They look
11 at a book -- Actually at more than one book and
12 that's another important part here. You
13 mentioned some kind of database, Mr. Chairman.
14 It may be more than one because Social Services
15 may maintain a list that's updated with some
16 regularity but DOR does a separate one for tax.

17 CHAIRMAN CROSBY: DOR does both.

18 COMMISSIONER ZUNIGA: They do both?

19 CHAIRMAN CROSBY: DOR is the agency
20 that oversees the payment and collection of
21 child-support, same agency.

22 COMMISSIONER CAMERON: What is the
23 threshold for the Lottery?

24 CHAIRMAN CROSBY: \$600.

1 COMMISSIONER MCHUGH: I agree that
2 it's a different animal. So, if they do books
3 or a book and it's out of date, it doesn't make
4 any sense. It seems to me if the Commonwealth
5 is really serious about this as they are, and
6 this has been in place for ages, the notion
7 that you collect taxes and overdue child-
8 support before certain payments are made, then
9 they ought to create a reporting system that
10 makes it capable of achievement. So, I fully
11 agree that we ought to ask for a suspension of
12 this until they get something that's practical.

13 COMMISSIONER CAMERON: Like an
14 instant background check for firearms that kind
15 of a system.

16 CHAIRMAN CROSBY: Right.

17 COMMISSIONER MCHUGH: Yes. This
18 would be even simpler, Social Security number
19 and amount owed or Social Security number and
20 driver's license number and amount owed.

21 CHAIRMAN CROSBY: And there are
22 jurisdictions that do it. And we know that it
23 can be done and it is done. It's not totally
24 out of the realm of the norm. And we're

1 looking into -- Apparently, Louisiana has a
2 pretty good system. So, we're looking into --
3 DOR is looking into how this is done in other
4 jurisdictions, and will get back to us and tell
5 us how they think they can do it and when.

6 But the bottom line is on two
7 scores, one is the threshold and two is how
8 this system operates, I think this is something
9 that we will need to weigh in on.

10 I guess I'm getting a sense here of
11 the Commission that we are supportive of the
12 notion but will require somehow or other the
13 actual implementation of it is coordinated
14 between DOR and the Legislature.

15 COMMISSIONER STEBBINS: Until
16 technology catches up with us, is there at
17 least a way for -- I don't know how DOR breaks
18 out their list, but you always hear reference
19 to the top 10 worst offenders. Are there a way
20 we can target the worst of the worst, so to
21 speak?

22 COMMISSIONER CAMERON: Because if
23 that is not accurate, that could change
24 monthly.

1 COMMISSIONER ZUNIGA: I think the
2 issue is not about relative offense, it's about
3 operational capability and being able to check
4 instantly or assess quickly as possible.

5 COMMISSIONER STEBBINS: But you
6 would usually find somebody -- I'm assuming.
7 I'm not speaking from experience, obviously,
8 but somebody who's got a higher level of
9 threshold of stuff due as opposed to \$200 or
10 \$300 but someone who is in the thousands I
11 would think that would rise to a different
12 level of concern for the folks at DOR that at
13 least tackling those worst cases. I'd rather
14 have them start there.

15 CHAIRMAN CROSBY: I think it's worth
16 looking at. It's an interesting idea. I think
17 you're probably right. The chances that late
18 Friday afternoon somebody who's really been bad
19 will run in and the database isn't up to date
20 on Sunday isn't very great.

21 So, it's worth talking with them to
22 see whether or not there could be such a thing.
23 That would be one way to sort of give a message
24 too that we're supportive of the principle but

1 await the full implementation. We'll talk to
2 them about that.

3 COMMISSIONER MCHUGH: Just an
4 editorial sidebar, some of the people at the
5 top of that list maybe broke, not really bad.

6 CHAIRMAN CROSBY: But that's not
7 really the issue definition.

8 COMMISSIONER MCHUGH: I understand.
9 That's why it was an editorial sidebar. We
10 were talking about the worst of the worst.
11 There are some people who have run into
12 problems in life.

13 CHAIRMAN CROSBY: The biggest
14 amounts of money not worst.

15 COMMISSIONER MCHUGH: Right.

16 CHAIRMAN CROSBY: So, we know where
17 to move on that. Then 52, section 52 my item
18 number 11 the reports of winnings in excess of
19 \$600. Same things I think we all agree that
20 the threshold needs to be standardized. And we
21 think that this one would apply to table games.
22 And that would be virtually impossible to
23 implement at any threshold. Right? Because
24 there's no cumulative recording system.

1 COMMISSIONER ZUNIGA: Is there a
2 read that for table game play the reporting
3 only happens when a customer cashes out not
4 necessarily every time they play one hand or
5 another?

6 MR. GROSSMAN: Even the cashing out
7 doesn't necessarily capture what a person's
8 income was.

9 COMMISSIONER ZUNIGA: That's true
10 because you have to also record the cashing in,
11 how much they started with.

12 MR. GROSSMAN: Right.

13 COMMISSIONER ZUNIGA: This could be
14 a real operational burden or impossibility.

15 CHAIRMAN CROSBY: I was just
16 checking back to see what Wynn and MGM said
17 about this. I thought they had had something
18 other than just the administrative problem.

19 COMMISSIONER MCHUGH: There's a huge
20 administrative problem in here which ties back
21 into what is the definition of a winning.
22 That's the ongoing thread that we've been
23 thinking about in sort of an overlay context.

24 If you put \$50 in a slot machine and

1 you play for half an hour or 40 minutes, and
2 during that 40 minutes you won \$800 and you've
3 lost \$900 -- you've won \$800 and you've lost
4 it. At the end of 40 minutes you've got zero
5 on that ticket that comes out. Have you won
6 \$800 for purposes of this? That it seems to
7 me, how one resolves questions like that
8 determines a part of the administrative burden
9 that flows from complying with this.

10 CHAIRMAN CROSBY: Are you talking
11 about table games or slots or anything?

12 COMMISSIONER MCHUGH: I'm talking
13 about any of them really. The same principle
14 applies to the table games.

15 CHAIRMAN CROSBY: The table games, I
16 think, because it's an ongoing, they've got
17 other players, you have to stop everybody.

18 COMMISSIONER MCHUGH: I understand
19 but you've got discrete incidents. It may be
20 more of an administrative burden there because
21 of that. But you've got discrete elements
22 every time the roulette wheel spins is another
23 game conceivable, just as every slot game. It
24 strikes me that they both pose administrative

1 -- You get up from one slot machine and you go
2 to another slot machine. How do you follow
3 people around to know? You can solve a lot of
4 this, I suppose, through regulation but it's
5 not easy.

6 MR. GROSSMAN: That gets into the
7 next issue, I think, which is why on the
8 federal level they only make you report at
9 \$1200 and you can offset your losses. So, you
10 have kind of more of a distinct transaction at
11 a slot machine, I guess the theory would be
12 much like a scratch ticket or winning a lottery
13 game or something like that as opposed to table
14 games, which are more fluid.

15 But it really is the total process
16 that the federal statute puts in place, which
17 sets it just the reporting and then you're
18 allowed to offset. You can really accurately
19 capture what a person's income is. That's
20 really the bottom line. That's the flaw with
21 the Massachusetts system.

22 COMMISSIONER MCHUGH: How
23 administratively operators comply with that
24 statute though would give us some clues as to

1 the direction that's possible in complying with
2 this if certain parameters were changed, i.e.
3 it was net and the limits were higher. Because
4 the same problems would exist, maybe not as
5 frequently but the same problems would exist.

6 MR. GROSSMAN: I think that's right.
7 I think if you're saying even if the Mass.
8 model were changed to the federal model and
9 that a \$1200 win, so to speak, at a slot
10 machine were reported to DOR or to the DTA,
11 that may not accurately reflect what that
12 individual won. They may have really lost
13 \$5000. They had one \$1200-win. So, DTA or DOR
14 or whomever would just know that at some point
15 in time that person had \$1200. So yes, there
16 are flaws I guess with that as well.

17 COMMISSIONER MCHUGH: All I'm saying
18 is that casino operators have been living with
19 the federal reporting model for a long time.
20 And how they live with it and deal with it, if
21 we found that out --

22 CHAIRMAN CROSBY: But it doesn't
23 apply to table games. That's the problem. If
24 this only applied only to slots and it was a

1 \$1200 threshold, then it would not be a problem
2 for the license holders to do it.

3 COMMISSIONER CAMERON: But does that
4 mean at the end of the time at the casino that
5 day?

6 CHAIRMAN CROSBY: No. If it applies
7 to slots, this is the way it is now, anytime
8 you win \$1200 or more the machine freezes up,
9 the bell starts ringing, you either have to go
10 to a place or somebody comes to you, usually
11 somebody comes to you. And they make sure you
12 are who you say you are. They get a government
13 ID and they give you a W-2. That happens today
14 every time over 1200 bucks.

15 The good news for that person today
16 is for the feds. you can offset. But that's a
17 policy decision that the Legislature will have
18 to make.

19 If we move it to \$1200 that can be
20 done no problem. That's not an imposition on
21 anybody. They're doing it now. But table
22 games is a whole different story. So, I think
23 where we come down on this is change the
24 threshold and eliminate table games. It's just

1 virtually it's just inconceivable to think of
2 trying to do it in table games.

3 COMMISSIONER ZUNIGA: Absolutely.

4 CHAIRMAN CROSBY: The whole table
5 shuts down, everybody else sits there. It just
6 doesn't make any sense at all. Again, we're
7 going to open this up to for comments from
8 people but I think relative to table games
9 they're right on with this one.

10 The next one number 12 is section
11 56C, D and E. I forget who all was objecting
12 to this but it's in the background. Basically,
13 this is objecting to the amount of money and
14 the open-ended nature of the amount of money
15 that the Commission can assess its operating
16 costs will-nilly on the license holders.
17 Whatever that operating cost is, we have the
18 opportunity above the \$600, we have the
19 opportunity -- the right to assess the license
20 holders.

21 And secondly, we have the Public
22 Health Trust Fund with a minimum of \$5 million
23 annually. It's starting at some point, which I
24 think we've now determined would be 2016 so

1 far.

2 I don't think the Legislature is
3 going to be interested in changing either of
4 those. And I don't think I would recommend
5 that the Legislature change either of those. I
6 think the independence that we have of
7 assessing our costs as opposed to going to the
8 Legislature was one of the ways the Legislature
9 gave us independence from any kind of political
10 interference. And there's no way they're going
11 to want to take on the responsibility of an
12 appropriation.

13 On the \$5 million, I think we will
14 not have any need to go above that given that
15 there's going to be a \$5 million plus five
16 percent of the gross gaming revenue is going to
17 come into the Public Health Trust Fund. But I
18 don't see any reason for fixing that at a cap
19 at \$5 million.

20 I do think, and we've already talked
21 about this that it does make perfectly good
22 sense to have the license holders have an
23 opportunity to understand where our budget
24 comes from. And maybe even somehow or another

1 to have some kind of an early-stage review at
2 it. I think that's totally fair.

3 If we were really be profligate and
4 I mean profligate not like the BPH article,
5 they have every right to express concern about
6 that. So, I think we should accommodate their
7 concern that this is just an ATM, but I do not
8 think that we should bring it up with the
9 Legislature. Nor do I think the Legislature
10 would have any interest at all in discussing
11 it.

12 COMMISSIONER ZUNIGA: I agree with
13 all of that. These are slightly unusual.
14 We've talked a lot about this in a prior
15 meeting relative to the Commission's budget and
16 these are unusual years because there's a lot
17 of upfront costs.

18 But as we tighten up our budget
19 formulation projections and make them available
20 for input, I think it would be very important
21 to communicate to our applicants or eventually
22 to our licensees.

23 Mr. Chairman, you've talked about
24 something that I believe MassPort does because

1 they have a similar situation in terms of
2 assessing a lot of their costs on the airlines.
3 There's a group, an outside group, an advisory
4 group that has airlines that look at the budget
5 formulation, etc. So, we could replicate that
6 model.

7 CHAIRMAN CROSBY: I gave that point
8 to Director Day and I think to Director Lennon
9 to talk to MassPort about how they do that.
10 So, I think we are clear on that that we're not
11 going to --

12 COMMISSIONER ZUNIGA: In addition
13 and I know Director Lennon is also looking at
14 this. Comparison to other jurisdictions is
15 always key. There's jurisdictions that have a
16 cap based on the level of activity. I'm
17 remembering Pennsylvania 1.5 percent of gross
18 gaming revenue. Again, these are unusual years
19 for us because there is no gross gaming revenue
20 yet.

21 But as we formulate those kinds of
22 discussions about budgets and things like that,
23 parameters from other states are also going to
24 be very helpful.

1 CHAIRMAN CROSBY: Right. And I'm
2 glad you mentioned that because it's important
3 for the applicants to know that we are using
4 similar agencies as one of the benchmarks for
5 how we establish. There's no reason why we
6 should be substantially different from similar
7 agencies. Defining what's similar is a little
8 bit of a task. So, we are being mindful of
9 this issue or this concern.

10 COMMISSIONER MCUGH: So, I agree
11 with not recommending any changes provided that
12 we have some kind of a reviewing advisory panel
13 that solicits, directly obtains the input of
14 the applicants as well as some other thoughtful
15 people in the community.

16 CHAIRMAN CROSBY: Right.

17 COMMISSIONER CAMERON: It makes
18 sense.

19 CHAIRMAN CROSBY: Number 13 is the
20 issue we talked about which is withholding
21 taxes on \$600 or greater. We've talked about
22 that ad nauseum.

23 Parity of tax rate, this was MGM and
24 Wynn expressing concern that if the tribal

1 casino is authorized that that will throw a
2 monkey wrench in everybody's competitive
3 situation.

4 What my conclusion on this is we
5 know that's an issue. We know it's a problem.
6 Nobody is more concerned about it than we are
7 trying to figure out how to handle this
8 situation. But at the moment there is nothing
9 for us to do. Nobody is going to guarantee
10 making the tax rate the same as the tribal tax
11 rate. So, I think there's nothing for us to do
12 but just to watch how this unfolds and react to
13 the circumstantial changes as they happen.

14 COMMISSIONER ZUNIGA: The biggest
15 swing in terms of this tax rate relative to the
16 tribal here is not between 25 percent and 17
17 percent. It is in my opinion between 17
18 percent and zero or actually 25 and zero.

19 So, as we continue to think about
20 and eventually decide as to whether to award a
21 commercial license or not that's the piece that
22 we control or not, we'll see. But it's
23 something that is further down the road on the
24 one hand and something that we need to be

1 prepared for in terms of to analyze now how all
2 of these operations start to affect each other.

3 But I agree fundamentally with the
4 notion here. There's nothing we could
5 guarantee or this Legislature could guarantee
6 relative to the difference between 25 and 17
7 percent, for example.

8 COMMISSIONER MCHUGH: We are not
9 deciding anything about that except that we are
10 not in favor of recommending a parity between
11 the commercial and the tribal tax rate.

12 CHAIRMAN CROSBY: Right. And we're
13 not in favor of recommending anything to the
14 Legislature on this issue at this point.

15 COMMISSIONER MCHUGH: Right.

16 CHAIRMAN CROSBY: Number 15, do we
17 have anything more Todd to report?

18 MR. GROSSMAN: I'd like to just
19 circle back on that one, if I could, later.

20 CHAIRMAN CROSBY: Do you want to
21 explain again quickly what the issue was?

22 MR. GROSSMAN: There's a provision
23 in the statute that prohibits anyone except for
24 the gaming licensee from issuing credit at a

1 gaming establishment. And we were just trying
2 to get a clear understanding of any negative
3 consequences, unintended that could flow from
4 that. For example, whether it would somehow
5 prohibit the use of ATMs or credit cards or
6 something like that.

7 CHAIRMAN CROSBY: Originally, we
8 didn't know exactly what MGM was getting at.

9 MR. GROSSMAN: We're working on
10 that.

11 CHAIRMAN CROSBY: Okay. So, we'll
12 keep working on 15. And then 16 came not from
13 our applicants but rather from a variety of
14 other interest groups, and that is the concern
15 about CORI.

16 You've seen the recommendation from
17 Michael and Carroll. Michael and Carroll's
18 judgment is that using their view of
19 commonsense, good judgment, good policy and
20 industry standards, that it would make sense to
21 go to -- support a movement in the Legislature
22 to modify the automatic disqualifications for
23 nongaming employees, essentially. And I don't
24 know whether you've come to a conclusion

1 whether you think that's what you would
2 recommend or what but that's where we stand at
3 the moment.

4 MS. GRIFFIN: So, the
5 recommendations that Michael and Carroll gave
6 sound sound. I haven't had a chance to discuss
7 it with Commissioner Stebbins as of yet, but
8 based on the information that they provided
9 regarding other jurisdictions and the focus on
10 the gaming service employees, I would agree
11 with at least one of their recommendations.

12 CHAIRMAN CROSBY: But we will wait
13 for you guys to give us a formal proposal. And
14 I'd like to know what the other groups -- It
15 would be nice if we had a united front. If we
16 have multiple approaches here, it's going to be
17 a tougher sell. But if everybody's on the same
18 page including the Penn Nationals of the world
19 and the Gaming Commission and the CORI reform
20 people, then we might have a shot at getting it
21 through.

22 COMMISSIONER STEBBINS: And today,
23 Mr. Chairman, your question to Penn National I
24 think is the first time we've actually heard

1 from the applicant on this issue. But
2 certainly, I think in the Category 1's looking
3 at their hiring requirements in immediate
4 communities that we certainly want to have
5 their input.

6 Obviously, they're operating in
7 these other jurisdictions that Michael and
8 Carroll allude to but it would be interesting
9 getting their feedback as to this provision in
10 Massachusetts.

11 CHAIRMAN CROSBY: Right.

12 COMMISSIONER CAMERON: I thought
13 that their second recommendation is one that we
14 should consider at this time on a case-by-case
15 basis for the gaming employee.

16 COMMISSIONER STEBBINS: Hopefully,
17 by either the 17th or our first meeting in May,
18 we can have a recommendation.

19 CHAIRMAN CROSBY: Great. Okay. I
20 think what I would like to do, and let me just
21 think this through. What I would like to do is
22 rewrite this a little bit to make it reflect
23 what we've talked about, and advise where we do
24 not believe that there needs to be legislative

1 involvement. This is just our advice. They'll
2 do what they want, but this is our suggestion.

3 And say where we will be back to
4 them with a Commission recommendation, which
5 we're not ready to give yet, except we're ready
6 to say wherever the threshold is, it should be
7 for everything that requires a threshold.
8 What's now 600, if it gets changed everything
9 should get changed to the new threshold. I
10 think that's one we're already clear on. I
11 don't know that we need to vote on that
12 particularly, although we can if you want.

13 COMMISSIONER MCHUGH: We could vote
14 on it when the entire package comes back.

15 CHAIRMAN CROSBY: After I rewrite
16 this then we'll vote on it.

17 COMMISSIONER MCHUGH: Right, right.
18 I forgot, have we in the position we've taken
19 vis-à-vis the \$600 have we said we ought to go
20 to \$1200 for reporting and \$5000 for
21 withholding which is the federal standard?

22 COMMISSIONER ZUNIGA: We did.

23 CHAIRMAN CROSBY: Yes. Withholding
24 if you're not a citizen, there's a withholding

1 at \$1200 too, right? Isn't that right?

2 COMMISSIONER MCHUGH: if you're not
3 a citizen of Massachusetts?

4 CHAIRMAN CROSBY: No, if you're not
5 a state, if you're not a resident there's a
6 withholding at \$1200 too, I think, right?

7 MR. GROSSMAN: I'm not sure about
8 that.

9 CHAIRMAN CROSBY: Whatever the
10 federal, it was go with federal standard
11 whatever it is. So, I will redraft and
12 circulate.

13 COMMISSIONER CAMERON: Thank you,
14 Mr. Chair. A lot of work went into this, very
15 well prepared, very helpful.

16 COMMISSIONER STEBBINS: Thank you
17 Todd and Artem.

18 COMMISSIONER MCHUGH: Yes.

19 COMMISSIONER ZUNIGA: I agree.

20 CHAIRMAN CROSBY: Thank you. What's
21 next? Let's see, it's 12:15. We're on this
22 new schedule.

23 COMMISSIONER ZUNIGA: I think we
24 should take a lunch break very soon.

1 CHAIRMAN CROSBY: I think probably
2 before we do city of Boston we probably ought
3 to take a break. We've never had a lunch break
4 here where we haven't had lunch available.

5 COMMISSIONER CAMERON: Right
6 downstairs.

7 COMMISSIONER ZUNIGA: There's a food
8 court.

9 CHAIRMAN CROSBY: An hour or less,
10 so we will be back here at one o'clock and pick
11 up with item number four, legal report starting
12 with city of Boston update. We are temporarily
13 adjourned.

14

15 (A recess was taken)

16

17 CHAIRMAN CROSBY: We are reconvening
18 at 1:00 on April 3 the 116th meeting of the
19 Mass. Gaming Commission. And we are at item
20 four, the legal report. Where is Catherine?

21 MS. BLUE: Good afternoon,
22 Commissioners, the first item in our section is
23 the city of Boston update. So, I have a couple
24 of matters we'd like to bring before you.

1 By way of background, as you will
2 recall from our last meeting, we had set out a
3 process for a hearing on some of the issues
4 raised by the city of Boston. In the middle
5 the week after that meeting, we got a very late
6 sort of filed memo from the city that we wanted
7 some time to consider.

8 And given that we took the hearing
9 we had scheduled for what would have been
10 today, April 3, off the table. I did have the
11 opportunity, however, to meet with the
12 applicants and the city on March 26. And we
13 discussed the fact that at today's meeting the
14 Commission may want to discuss the process to
15 address the city's concerns going forward.

16 I also did advise the parties that
17 it would be good to exchange documents where
18 they could because the city had issued a
19 document request to both applicants. And I'm
20 pleased to report that the applicants and the
21 city are exchanging documents. They have put a
22 fair number on the table between last week and
23 today.

24 CHAIRMAN CROSBY: Both applicants?

1 MS. BLUE: Both applicants, yes.
2 And the parties seem to be making some progress
3 in getting the kinds of information that they
4 need from one another. So, I am very pleased
5 with that. I think the parties have made a
6 good effort in that regard. And I did want to
7 let the Commission know that that's ongoing and
8 the parties are working on that.

9 The second part of what we discussed
10 at the last meeting was what kind of a process
11 did we want to have to address some of those
12 issues. And you will see in your book a memo
13 from me and Mr. Grossman regarding a process
14 where we can have input from a number of
15 parties and we can address some of the issues
16 that were raised.

17 So, I think we can have Mr. Grossman
18 go through it in general, but more likely we'd
19 like to discuss it with the Commission and any
20 questions or concerns that you have. Todd, if
21 you want to just lay out the general process we
22 have here.

23 MR. GROSSMAN: The process we've
24 laid out here hits on a couple of different

1 issues. The first is setting the issue that is
2 before the Commission and recalibrating that to
3 ensure that the Commission is focusing on the
4 right section of the law. And the second is
5 determining what the best process is to resolve
6 that issue.

7 So, what we talk about here are a
8 couple of things. First of all, paragraph one
9 we think it's important and we would recommend
10 that the notice of adjudicatory hearing that
11 was previously issued on March 21 be withdrawn.
12 And that the adjudicatory proceeding be
13 canceled. That way there would be no
14 misunderstanding as to the Commission's present
15 plans as far as this issue is concerned.

16 The second thing is in establishing
17 what the issue actually is. And what we have
18 laid out for you here are the two issues that
19 we believe to actually be before the
20 Commission. That is that the Commission has to
21 determine the premises of the gaming
22 establishment for which both Mohegan Sun
23 Massachusetts, LLC and for which Wynn Mass.,
24 LLC seeks approval in their RFA-2 application.

1 And the reason why we've identified
2 these as the issues is because these indeed are
3 the threshold issues. That is they are the
4 first questions that really need to be answered
5 before the Commission can resolve the questions
6 that the city of Boston has raised as to
7 whether it is or is not a host community.

8 The reason for that is that the term
9 gaming establishment itself is contained within
10 the definition of the term host community.
11 Both terms are defined under Chapter 23K
12 section 2 and they are included here in the
13 memo. So, the bottom line is in a situation
14 like this it would be impossible to determine
15 whether a community is in fact a host community
16 without first determining what the gaming
17 establishment is.

18 So, that's why we have pinpointed
19 these two questions as the issues. Of course,
20 each of the applicants both Mohegan Sun and
21 Wynn have submitted RFA-2 applications in which
22 they have laid out to a degree what they
23 believe the gaming establishment to be.

24 Questions?

1 CHAIRMAN CROSBY: I know what you're
2 saying. And I totally agree with it. And I
3 think you've helped us focus this issue
4 properly. But the city is looking to nickel
5 and dime issues. And I just wonder this says
6 determine the premises of the gaming
7 establishment for which Mohegan Sun seeks
8 approval in the RFA-2.

9 Does the RFA-2 somewhere actually
10 say we seek approval of a gaming establishment?
11 Is there actually an actual antecedent to this
12 in the RFA-2 application?

13 MR. GROSSMAN: I don't believe there
14 is any specific question where we ask what do
15 you believe the gaming establishment is. But
16 if you harken back to the Category 2 process,
17 you actually made a determination as to what
18 the gaming establishment was relative to the
19 Penn National application.

20 And in fact, in that case it was
21 based upon the contents of the RFA-2
22 application. It includes a number of things,
23 the site plan and any other number of items
24 that are contained in the application. That's

1 ultimately after discussion how you came to the
2 determination as to what the gaming
3 establishment was in the case of the slot
4 parlor in Plainville.

5 CHAIRMAN CROSBY: I wonder whether
6 it would be helpful to say -- As I said, I know
7 what you're saying. I totally agree with it.
8 -- something like determine the premises of the
9 gaming establishment encompassed by the gaming
10 license which the Mohegan Sun is applying for
11 in its RFA-2. Because they are applying for a
12 license. And that is definitely mentioned.
13 And it just might make a tighter logical flow.

14 MS. BLUE: We could do that. The
15 gaming establishment is encompassed in the
16 license that they are applying for. So, if you
17 feel that makes it clearer, we can certainly
18 add that kind of language in there. But what
19 is in the RFA-2 is one set of information that
20 the Commission may want to consider.

21 As we go through the process you
22 will see that there will be other information
23 available to the Commission as well. And you
24 will consider it altogether as it comes in from

1 various sources.

2 COMMISSIONER MCHUGH: Let me just
3 come in here with a fact and that is that
4 question 4-79 in the application reads:
5 Provide documentation showing the location of
6 the proposed gaming establishment including all
7 amenities and significant structures.

8 And it is seems to me that this
9 question therefore is directly tied to that
10 question. And that question in turn is
11 directly tied to the definition of a host
12 community and a gaming establishment.

13 So, it seems to me that we are
14 asking essentially to talk about the gaming
15 establishment that the applicant has in fact
16 proposed in its RFA-2 application. And that
17 this question is framed with that thought in
18 mind.

19 CHAIRMAN CROSBY: It doesn't open a
20 sliver for anybody to --

21 COMMISSIONER MCHUGH: I think it
22 does not. It offers an opportunity for anybody
23 who believes that there is some ambiguity there
24 to say where the ambiguity is. It offers an

1 opportunity for the applicant to cinch down
2 what it meant by its answer to question 4-79.
3 But it is directly tied into what is in the
4 application.

5 CHAIRMAN CROSBY: Okay. Fine. What
6 sources of information are available for the
7 parties to determine the premises? I guess
8 that's right. What sources of information?

9 MS. BLUE: Our application, the
10 information in that particular question, a
11 great deal of that is available on our website.
12 There may be information that the parties feel
13 is applicable through the exchange of documents
14 that they are making with each other.

15 There could be other publicly
16 available information that they would like to
17 consider. They may have other ideas on what
18 kind of information they want to include. So,
19 all of those things would be put together into
20 the forms of what we call in here a brief or
21 some sort of a memorandum that they could
22 submit to the Commission for its review.

23 COMMISSIONER MCHUGH: This is really
24 designed to meet the breadth of the city's

1 position and explore it. Up until the day
2 before we were going to hold the last hearing,
3 and I come back to this later, we thought this
4 was a much narrower focused deal -- not deal, a
5 much narrower focused question.

6 Then when we got the city's
7 declaration/request, that was orders of
8 magnitude broader than anything certainly I had
9 envisioned. And now this is an opportunity to
10 tell us what you think is relevant. These are
11 the questions. Tell us what you think is
12 relevant and from whatever source in the
13 broadest possible policymaking/legislative
14 range and we'll resolve it. That's the
15 approach.

16 COMMISSIONER ZUNIGA: Could we let
17 Attorney Grossman continue with the summary of
18 the process, because I think we're already
19 getting a little bit into what's there in the
20 document. And I think for the record and for
21 the audience, it's very important. So, I would
22 like to continue hearing the summary.

23 CHAIRMAN CROSBY: Right.

24 MR. GROSSMAN: Moving away from the

1 issue for a moment and talking about the
2 process, the process we are proposing is one
3 that is legislative and administrative in
4 nature and not adjudicatory.

5 So, to be clear, if the Commission
6 were to adopt this approach, there would be no
7 adjudicatory proceeding under Chapter 30A.
8 There would be what is referred to as a
9 legislative proceeding that the Commission
10 would conduct in a manner in which it conducts
11 all of its business on a routine basis and in
12 which frequently it solicits public comment.
13 And it seeks to afford interested individuals
14 an opportunity to express their different
15 points of view and help guide the decisions of
16 the Commission. And at its core that's exactly
17 what this process would entail.

18 So, for starters, we would recommend
19 that the two issues once they're agreed-upon be
20 placed upon the Commission's agenda for its May
21 1 meeting.

22 COMMISSIONER MCHUGH: Agreed upon by
23 the Commission.

24 MR. GROSSMAN: Agreed upon by the

1 Commission, yes. Ultimately, it is up to the
2 Commission to try to focus what the issue is.
3 And here we are suggesting it would be
4 essentially in determining what the premises of
5 the gaming establishment are. They would go on
6 the agenda for the May 1 meeting, which would
7 also include the rest of whatever the procedure
8 is right on the meeting agenda, laying out what
9 the particulars will be.

10 It would afford interested
11 individuals an opportunity to submit a
12 memorandum or some kind of brief by April 17,
13 that's the two weeks, by five o'clock. The
14 intent being to include whatever necessary to
15 help the Commission in its discussion in
16 resolving these questions.

17 They may include things like legal,
18 citation to legal authorities. They should
19 include things like the reasons of course why
20 the individual or group has taken the position
21 they have. It should either attach or
22 reference certain documents that they believe
23 support their position, and include any other
24 relevant information they believe to support

1 their position.

2 Again, all of this would be designed
3 to aid the Commission in reaching its ultimate
4 decision as to what the premises of these
5 respective gaming establishments are.

6 Immediately the day after the
7 memoranda or briefs are due, they would be
8 posted on our website for all to see. We would
9 then allow a one-week period for anybody who
10 wants to to submit a reply memorandum or brief
11 responding to any of the arguments or positions
12 taken in any of the initial briefs.

13 The reply memoranda or brief should
14 be limited to those particular issues. So,
15 someone couldn't come in after the fact and
16 submit a whole brief outlining a their full
17 position on the issue. Again, those should be
18 posted on the Commission's website for all to
19 see.

20 We've set out some process here by
21 which they could be submitted to the
22 Commission. This is a rigid process. It has
23 definite deadlines. There is little discretion
24 built in to those particular deadlines. So, I

1 would just point that out. If someone were to
2 miss a deadline, there would be no brief or
3 memoranda that would be accepted from that
4 particular individual.

5 That an individual need not have
6 submitted an initial brief to submit a reply
7 brief. So, someone could just read through the
8 initial briefs that were submitted and choose
9 to submit a reply brief relative to an issue or
10 position taken in one of those briefs. And
11 that would be okay.

12 Ultimately, on May 1 when the
13 Commission meets to discuss these issues, what
14 the gaming establishments are, the premises of
15 the gaming establishments that individuals who
16 submitted a brief or a memo either initial or
17 in reply fashion would be invited to present or
18 make a presentation to the Commission, which we
19 also set parameters for. Thirty minutes for
20 individuals or groups representing either a
21 municipality or the applicants, and 15 minutes
22 for anyone else.

23 We believe that it's paragraph 10,
24 we built in a provision that would allow the

1 Commission discretion to take in and hear any
2 information ultimately that it deems relevant
3 or necessary to reaching the ultimate
4 conclusion. That is the bottom line here.

5 That you have whatever information
6 before you that you need to make these
7 decisions. So, to the extent that there is a
8 document or a piece of information or an
9 individual you'd like to hear from that you to
10 have the discretion to bring that person in or
11 bring that piece of information in or request
12 that document from any person or individual
13 whether a municipality or otherwise.

14 And that ultimately after the
15 discussion at the meeting, the Commission will
16 make a decision, a determination as to what the
17 gaming establishments are. And the host
18 community determination flows organically or as
19 a matter of law from there. Once if you read
20 the definitions, you'll see that the host
21 community by law is a municipality in which a
22 gaming establishment is located or in which an
23 applicant has proposed locating a gaming
24 establishment.

1 So, once you determine what the
2 gaming establishment is, the question is as a
3 matter of law essentially answered as to which
4 community or communities are the host
5 communities.

6 That's the process that we would
7 recommend that you engage in. We believe it
8 provides structure to the process that you
9 engage in on a regular basis. It offers any
10 interested individual a fair opportunity to
11 express their views and opinions. And attempt
12 to offer the Commission assistance in making
13 these decisions.

14 COMMISSIONER STEBBINS: I like the
15 process as you had it laid out. I think it
16 gives, as you just pointed out, it gives us
17 more flexibility. It certainly gives more
18 opportunities for public input, public comments
19 via email, letters, what have you.

20 Obviously, I would endorse going in
21 this direction. Do you also need some type of
22 motion or a vote to withdraw the notice of the
23 adjudicatory hearing or are we just doing that
24 by simply adopt this process?

1 MR. GROSSMAN: Probably both, I
2 would say.

3 MS. BLUE: I think having a formal
4 vote certainly clarifies it. It would be
5 appropriate to vote on it and then we would
6 just formally withdraw it. We did issue it per
7 instructions of the Commission at the last
8 meeting. So, I think it would be appropriate
9 to have a vote to withdraw it.

10 COMMISSIONER MCHUGH: We could
11 combine, could we not, a single vote to adopt
12 this protocol and that includes it. We could
13 do it either as a separate vote or by adopting
14 this in effect.

15 MS. BLUE: We could do that, yes.

16 MR. GROSSMAN: Just to be clear, we
17 would essentially take these, whatever the
18 Commission settles on and put them in the
19 meeting notice for May 1.

20 COMMISSIONER MCHUGH: If we adopted
21 this today, we would post this tomorrow because
22 it's got premeeting notice -- a number of
23 premeeting deadlines.

24 MR. GROSSMAN: Yes. And we would

1 certainly publicize this and then it would be
2 contained in the meeting notice for May 1.

3 COMMISSIONER ZUNIGA: A minor point,
4 but it comes at the end of the memo here. It
5 says after the hearing concludes, the
6 Commission will issue findings. This is in
7 reference to the May 1 hearing assuming that
8 everything goes well with the schedule. Is
9 that a separate day? Or is it understood that
10 it might be at that meeting?

11 MS. BLUE: The Commission has a
12 choice. If you are done deliberating at that
13 meeting and you're ready to take a vote and
14 issue findings, you can. If the Commission
15 feels it needs more time or say it determines
16 it needs more information, it can certainly do
17 that. And then take it up at a later day. It
18 really is where you are comfortable and based
19 on the information that you have you can make
20 that determination.

21 CHAIRMAN CROSBY: So, when it says
22 after the hearing concludes, does that mean
23 after the public comment?

24 MS. BLUE: It would mean on May 1

1 when you are done hearing the oral arguments
2 from the parties who've opted to speak.

3 CHAIRMAN CROSBY: After the hearing
4 concludes then we'll deliberate and then we
5 would issue findings.

6 MS. BLUE: This process will work
7 very much like the process used for the
8 evaluation of the Category 2. In that
9 situation, you had presentations that were
10 made. Then you deliberated in public. And
11 then you came to a determination in public and
12 issued your decision.

13 We can certainly create written
14 findings based upon your deliberations at some
15 later point. But your decision will come in
16 public.

17 CHAIRMAN CROSBY: Again, I was just
18 looking for technicalities that somebody might
19 quibble about. Number 11 says after the
20 hearing concludes, the Commission will issue
21 findings. I guess what we mean is that after
22 the hearing concludes, the Commission will
23 deliberate, make a decision and eventually
24 issue findings. Anybody else?

1 COMMISSIONER MCHUGH: Yes. I wanted
2 to say -- come back to the point I was making a
3 minute ago about the adjudicatory hearing
4 versus this process. And when we discussed at
5 the last meeting as we did an adjudicatory
6 hearing and we talked about the concern that if
7 we had an adjudicatory hearing we had to
8 deliberate in private or we didn't have to.
9 And we agreed that if we had an adjudicatory
10 hearing we'd deliberate in public.

11 The whole concept of an adjudicatory
12 hearing, which I favored was based on the
13 premise that we were dealing with a relatively
14 narrow set of issues that were intensely fact
15 bound. And dealt with such things as the metes
16 and bounds of the property lines and where the
17 entrance was and the like. We are still
18 dealing with that.

19 But the day before the hearing when
20 the city announced a much, much broader
21 definition of what it believed a host community
22 consisted of, that struck me as a game changer
23 in terms of the kind of process you needed in
24 order to deal with it. It's not the kind of

1 thing that an adjudicatory proceeding in the
2 traditional sense of the word is really the
3 best equipped to deal with.

4 We're talking about policy
5 determinations. We're talking about non-
6 factual things. We're talking about things
7 that don't involve examination and cross-
8 examination. So, it seems to me that the very
9 thoughtfully the proposal withdraws that in
10 light of changed circumstances and the changed
11 issues and the need to give a speedy but
12 deliberate and thorough wide-ranging canvas of
13 the arguments and issues that people raised
14 with us and then come to a conclusion.

15 This is a better format to do it.
16 So, I fully endorse the pulling back of the
17 adjudicatory process and substituting this
18 process instead. I think the public will be
19 better served. We will be and the applicants
20 will as well.

21 CHAIRMAN CROSBY: And the city.

22 COMMISSIONER MCHUGH: I'm sorry,
23 yes, the city as well.

24 CHAIRMAN CROSBY: That's helpful,

1 because I was going to ask why. So, that's
2 helpful.

3 COMMISSIONER ZUNIGA: I agree. I
4 would also emphasize something you mentioned,
5 which is that this process is very much
6 consistent with the way we have made large and
7 small decisions in the past under the
8 jurisdiction of the Commission.

9 So, I am also very much in favor of
10 notifying all of the parties, all interested
11 groups as soon as possible that we adopt
12 something very much like the process outlined
13 here.

14 COMMISSIONER CAMERON: I would agree
15 as well. I think it's a straightforward
16 document. It clearly lays out the steps, the
17 involvement of all participants. And I
18 certainly endorse it as well.

19 CHAIRMAN CROSBY: Can you John or
20 Rick, can you walk through the schedule? So,
21 assume that we decide on the first for sake of
22 discussion. So, where are we? Lay out the
23 schedule from there.

24 MR. ZIEMBA: If we decide on the

1 first and -- let me go both ways. If we decide
2 on the first and Boston is a surrounding
3 community to both facilities that would begin
4 the 30 days' worth of negotiation by the
5 parties.

6 At the conclusion of those 30 days,
7 roughly around June 1 then the parties begin
8 the arbitration process. They select their
9 arbitrators within five working days. After
10 those five working days, there's 20 days for
11 arbitration.

12 At the conclusion of those 20 days,
13 if there are any requests for Commission's
14 determination of whether or not there is a
15 fundamental inconsistency with the statute, the
16 Commission would then thereby have a hearing
17 within three days after that deadline.

18 Five days after those three
19 deadlines then the report would be final. I
20 think Executive Director Day is counting those
21 days but at the end of that period, let's say
22 roughly 30 days negotiations, 36 or seven days
23 of total arbitration, then we would be able to
24 conclude the host community hearing. So,

1 roughly two days after the host community
2 hearing -- two days after the final decision we
3 could close the host community hearing.

4 CHAIRMAN CROSBY: Two days after the
5 final --

6 MR. ZIEMBA: After the final
7 decision on the --

8 CHAIRMAN CROSBY: -- on the
9 arbitration.

10 MR. ZIEMBA: -- on the arbitration,
11 the final award of the arbitration, we could
12 close the hearing. And then we can make an
13 award no sooner than 30 days after that date.

14 CHAIRMAN CROSBY: So, we're talking
15 August.

16 MR. ZIEMBA: That is correct. In
17 the alternative if Boston is determined to be a
18 host community, all of that goes by the
19 wayside. And then the earliest, you have a
20 host community agreement if that's executed in
21 expeditious form, the earliest a referendum
22 could occur would be 60 to 90 days after that.
23 And then the submissions thereafter.
24 Substantially longer, obviously.

1 COMMISSIONER CAMERON: Without
2 arbitration that's 36 or seven days sooner?

3 MR. ZIEMBA: Without arbitration 36
4 or seven days sooner, correct.

5 COMMISSIONER MCHUGH: We have to
6 think about the timeline today. I'm very
7 concerned, I must say, based on the comments
8 that we heard at the surrounding community
9 meetings we held last week, two weeks ago about
10 the 30 days and then arbitration begins period.

11 I heard in those meeting two things.
12 I heard substantive concerns and they were
13 articulately expressed. But I also heard
14 concerns about not having been heard. And I
15 think that the process the city has used since
16 October has not engaged the community in a way
17 that allows community input into the
18 negotiations and exchange with the applicants
19 that is needed in order to come up with
20 constructive solutions to manifest issues that
21 are real and significant that they discussed.

22 And I don't see any evidence that
23 there's been any actual negotiations as opposed
24 to jockeying about information. And I have

1 substantial concerns about whether it's fair to
2 give the 30 days only before arbitration begins
3 if it turns out that the city is a surrounding
4 community. Fair not to the city as an entity,
5 they made this bed.

6 I recognize that an election took
7 place. I recognize we have a new
8 administration. I recognize that the changes
9 have to be made and adjustments have to be made
10 for differing outlooks. But still I look at
11 the people most affected by this in the two
12 communities and wonder -- not wonder, believe
13 they haven't had a sufficient opportunity to be
14 heard by their own representatives and
15 participate with their own representatives in
16 trying to craft something if it can be crafted
17 that will satisfy their concerns.

18 So, I'm not sure that we need to
19 decide it today what we do in that event. But
20 I would hope that we wouldn't decide today that
21 30 days after May 1, if that's the day we make
22 this decision and if this decision is that
23 Boston is a surrounding community their
24 arbitration would begin. At least I'd like to

1 leave that open.

2 CHAIRMAN CROSBY: That arbitration
3 would begin?

4 COMMISSIONER MCHUGH: Right. In
5 other words, as John laid out the scenario
6 under the present schedule, if we decided on
7 May 1 that Boston was a surrounding community
8 as to either of these proposals, then Boston
9 would have 30 days to negotiate with the
10 applicant on a surrounding community agreement.
11 Failing that the arbitration process would
12 begin. They could negotiate during the next 30
13 days.

14 CHAIRMAN CROSBY: Are you saying you
15 hope we don't agree to that or you hope we do
16 agree to that?

17 COMMISSIONER MCHUGH: I hope we do
18 not bind ourselves to that. I would like to
19 see, frankly, potentially I'd like to have us
20 discuss and maybe discuss with representatives
21 of the city or whoever whether that 30-day
22 period before the arbitration process kicks in
23 is enough. And if not, why not? And if not,
24 what is to come up with some negotiations that

1 involve the groups in the city. I don't want
2 to decide the issue today. I just don't want
3 to rule that out.

4 COMMISSIONER STEBBINS: Your idea is
5 giving a window of time a little bit longer
6 than the 30-day window between, again if Boston
7 is seen as a surrounding community the
8 applicant and those individual neighborhoods to
9 have a more thoughtful deliberation as to what
10 components of the surrounding community
11 agreement would be.

12 COMMISSIONER MCHUGH: Right. We
13 heard virtually every presenter from one of the
14 communities, Charlestown on the night we held
15 that meeting saying as presently constituted,
16 we are opposed to this proposal not never. And
17 I took from that and from other things that
18 there really hasn't been any dialogue on what's
19 the alternative to as presently constituted.
20 And there were some questions that could be
21 answered.

22 COMMISSIONER STEBBINS: I had
23 another question for you John relative to the
24 ongoing trials and tribulations we've had about

1 exchanges of information between the two
2 applicants and the city of Boston. From your
3 view is that happening? Are parties being
4 responsible? I don't want to get to May 1 and
5 the flag goes up that we are still looking for
6 information.

7 MR. ZIEMBA: I'm going to let
8 Catherine weigh in, but I know that there were
9 deliveries as of yesterday. I don't think
10 we've had the ability to view what was
11 submitted in response to the April 3 deadline.

12 CHAIRMAN CROSBY: Excuse me, on that
13 point. I think if we do go forward with
14 something like this, it is important that we
15 stay on top of making that because we don't
16 want to get told on May 1 we can't give you our
17 presentation because we didn't get the
18 information we needed.

19 Commissioner McHugh has always said
20 maybe we have to someday weigh in on telling
21 who gets what. I think you guys should monitor
22 that in real-time to make sure that issue is
23 off the table.

24 COMMISSIONER MCHUGH: I would really

1 like to jump in here on that topic. Paragraph
2 eight of this -- seven of this proposal says
3 that any time before the conclusion of the
4 hearing, the Commission may request the city or
5 the applicants or any other person to provide
6 the Commission with documents the Commission
7 believes would be helpful in determining the
8 location of the proposed gaming establishment.

9 There are documents that would be
10 helpful in answering the question that we have
11 framed. And we choose those documents. They
12 may be the same as some of the documents that
13 have been exchanged between Boston and the
14 applicants but it's not necessarily necessary
15 to get all of those documents exchanged before
16 we can make this determination.

17 The second piece is what documents
18 are reasonably necessary to exchange for the
19 host or surrounding community process to go
20 forward. And that is where I think we really
21 need to look at it and to monitor the process.
22 But that really is on a separate track it seems
23 to me and we ought not confuse the two.
24 Because it's not up to any individual to

1 determine whether there is enough information
2 for us to make a decision. We decide that.

3 CHAIRMAN CROSBY: Right. They're
4 going to say we don't have the information to
5 make our submission.

6 COMMISSIONER MCHUGH: I understand,
7 I understand, I understand.

8 CHAIRMAN CROSBY: I don't have any
9 problem with not committing ourselves. I'm
10 very concerned about the time, as I know you
11 are.

12 We have repeatedly not gotten
13 involved on the local levels. We've said the
14 law says that the locals can do these things.
15 How much - If the city isn't capable of talking
16 with its constituents the way that it should
17 be, I'm not sure it's our job to fix that given
18 the whole history here. But I understand your
19 point and I'm open-minded. I certainly would
20 keep it open until the time comes and we can
21 think about the time. But I would also
22 admonish the city to do what we've said to
23 every other city and every other host
24 community.

1 Every other contested community has
2 had to do the awkward but doable process of
3 pursuing two tracks. One is to oppose and the
4 other is to negotiate and try to do both at the
5 same time. And many of them have done it. And
6 I don't see why we shouldn't expect the city to
7 do it too. And rather than penalize everybody
8 else to make up for their intransigence. But
9 having said that I think the door should stay
10 open.

11 COMMISSIONER ZUNIGA: What we're
12 really talking about here in terms of schedule
13 is that at a minimum it slipped already until
14 around August. It could be longer. We may
15 decide that. We may have a role in deciding
16 how much longer or we may not. Our current
17 schedule or our recent schedule relative to
18 meeting this fiscal year in terms of award of a
19 license is effectively now slipped. And we're
20 looking at an early date of August or
21 thereabouts for award of a license in that
22 region.

23 CHAIRMAN CROSBY: We would have been
24 making this decision next month if it weren't

1 for this process. I think we are bending over
2 backwards to give the city a fair opportunity,
3 a very fair opportunity to make its case and
4 compromising a lot of other parties to do it,
5 particularly ones who are invested in the time.

6 But I think it's the right thing to
7 do. I hope everybody will be mindful that a
8 big price is being paid by a lot of people to
9 try to accommodate the city's concerns.

10 I had one other question. Is it
11 anticipated that our staff would do a filing
12 under this schedule of briefs? Are you
13 thinking that you all will weigh in with an
14 opinion?

15 MS. BLUE: I don't anticipate a
16 separate filing. We will review all of the
17 materials that are filed and we can certainly
18 help to try and condense or summarize that for
19 the Commission if there are Commissioners that
20 would like that. I didn't anticipate a
21 separate filing by staff, no.

22 CHAIRMAN CROSBY: I think that's
23 right. I think that's it. I think you made it
24 essentially a requirement that we invite

1 everybody who has submitted a memorandum to
2 speak. Do we want to do that? It says should.
3 Do we want to say may? Is it a decision that
4 we want to make now to guarantee that everybody
5 who submits gets to speak?

6 COMMISSIONER MCHUGH: This is in the
7 form of a recommendation to us. And that's why
8 the should language is there. If this is
9 approved then some of the language will be
10 changed as sort of a pretrial order or
11 prehearing order.

12 CHAIRMAN CROSBY: It's a question.
13 Do we want to require ourselves now to invite
14 everybody who submits either of these two tiers
15 of brief an opportunity to speak?

16 COMMISSIONER ZUNIGA: If there's a
17 requirement, I would differentiate between
18 applicants and municipalities and everybody
19 else. If there were to be requirement, I would
20 only require that of both applicants in this
21 case and the city or any other cities or towns
22 that may be affected.

23 CHAIRMAN CROSBY: Is there any
24 reason not to leave it open? Why not let

1 ourselves see what comes in and what happens
2 and where we're at?

3 COMMISSIONER CAMERON: I think
4 that's a good idea that we should wait. If we
5 end up with 100 briefs.

6 CHAIRMAN CROSBY: Or maybe it's an
7 open and shut case. We don't feel like there's
8 anybody to tell. We feel totally clear about
9 one thing or another or who knows what. Maybe
10 we make it may.

11 COMMISSIONER MCHUGH: Could I pick
12 up on the distinction that Commissioner Zuniga
13 made? I think we should commit ourselves to
14 hearing from -- having gone through this
15 elaborate process, having extended ourselves to
16 this point, it's important that we follow
17 through on that. So, I would commit ourselves
18 to hearing from the applicants and the
19 municipality. And then have may for the rest.

20 CHAIRMAN CROSBY: Any applicant?
21 What if MGM wants to weigh in? On the
22 definition. They certainly have a very strong
23 interest in what the definition of a gaming
24 establishment -- well, how we end up defining.

1 COMMISSIONER ZUNIGA: For the Region
2 A?

3 CHAIRMAN CROSBY: No. But any
4 application that we use for one we use for
5 another.

6 MS. BLUE: But they are only
7 commenting on the question as it pertains to
8 Region A, not the definition as a whole.

9 COMMISSIONER ZUNIGA: This only
10 applies to Region A.

11 MS. BLUE: They could if they wanted
12 to, but it pertains only to Region A.

13 COMMISSIONER MCHUGH: I do not think
14 it would be unfair to -- I don't think your
15 solution would be unfair either. But I do not
16 think it would be unfair to adopt Commissioner
17 Zuniga's distinction, Region A applicants and
18 the municipality -- and Boston if they submit a
19 memorandum should be permitted to speak. And
20 the rest we may invite to speak.

21 COMMISSIONER STEBBINS: Should we
22 also invite the existing host communities and
23 surrounding communities to be part of that
24 limited group?

1 CHAIRMAN CROSBY: I don't see the
2 surrounding communities but I think Winthrop
3 might decide that they want to take the same
4 kind of argument. If Boston is going to be a
5 host community, Winthrop might think they
6 should be a host community.

7 COMMISSIONER STEBBINS: In terms of
8 defining a group that we definitely want to
9 hear from, I would also as it's been suggested
10 leave the window open that if a brief came in
11 from any other entity that we wanted to at
12 least ask questions of that we give ourselves
13 the flexibility.

14 CHAIRMAN CROSBY: Let's accept
15 Commissioner Zuniga's suggestion that is the
16 Region A applicants and the city of Boston
17 that's definite. Beyond that we can do
18 whatever we want.

19 COMMISSIONER MCHUGH: We can do
20 whatever we want.

21 COMMISSIONER ZUNIGA: Anybody can
22 submit briefs. This is just for the speaking
23 part.

24 COMMISSIONER CAMERON: The key is

1 what do we need to have the full information.

2 So, that's the may piece.

3 CHAIRMAN CROSBY: Right, exactly.

4 All right. So, we have -- Do you want to frame
5 a motion?

6 COMMISSIONER MCHUGH: Yes. I would
7 move that the Commission adopt the process for
8 determining a gaming establishment set out in
9 the memorandum included in the meeting
10 materials dated April 3, 2014 from General
11 Counsel Blue and Deputy General Counsel
12 Grossman with such minor adjustments as are
13 necessary in order to change the
14 recommendations into a prehearing notice and
15 with the substantive change just discussed with
16 respect to the right of Region A applicants and
17 the city of Boston to be heard at that May 1
18 hearing and the remaining entities to be given
19 an opportunity to be heard orally to be
20 determined by the Commission after the receipt
21 of all written materials.

22 COMMISSIONER STEBBINS: Can we just
23 amend to withdraw the notice of the
24 adjudicatory hearing?

1 COMMISSIONER MCHUGH: That's
2 paragraph one.

3 COMMISSIONER STEBBINS: Okay.

4 CHAIRMAN CROSBY: Second?

5 COMMISSIONER STEBBINS: Second.

6 CHAIRMAN CROSBY: Any further
7 discussion? All in favor signify with aye.
8 Aye.

9 COMMISSIONER MCHUGH: Aye.

10 COMMISSIONER CAMERON: Aye.

11 COMMISSIONER ZUNIGA: Aye.

12 COMMISSIONER STEBBINS: Aye.

13 CHAIRMAN CROSBY: Opposed? The ayes
14 have it unanimously. Okay. We are onto SBIS.

15 MS. BLUE: In your book you have
16 three small business impact statements. These
17 are for regulations that we are now taking
18 through the formal process. These are
19 regulations pertaining to our assessment, to
20 our changes in the arbitration regulation and
21 to the initial self-exclusion regulations.

22 We are working on a schedule that
23 will have a public hearing on May 4 for all
24 three of those regulations. We will do the

1 appropriate advertising early next week and get
2 the appropriate notices out. But if you
3 approve the small business impact statement, we
4 can get those ready for filing as required.

5 CHAIRMAN CROSBY: Any discussion,
6 questions? Does somebody want to move?

7 COMMISSIONER MCHUGH: I move that
8 the Commission adopt all three small business
9 impact statements as printed in the meeting
10 materials, in today's meeting materials.

11 CHAIRMAN CROSBY: Second?

12 COMMISSIONER STEBBINS: Second.

13 CHAIRMAN CROSBY: Further
14 discussion? All in favor, aye.

15 COMMISSIONER MCHUGH: Aye.

16 COMMISSIONER CAMERON: Aye.

17 COMMISSIONER ZUNIGA: Aye.

18 COMMISSIONER STEBBINS: Aye.

19 CHAIRMAN CROSBY: Opposed? The ayes
20 have it unanimously. Public records request.

21 MS. BLUE: At the last Commission
22 meeting, the Commission requested that we
23 discuss the process that we have for responding
24 to public records request. And just for the

1 sake of the audience, I just want everyone to
2 know that we have always had a process for
3 responding to public records request. And we
4 have been following it since the inception of
5 the Commission. This memo is a companion to
6 that and also pretty much a summary of what we
7 have been doing so far.

8 If you look at the memo, what you
9 will see is we have public records requests
10 that come into us from essentially three
11 different places. They come in either by
12 letter. They come in through MGC comments or
13 oftentimes they come in from emails addressed
14 either to individual Commissioners or
15 individual staff members.

16 So, we take all of those requests.
17 If they come in in a hard copy letter form, we
18 scan them in. We log them so we know what the
19 timeframes are in which we need to respond. If
20 they're in email, they are saved in our email
21 drives. We are required to provide an answer
22 within 10 days.

23 We are not required by statute
24 necessarily to provide the documents. If we

1 can and it's a small manageable request, we
2 obviously do that and do try to do that. But
3 we are required to respond. And we do have a
4 series of letters that we send out
5 acknowledging the request and determining -- if
6 we can determining how long it will take to
7 respond and what documents we're looking for.

8 What we do when we look at each
9 public records request is we try to assess what
10 kind of search we have to make, how much time
11 that will take and what the costs are involved,
12 because some of them can be fairly significant.
13 So, if we can determine that upfront, we will
14 do that. And we will include a cost estimates.

15 So, we have rates and you'll see
16 them in the memo. We are required by statute
17 to charge the lowest possible hourly rate of an
18 employee who could make the search. So, we've
19 determined that that's \$25 an hour. We charge
20 for copies, a minimal amount for copies or for
21 a CD if we can burn them onto a CD.

22 We provide that information to the
23 person requesting the records. And we ask them
24 do they want to narrow their search? If they

1 think the cost is too high, would they like to
2 narrow their request? If they still want what
3 they've requested then we ask them to provide
4 us with payment and we begin the process.

5 When the records are gathered, we
6 will send them out with a cover letter. We
7 will explain what the records are. We will
8 explain any redactions that we made because we
9 do review them for redactions in terms of
10 exemptions under the statute. Then we forward
11 them out to the requester.

12 If the requester is uncomfortable or
13 not happy with what we've provided, they do
14 have the option to file an appeal with the
15 Secretary of the Commonwealth. And that has
16 happened on occasion. And we work very closely
17 with the Secretary of the Commonwealth to try
18 to resolve those issues where we can. And
19 we've been successful largely in doing that.
20 That's a very high-level view of the process.

21 It is the process we have used. The
22 legal department does review the documents. We
23 also ask the individual who provides the
24 documents, the individual staff person to look

1 at what we are proposing to release as well.

2 And we do engage individual staff
3 people to help us do the search because we
4 don't have a centralized document management
5 system yet. So, we have asked other employees.
6 And we've asked them what kind of search
7 they've done, where they've looked, those kinds
8 of things. That's our general process.

9 CHAIRMAN CROSBY: Comments,
10 thoughts?

11 COMMISSIONER MCHUGH: This process
12 strikes me as a very sound one and one that's
13 responsive to the statute and our needs. I had
14 two questions. I was initially thinking the
15 first is that I was initially wondering if it
16 would be possible to supply individuals who are
17 named in documents that go out in a public
18 records requests with copies to give them a
19 heads-up that that's happened. And I thought
20 about it that would be enormously burdensome.

21 If that weren't easily possible, at
22 least until we get a document management system
23 that can segregate those things, as a
24 shortstop, I wonder if it would be possible as

1 the last step or a contemporaneous step with
2 release of the documents if they could be
3 posted someplace internally on the shared drive
4 so that -- and a notice sent to people that
5 we've responded to a request. So, that if you
6 were interested you could go look at them and
7 see if there was anything that you should be
8 aware of in them. That was the first question.

9 The second question is related. I
10 wonder if it makes sense, and I'm not asking
11 for a decision on this today because I just
12 thought it up this morning and it wouldn't be
13 fair to ask for a decision today, but I wonder
14 if it would make sense to just post all of
15 these documents publicly? We get a public
16 records request, respond to the public records
17 request, and when we respond the documents go
18 up on our website at the same time.

19 MS. BLUE: I think to the first
20 question, posting them on a shared drive for
21 the individuals who are involved to see what
22 went out, I think that's a good idea. We do
23 try to have those conversations before we send
24 them out with the individuals. We have on a

1 few occasions had private individuals who may
2 have been mentioned in a document and tried to
3 let them know that something was going to go
4 out that they were mentioned in. So, I think
5 we can definitely do that.

6 On posting them on the website, I
7 think it would be easy to post the requests
8 which the public might find interesting to see
9 what documents are requested of us and maybe
10 some of our replies. We would have to give
11 some more thought to posting what we actually
12 send out in that sometimes they are very large
13 in number. And I don't know how that would
14 work on our website, quite frankly, to have
15 three or 400 pages of something posted. But
16 it's certainly something we can give further
17 thought to.

18 COMMISSIONER ZUNIGA: I like the
19 idea of posting the requests we get. And we
20 could continue thinking about it. I'll share a
21 thought from this perspective. I've previously
22 been involved in two agencies with a lot
23 constituencies, one more than the other, other
24 state agencies.

1 And the amount of requests that we
2 get at the Gaming Commission and the legal team
3 does a fine job in really complying with them
4 is remarkable. And compared to the other
5 agencies, the breadth and scope of some of
6 these requests, the nature of some redactions
7 that we have to manage that we are required to
8 manage is commendable in terms of what it
9 takes. So, it could be a little window as to
10 just the effort from the public of what we have
11 to deal with.

12 And the thought about posting more
13 and more information, I think our document
14 management system is really going to help us.
15 There's a lot of data that's already available
16 for anybody to see in other sources. We could
17 link up to those sources from our website.

18 Certainly, open checkbook is online
19 for the Commonwealth. We are part of that.
20 There's a lot of information in terms of our
21 finances, for example, that's easily accessible
22 from there. We could do a little bit of a
23 better job in terms of posting actual
24 contracts, for example, which we get requested

1 quite a bit of. Having a tab in the financial
2 pages for those things that could be accessed
3 by anybody at any time.

4 But I agree that posting everything
5 would be unwieldy, too large and maybe a little
6 bit really out of context. We get requests in
7 terms of communications, for example, by email
8 and that could be, I don't know, just very
9 difficult to kind of post and manage and
10 update.

11 COMMISSIONER MCHUGH: Why would it
12 be difficult? I'm happy to have this
13 discussion. I was hoping that we'd get a
14 response. I think Elaine ought to weigh in on
15 this. I don't see why it would necessarily be
16 unwieldy.

17 You either give a CD, we're rarely
18 giving paper, either give a CD or you scan them
19 all in and up they go. And yes, you can go
20 around and you can look at open checkbook. You
21 can look in a lot of things. You can search
22 the Globe's archives. You can spend hours and
23 you can find out all of the information. But
24 there's a request, there's the answer.

1 I'm not sure as I raise the question
2 that it's a good idea, but I think there's
3 enough of a good idea in there that I'd like to
4 see us explore it further.

5 COMMISSIONER ZUNIGA: Well, the
6 unwieldy part comes from the technology. When
7 because we are working towards this, when we
8 get a fully automated document management
9 system that will be very easy to implement and
10 I would be in favor of that. Until such time,
11 these requests can take a lot of time and a lot
12 of space and a lot of scanning and that it
13 could take additional time. But it is an
14 important question and we should explore it.

15 CHAIRMAN CROSBY: Yes, I'm happy to
16 think about it too. I agree I think we should
17 talk to Elaine about it. I could think of some
18 issues but it's certainly worth thinking about.

19 COMMISSIONER CAMERON: I just wanted
20 to say that I am and I've had this conversation
21 so I know that it is important to give a heads-
22 up to an individual who may be affected by that
23 open public request. So, I really do think
24 that is a good policy.

1 CHAIRMAN CROSBY: I'm going to chime
2 in on something Commissioner Zuniga said. We
3 get a huge number of these things. Some of
4 them are huge and require a tremendous amount
5 of work and are good-faith requests. Others
6 require a tremendous amount of work and are
7 just mindless fishing expeditions.

8 But the burden that it puts
9 principally on legal staff, but not only on
10 legal staff is substantial. And it tends to be
11 work that we have to do in effect nights and
12 weekends. I myself spent hours one day going
13 through emails at home.

14 And I think it's absolutely
15 important that at a minimum the people who do
16 that work get paid for it if this can be worked
17 out. I'm not sure it can. But when I see the
18 work that Catherine does and I see her knowing
19 she's had five hours going through emails and
20 that's not in her 37.5 hours nor is it even in
21 her 52 hours. It's 52 through 57. If it's
22 possible for her to be paid for doing that I
23 think she should be, number one.

24 And number two you mentioned the \$25

1 per hour. But I know there are plenty of times
2 when it's not a \$25 an hour person who is doing
3 the work. If you have to spend -- Whether you
4 can get the money or not or Todd or me or
5 Jamie, we can talk about. But we certainly
6 ought to charge whatever the rate is of the
7 person who really is involved in it.

8 If somebody else does the first
9 draft and then you review it then we'll charge
10 your time, whoever gets it the Commission or
11 you should get layered on top of that. And I
12 think we should be quite fastidious about it.

13 There is no reason why either we or
14 our license holders who are paying the bills
15 should be subsidizing the implementation of
16 Freedom of Information requests, these huge
17 things. The little ones are no problems. But
18 these huge things, there's no reason why they
19 should be subsidized either by our employees'
20 weekend time or by our licensees.

21 COMMISSIONER ZUNIGA: Just one
22 thing. Just to clarify, the charge is
23 generally -- the public records law allows us
24 to charge an hourly rate for the lowest paid

1 employee that can reasonably comply with the
2 request.

3 MS. BLUE: Yes, that's correct.

4 COMMISSIONER ZUNIGA: It's not the
5 lowest paid employee, period.

6 CHAIRMAN CROSBY: I know.

7 MS. BLUE: No, it's not. And I
8 think another point, when you do look at some
9 of the employee's salaries that actually is --
10 it's certainly not the lowest paid but it is
11 the hourly rate approximately of the lowest
12 paid employee who can do it, because I have
13 looked at actual salaries and divided it out.

14 Another piece to consider is if we
15 had to bring in vendors for example to do it.
16 If it were a particularly large request and we
17 had to bring in vendors, we would pass on the
18 vendor's cost because we had to bring in
19 outside help to do it. So, those costs may be
20 different than the lowest hourly rate of the
21 employee who's doing it. So, we are mindful of
22 that if we have to bring in an extra outside
23 help to do it.

24 COMMISSIONER ZUNIGA: The other

1 piece and maybe Commissioner McHugh is going to
2 get to this, I think it is very dangerous to
3 start thinking that we are going to compensate
4 our employees over and above what we currently
5 do for complying for these even if they happen
6 effectively on a weekend.

7 I think there's ways for us to deal
8 with this. We already have that capability.
9 We have compensatory time that Executive
10 Director Day can award on an as-needed basis
11 for somebody who comes in and work after hours.
12 I think that's a healthier way to address this.
13 Sometimes it is necessary to work after hours
14 or on weekends. But that could be compensated
15 by taking additional days later on.

16 Because also it is as a public
17 agency we need to comply -- it is part of our
18 duties to comply with these requests, however
19 many and however we end up doing them on
20 weekends or late nights.

21 Although the idea is inviting, Mr.
22 Chairman, I don't think we should try to be in
23 the business of compensating our own employees
24 for these discrete pieces of work that

1 generally are under the duties that they
2 currently have to comply with.

3 CHAIRMAN CROSBY: If it's somebody
4 who is an hourly worker, we have overtime
5 obligations, right?

6 COMMISSIONER ZUNIGA: Yes.

7 CHAIRMAN CROSBY: So, there are some
8 people that if they were working weekends, they
9 would get paid, right?

10 COMMISSIONER ZUNIGA: Do we have
11 overtime pay?

12 CHAIRMAN CROSBY: I don't even know
13 how it works.

14 COMMISSIONER ZUNIGA: We have
15 compensatory pay for certain grades and below.
16 And that's by Fair Labor Standards. There's a
17 requirement for certain employees to take
18 compensatory time. And there's an option for
19 nonexempt employees to take compensatory time.
20 I think that's the way to deal with it.

21 CHAIRMAN CROSBY: Maybe he knows.

22 COMMISSIONER ZUNIGA: Does Derek
23 want to chime in a little?

24 CHAIRMAN CROSBY: Are you chiming

1 in?

2 MR. DAY: I didn't know you needed
3 an answer.

4 COMMISSIONER MCHUGH: I guess we are
5 going to try and get an answer for that. But I
6 also would like to think about this more
7 holistically. It strikes me that it's a huge
8 waste of time for the legal staff -- a huge
9 imposition of time for the legal staff to be
10 doing these things on a routine basis.

11 I would like to propose that we
12 think about taking the next quarter say and
13 adding up the hours spent by whom on dealing
14 with these things. And then seeing if there's
15 a business case for a Freedom of Information
16 Act paralegal, for example. Somebody who comes
17 in and becomes thoroughly familiar with the
18 filing system, with who we are, with what we do
19 who's a top flight paralegal who can do other
20 things as well but whose primary responsibility
21 would be to do the searching for these things.
22 And free up the legal staff from all but the
23 end-stage review or answering questions as to
24 doubtful documents that the paralegal comes up

1 with and leave to him or her the responsibility
2 of being primarily responsible for this.

3 We are now facing a lot of these
4 things. As we get up and running with the
5 casinos and the slots parlor and licensing
6 10,000 people and running a steady-state
7 operation, we are going to have many, many more
8 of these things. And it seems to me at least
9 worthwhile to think about whether now is the
10 time to begin to institutionalize this process
11 and not make it a collateral duty.

12 COMMISSIONER ZUNIGA: That's a great
13 suggestion.

14 CHAIRMAN CROSBY: That is a good
15 idea.

16 COMMISSIONER CAMERON: Excellent
17 idea.

18 CHAIRMAN CROSBY: Why don't we look
19 into, maybe Derek can look into maybe he knows
20 about whether or not we have the right, the
21 authority to pay people, any people extra money
22 if they are working way overtime to do these
23 documents. Whether we do it or not is another
24 matter, but let's find out whether we can even

1 do it or not. And then we can have an
2 intelligent conversation. Also, Catherine I
3 wanted to question this thing. You said \$25 an
4 hour is a \$50,000 person, right, more or less?

5 MS. BLUE: More or less, yes.

6 CHAIRMAN CROSBY: When you do this,
7 when your time is charged -- when your time is
8 used, do you charge for your time, not to you.

9 MS. BLUE: No, I charge my time at
10 that rate.

11 CHAIRMAN CROSBY: Why is that? I
12 don't understand.

13 MS. BLUE: Because that's what the
14 statute requires of employees of the agency.

15 CHAIRMAN CROSBY: But are you doing
16 it because somebody else could do it?

17 MS. BLUE: Yes.

18 CHAIRMAN CROSBY: Oh, you're doing
19 it because somebody could do it.

20 MS. BLUE: That's what the statute
21 says. They limit what you can charge on an
22 hourly basis to the lowest level of the person
23 who could do it.

24 CHAIRMAN CROSBY: If there's

1 somebody else on the staff who could do it, why
2 are you doing it?

3 MS. BLUE: Because sometimes it's
4 needs a higher level of review or sometimes it
5 needs to be managed in a way that's different.
6 Or to be honest, sometimes in the legal
7 department if I have other lawyers working on
8 things that are potentially more important it
9 might be easier for me to do it right away.

10 CHAIRMAN CROSBY: Those are two
11 different things. If somebody else could do
12 it, but you want you to do it for your own
13 reasons fine, charge them \$25. If you're doing
14 because it requires a higher level of review
15 then the \$25 is the wrong number. It should be
16 a higher number. It should be your time or
17 whatever the lowest number is.

18 If it's Rick, there's going to be
19 some he's going to have to do. There's going
20 to be some I have to do. And there's going to
21 be some you have to do. I just think we should
22 charge whatever the real rate is. We just
23 should not be discounting this. It's just not
24 fair to anybody to be discounting these. And

1 we should be really rigorous about that.

2 MS. BLUE: We can look into that
3 further. I think the agencies that I've been
4 at in the past, it hasn't really mattered who
5 actually did it. The statute has been
6 interpreted as the rate is limited to what is
7 the lowest level person who could do it, no
8 matter who does do it. But we will look into
9 that further and see if we're not interpreting
10 the statute correctly.

11 CHAIRMAN CROSBY: Let me know what
12 you come up with on that.

13 COMMISSIONER CAMERON: One
14 additional question, has the fact that you have
15 notified folks with these large, large requests
16 kind of open-ended requests, has the cost has
17 that caused anyone to narrow their search or
18 narrow the scope of request?

19 MS. BLUE: In one circumstance I
20 would say no. The cost wasn't that large. I
21 do have an outstanding request where I've sent
22 back an estimate and have not heard back. So,
23 I have not pursued any more of the documents.
24 And may get a narrowing in that situation.

1 Right now it's a little too early to
2 tell. The requests have been getting larger
3 over time. In the beginning, they were much
4 more focused. So, it was easier to turn them
5 around. The larger ones have been in the more
6 recent past.

7 CHAIRMAN CROSBY: Okay. Anything
8 else?

9 MS. BLUE: No.

10 CHAIRMAN CROSBY: Monitoring and
11 preopening emergency regs.

12 MS. BLUE: So, the final item in
13 this section is the draft reg. 205 CMR 135.
14 This is for monitoring of project construction
15 and licensee requirements. We had this
16 regulation before the Commission previously.
17 We've since then obtained comments from the
18 applicants, from the project management team
19 that we have. And we have incorporated this
20 comments.

21 So, the purpose here is to have
22 regulations in place and we would enact these
23 on an emergency basis and then take them
24 through that would allow us to make sure that

1 we are -- our applicants, once they're awarded
2 a license are complying with all of the
3 requirements of their license, their host
4 community and surrounding community agreements.

5 That we are making sure their
6 construction schedule they provide to us is
7 being complied with. So, it is a very --
8 there's a lot that needs to be monitored. And
9 we would use these starting with our first
10 licensee, Penn, and then go forward to our
11 upcoming licensees.

12 COMMISSIONER ZUNIGA: I did want to
13 mention this. I think that we should consider
14 not adopting these regulations at this point on
15 an emergency basis because some of what has
16 been added since we last looked at them has the
17 effect of potentially generating a lot of
18 documents and a lot of approval necessary for
19 this Commission in terms of some of the
20 documents and activities here.

21 I would be more than happy to go
22 through each one of the areas that I think
23 needs or merits some real discussion.

24 That could take us a while, which is

1 why I think maybe we should consider adopting
2 them later in the regular process or adopting
3 them on an emergency basis if we think that's
4 necessary on a subsequent meeting.

5 CHAIRMAN CROSBY: Why not I talk
6 about it now? I didn't understand.

7 COMMISSIONER ZUNIGA: It's lengthy.
8 I think the way some of these are -- I'm ready
9 to do that, but it could take quite a bit of
10 time. Because I think each one collectively
11 many of these changes have, as I mentioned, the
12 effect of potentially generating a lot of
13 documents and a lot of requirement of resources
14 of the Commission that may be interpreted very
15 broadly.

16 There's a lot of language here that
17 could be interpreted too broadly that would
18 require our approval, for example. And I'll
19 point to a couple. That I think we really need
20 to understand collectively and discuss and
21 maybe rephrase or reword some of these
22 regulations. Do you want an example now?

23 CHAIRMAN CROSBY: I would say yes.
24 I think it's here to be discussed. If you

1 really think it's going to be a long time, we
2 could come back to this after we get our other
3 business done rather than if you think it's
4 going to run real late.

5 It seems like every week every
6 meeting we have a pretty big agenda. So, it's
7 not like we don't have nothing to do on the
8 17th and we'll have more time.

9 COMMISSIONER ZUNIGA: I know.

10 COMMISSIONER CAMERON: Are you
11 saying you could review this with the legal
12 staff at another time and you just haven't had
13 a chance to do that because you just saw it
14 yesterday?

15 COMMISSIONER ZUNIGA: Essentially,
16 yes.

17 CHAIRMAN CROSBY: Well, that's
18 different.

19 COMMISSIONER ZUNIGA: We have seen
20 versions of this before, but there is new
21 language here inserted by the recommendation of
22 our consultants that reads to me a lot like a
23 contract or a lot like a specification that one
24 can put in public meeting documents if we are

1 the contracting party, but we are not.

2 When we put things regulation, and
3 this happened to me in a previous agency. So,
4 I've lived through exactly what I see coming to
5 fruition here. When we write something in
6 regulation that the applicant shall submit any
7 changes, all changes that could have the
8 unintended consequence of producing a deluge of
9 documents that we cannot possibly damage --
10 manage. It will do real damage.

11 COMMISSIONER CAMERON: I have a
12 question about that.

13 COMMISSIONER ZUNIGA: Again, I can
14 edit any one of these. I will start by
15 removing a lot of shalls, a lot of alls, a lot
16 of any. There's many of those little words
17 here that -- Plus there's another regulation
18 here 135.03, number four that requires for the
19 licensee to submit a variance request to the
20 Commission if at any time the licensee wishes
21 to make a change that would be inconsistent
22 with everything that they've done in the past
23 including representations to the public.

24 So, that in conjunction with a lot

1 of the other language may have the effect of
2 putting a lot of constraint on this Commission
3 relative to project completion. We may be in
4 an uncomfortable and unintended situation of
5 having to approve every request for
6 information.

7 CHAIRMAN CROSBY: Does it say
8 approve?

9 COMMISSIONER ZUNIGA: Yes.

10 CHAIRMAN CROSBY: It does say we
11 have to approve it?

12 COMMISSIONER ZUNIGA: Yes. First of
13 all, there's a lot of language here that I
14 would flip. Instead of making the licensee
15 shall, I would say the Commission may request,
16 require and keep a lot of whatever follows
17 pretty much the same.

18 What we want from a lot of this
19 language here, what our good consultants are
20 directing us to do here is to have access to a
21 lot of information. We will get that. We'll
22 do that in the regulation. We currently have
23 that access, I would argue. We don't want to
24 put such burden on the applicant to produce so

1 much document for us to approve that would
2 become very burdensome and unwieldy.

3 CHAIRMAN CROSBY: It would become a
4 bottleneck.

5 COMMISSIONER ZUNIGA: Right.

6 COMMISSIONER CAMERON: With regard
7 to that I think about a third of the document
8 is changed. These are not minor changes.
9 They're major additions. And I'm wondering if
10 sending it back to the applicant for comment
11 would make sense at this point.

12 I know you asked for comment on the
13 original document, but since this has
14 substantially changed, I'm just wondering if
15 that would help with some of the things you're
16 saying, Commissioner?

17 COMMISSIONER ZUNIGA: That was
18 precisely my initial point which is maybe we
19 need to rethink the notion of issuing this by
20 emergency because people at Penn and Turner are
21 already starting a lot of what they have to do.
22 And that's fine. I am sure they will comply
23 with whatever we come up with.

24 But I am also thinking of two more

1 applicants with a lot more documents that would
2 be of a lot more interest to a lot of other
3 people, not just us and our agents. And we
4 could become inadvertently the clearinghouse
5 for a lot of that where I think we don't
6 necessarily have that intention.

7 So, I would argue that we should
8 table this for the time being. Here's another
9 piece that I know Jennifer Pinck is already
10 working on that we should remember. She is
11 working on putting out guides or bulletins or
12 policy statements that will have the effect of
13 notifying the applicants what we expect of
14 them. All of that a lot of the language that
15 came since the last time we looked at these
16 regulations in my view fit much better on a
17 bulletin not on regulation. That's all
18 relative to access to documents and variance
19 requests.

20 I think a lot of the elements are
21 here. We could really be done with this by the
22 next meeting but I think that we shouldn't
23 adopt them by emergency at this point.

24 MR. DAY: Mr. Chairman,

1 Commissioners, one thing even the variance
2 section I want to point something out because
3 it does have a specific application. Some of
4 the input that we had that has come in has been
5 kind of from the other side. It's been from
6 stakeholders saying so what guarantees are
7 there that the licensed applicant will actually
8 comply with the commitments that they have?
9 What happens in that process? Mr. Chairman, I
10 think you kind of mentioned that. Where does
11 that take place for sure?

12 So, I think what this whole
13 monitoring section is designed to do is provide
14 that resource. And provides really a skeleton.
15 Even the variance idea, it's not a variance
16 from everything but it is a variance from the
17 specific items that the licensee has committed
18 to.

19 So, the concept is if there's some
20 commitment that's been made by a licensee that
21 there actually has to be some documentation as
22 to why that is not what is going to go forward.
23 And there has to be some involvement with the
24 Commission about whether that's acceptable or

1 not.

2 And in the end, I think many of the
3 questions -- The reason we're here as emergency
4 is because we've had other issues that have
5 kind of dominated trying to get this monitoring
6 section calling. Commissioner Stebbins
7 commented that this is a short construction
8 period.

9 So, if we instead of go ahead with
10 emergency regulations and then use the formal
11 process and make changes before we finally
12 adopt them, which we can, using the emergency
13 process we can have these regulations in place.
14 And then as we move forward with the final
15 adoption, we can make changes if we really need
16 to make those changes.

17 But this construction, if you go
18 back the other way, you've basically probably
19 25 percent through the construction period
20 before you actually have any regulations to
21 govern the process of reporting, the quarterly
22 reporting process, the variance process, the
23 approval process for the Commission. In this
24 regulation the Commission actually approves the

1 project schedule. And there's timelines for
2 actually getting that project schedule to the
3 Commission and actually getting it approved.

4 So, I do understand what
5 Commissioner Zuniga is saying, but the document
6 that we see also has input -- it doesn't mean
7 everything a licensee asked for or an applicant
8 suggested is in here. But a number of the
9 things that were in there -- have been
10 incorporated, our two contractors, much of what
11 they have to say has been incorporated. Our
12 diversity, our Vendor Advisory Council had
13 comments that were incorporated specifically in
14 those areas.

15 So, in the end there is a section
16 that does provide for the possibility of some
17 form of sanctions if the applicants weren't
18 actually moving through with what they had
19 proposed. So there is, I think, it's a whole
20 process.

21 It also provides sort of a backbone.
22 Commissioner Zuniga mentioned Jennifer Pinck
23 and her team. We do plan on the 17th to bring
24 in a proposal to the Commission that fleshes

1 out the detail of the monitoring project that
2 would be going ahead as this project moves
3 forward.

4 So, it's kind of this whole proposal
5 is really a trust but verify syndrome. It's
6 yes, we anticipate many of the features in here
7 as far as any enforcement application or
8 noncooperation really won't have to really take
9 place. Penn and everybody else is very
10 cooperative.

11 But in the end we also had messages
12 from other states that said there was instances
13 of surprises. What we ended up getting was not
14 what we really intended to do. So, that is
15 really what this is supposed to do is in the
16 end do our best to deliver to the public what
17 was promised at the beginning.

18 COMMISSIONER ZUNIGA: I'm not
19 suggesting that we should eliminate any of
20 this. Of course, we're going to hold their
21 feet to the fire -- our applicants to what they
22 committed.

23 Certainly, I think that diversity
24 council is a great example. But the way this

1 is written applies to just everything, all of
2 the documents and specifications that can be
3 produced in a large construction project. And
4 that is just a lot of documentation, plain and
5 simple.

6 I think where we say any change, we
7 need to define that. Where we say relevant
8 plans, we need to define relevance if it's
9 going to be in regulation.

10 You may have an idea of what is
11 relevant and the licensee will comply with
12 whatever we want them to comply with. So, I
13 think we're good there.

14 CHAIRMAN CROSBY: You're not talking
15 about how you might fix the substance of this,
16 but I think we have two different proposals on
17 the table. One is that we don't deal with this
18 now. And the other is that we adopt this in
19 emergency form realizing that it's going to get
20 changed between now and the final adoption.

21 I think we don't need to start
22 talking about the particulars. We need to
23 figure out whether we can put this off for two
24 weeks and have there be some background

1 conversation. And then come to it with some
2 more feedback. Can we do that? Or do we need
3 to adopt it on an emergency basis and live with
4 it for a while while we're figuring these
5 things out? I think that's the issue on the
6 table.

7 COMMISSIONER MCHUGH: We can have
8 that discussion and come back on an emergency
9 basis in two weeks and put it in place
10 conceivably. So, that's an option.

11 CHAIRMAN CROSBY: You could have a
12 reviewed emergency set in two weeks. I don't
13 have an opinion about this.

14 COMMISSIONER CAMERON: Part of the
15 issue is not having the chance to have this
16 conversation ahead of time because we just saw
17 the document yesterday. So, that is part of
18 the issue here, which a couple of days could
19 have made all of the difference with this
20 document.

21 So, I would agree that moving it two
22 weeks is not a bad idea. The applicant can see
23 it. And all of these issues can be probably
24 resolved at that point.

1 CHAIRMAN CROSBY: Is that all right?

2 MR. DAY: That will work, I think,
3 because we are bringing back Jennifer Pinck
4 talking about the process itself on the 17th,
5 which is important for us to get to because
6 construction is basically starting. I think
7 we're kind of at the end of our time if we're
8 going to get something in place for monitoring.

9 CHAIRMAN CROSBY: In a perfect
10 world, we would be able to do this now. But I
11 think there's enough interest in thinking this
12 through further that we should hold it up.

13 So, let's put it on the agenda for
14 the 17th. Commissioner Zuniga will do some
15 off-line discussion with people. We'll get
16 some feedback from the applicants. We will all
17 have had a chance to read it. And if there's
18 going to be further changes, significant
19 changes to this, make sure we get it early
20 enough that we can have a chance to review it
21 before the 17th at least the 15th or 14th.
22 Okay.

23 MS. BLUE: That's all we have from
24 the legal group.

1 CHAIRMAN CROSBY: All right. Then
2 we are to the Ombudsman report. I am going to
3 suggest a very brief break. Let's come back
4 momentarily.

5

6 (A recess was taken)

7

8 CHAIRMAN CROSBY: We reconvened at
9 2:35. We are turning to the Ombudsman report,
10 Ombudsman Ziemba.

11 OMBUDSMAN ZIEMBA: Thank you Mr.
12 Chairman, members of the Commission. As you
13 know, the Commission at its last meeting asked
14 staff to review the Region C July 23
15 application date and to bring back its analysis
16 to the Commission.

17 The Commission has received a number
18 of comment letters recommending that the
19 Commission extend this deadline. Notably the
20 city of New Bedford requested that the
21 application date be extended to September 22,
22 2014 but that we also waive our regulations so
23 that the election could occur after the
24 application date primarily after November 4,

1 2014.

2 KG Urban asked for an extension of
3 the application date to October 23, 2014.

4 Further Mass. Gaming and Entertainment asked
5 for an extension to December 31, 2014.

6 We also received a number of comment
7 letters from the city of Fall River and
8 representatives. They were asking that we keep
9 our current July 23, 2014 deadline. Subsequent
10 to some of those city of Fall River comments,
11 we met with and spoken with representatives of
12 Fall River. We've also spoken with
13 representatives from the Fall River applicant
14 team.

15 They indicated that they would like
16 time to engage in a very robust effort to
17 ensure that the city of Fall River's citizens
18 can understand their development, can learn
19 about all of its nuances. And that they do
20 understand that that process does take time.
21 And as such, I think that there is an
22 understanding by the applicant team that an
23 extension past our deadline could be warranted.

24 The applicant has also had further

1 conversations with the city of Fall River since
2 those comment letters. And in conversations
3 that we have had subsequent to those comment
4 letters with the city, I think the city noted
5 that some of its timetables and some of the
6 dates associated with those timetables could
7 need some additional time. But I think it's
8 fair to say that the city of Fall River would
9 like to move as absolutely as quickly as
10 possible on the applications.

11 And that in the event that the
12 Commission were ever to extend any deadline
13 that it should definitely not be for any open-
14 ended period and should be as limited as
15 possible. I think the conversations that we
16 have had with Fall River, we noted that the
17 Commission shares the city of Fall River's
18 desire and everyone's desire in the Southeast
19 to try to tackle some of the underlying issues
20 of extensive unemployment rates in the region.
21 And that was one of the major reasons why the
22 Commission determined that it would need to
23 move forward on a commercial application.

24 Within that context in your packets

1 I have three options for consideration by the
2 Commission of potential extensions if the
3 Commission decides to extend. Scenario one, we
4 are in the 5a section. At the beginning, there
5 are all of the comment letters, a summary of
6 the comment letters.

7 And then following that there are
8 specifics of our timetables. As you see the
9 long sheets that we have there, multicolored
10 long sheets. Scenario one, in no particular
11 Commissioners, but scenario one has an
12 application date of November 17. Scenario two
13 has an application date of October 17. It's
14 the next long sheet. And scenario three has an
15 application date of September 23.

16 These options were created in
17 recognition that there are two key election
18 dates this fall on September 9 and November 4.
19 November 17 is the Monday following the 10 days
20 after the election. As you remember we
21 discussed in the last couple of meetings that
22 there's a 10-day certification requirement for
23 elections in cities. We require certified
24 election results as part of our application

1 process.

2 September 23 that is the Tuesday
3 that follows 10 days after the primary date.
4 And then the middle option is October 17. It's
5 approximately one month between each one of
6 these two bookends.

7 We have not modeled anything later
8 than November 17 such as the request that was
9 made by Mass. Gaming and Entertainment for the
10 end of the year process. But these three will
11 give us definitely room for consideration of
12 the implications of moving our dates.

13 I believe that these three dates
14 would help the Commission achieve some of the
15 goals that the Commission set out when it
16 originally set the Region C date almost a year
17 ago. Notably, the dates would likely allow
18 enough time for full background reviews of
19 applicants and qualifiers before a referendum
20 is done at the local level.

21 Further these would provide more
22 time for competition to be fully realized in
23 the Region C region. The schedules would
24 provide host communities and surrounding

1 communities more time to understand any
2 developments that are proposed in the region.

3 One thing I'll note in terms of how
4 much input goes into successful applications, I
5 think we just the other night we were out in
6 Springfield. And we heard about MGM explaining
7 that they had a total of 412 community meetings
8 that went into the process of developing their
9 application. These do take time. Those are
10 rather significant.

11 Again, what is possible now versus
12 what is possible over the course of many years
13 that some applicants have had to put together
14 their application are different things. But I
15 think is instructive the amount of time that
16 goes into developing a really quality
17 application.

18 Further, the dates that are before
19 are designed to avoid summer referendum votes.
20 The current schedule, the July 23rd schedule
21 had anticipated that referendum votes would
22 hopefully occur by June of this year, well
23 before the summer.

24 In regard to these three options,

1 there are a number of items to consider. The
2 Commission is cognizant of, obviously, of the
3 significant unemployment rates in the Southeast
4 region of the state. Thus we are apt to move
5 as quickly as practical to ensure that
6 facilities can be operational as quickly as
7 possible.

8 We've seen that disputes between
9 host and surrounding communities and applicants
10 can be one of the most significant causes of
11 delay in reaching our ability to construct
12 facilities. And how you align your licensing
13 process could have an impact one way or the
14 other in avoiding those disputes or making sure
15 that those disputes occur.

16 The schedules before you are
17 conservative in that they assume that at least
18 one dispute may arise and that it will take the
19 maximum amount of time available under our
20 regulations. If applicants and communities can
21 resolve these issues before our regulatory
22 mechanisms are necessary, we can award earlier
23 than these dates.

24 So, the award dates associated with

1 these three are April 1 for the November 17
2 deadline, March 2 for the October 17 deadline
3 and February 9 for September 23 application
4 date.

5 COMMISSIONER ZUNIGA: John can you
6 repeat those dates? Oh, 2015, I'm sorry.

7 MR. ZIEMBA: April 1 would be the
8 anticipated award deadline for November 17,
9 March 2 for October 17 and February 9 for the
10 September 23 date. Again, these are really
11 conservative in that this would take us to the
12 absolutely the very end of arbitration.

13 It presupposes failure on the part
14 of the applicants and communities to reach
15 negotiated settlements. Unfortunately, that is
16 a distinct possibility. By way of comparison,
17 the current anticipated deadline for July 23
18 application date award deadline on our website,
19 it is November 20.

20 But if you take into account some of
21 our regulatory changes that we've added some
22 dates on our arbitration and we count days as
23 actual days instead of 30 days, it's 5 plus 20
24 plus 3 plus 5 not on a weekend, not on a

1 holiday. The reality is that we would not be
2 able to award a license until basically the
3 beginning of December.

4 One further thing that I will note
5 is that the October 17 date, the middle
6 proposal that's roughly one month after the
7 September primary date. If we're trying to
8 avoid elections in the summer, the September
9 primary date is probably the earliest that
10 anyone would have. And as we've seen from
11 across the state, there has been a significant
12 argument put forward by applicants that they
13 really don't want to engage in finalizing
14 surrounding community agreements until after
15 they've had their referendum vote.

16 We hope that that doesn't occur in
17 the Region C region. We don't have time to do
18 so. But I would note that the October 17 date
19 would provide at least 30 days or so after the
20 primary date after the election date in the
21 event that someone chose that strategy.

22 So, one thing I would ask is I would
23 ask Director Wells to provide a little bit of
24 an update on where we are in the background

1 process. Obviously, I mention that this would
2 allow us to complete our background checks.

3 We pegged a date for the middle of
4 August for full completion of those dates. But
5 there's obviously some significant uncertainty
6 given that we only have had limited information
7 from the applicants to view so far. Even
8 though we've had current applicants through the
9 process, there could be additional qualifiers.
10 There could be other constructs that we would
11 have to review and that those could take a
12 little more time than we're expecting. And as
13 is our usual, we really hope that we can get
14 those qualifiers approved prior to any election
15 date. That has always been the philosophy of
16 the Commission. Director Wells.

17 MS. WELLS: Good afternoon
18 Commissioners and Mr. Chairman. At this point,
19 the IEB has not been provided with a complete
20 picture of any declared applicant or potential
21 applicant for the Region C license. Prior to
22 being provided with that information, it is
23 obviously not possible to set a definitive
24 timeline for suitability.

1 That being said, given the
2 parameters that the Commission has set that
3 only present applicants can compete for a
4 license in Region C, the expectation is that
5 most of the application will have already gone
6 through a suitability review.

7 Therefore, as Ombudsman Ziembra and I
8 have discussed, it is therefore reasonable to
9 set a target, I wouldn't say a deadline, but a
10 target of mid-August for completion of
11 suitability as long as the applicant or
12 applicants provide a complete picture of their
13 proposed structure and their partnerships to
14 the IEB in short order.

15 Obviously, if the IEB does not
16 receive such information say until July, we
17 can't be expected to go through and complete a
18 suitability report and complete the
19 investigation and do the hearing by August.

20 So, I just want to convey to the
21 Commission a lot of this is applicant
22 dependent. We are sitting ready willing and
23 able to move forward with the investigations,
24 but we need a complete picture of what the

1 proposed structure of any Region C application
2 and project is going to be going forward. So,
3 we are on hold at this point.

4 MR. ZIEMBA: If it's okay, let me
5 just give some more dates to the Commission. I
6 know it's confusing when I'm throwing around
7 all of these dates. I'd like to just walk back
8 when a host community agreement would need to
9 be completed before an application date.

10 So, the premise that we are running
11 with is that at least 60 to 90 days prior to
12 the application date. So, say for example an
13 applicant wanted to have a referendum basically
14 the day before our application date, could we
15 walk back 60 to 90 days.

16 And this is a little bit rough,
17 because I'm not sure that I've accommodated the
18 10-day certification period. But this will
19 give you a good flavor of how that would work.
20 So for example, on November 17, 60 days prior
21 to November 17 is September 18 and 90 days
22 prior to that would be August 19. So, for the
23 furthest along in our schedule one of the three
24 options, host community agreements would have

1 to be roughly done by the middle of August.
2 You might want to take out 10 days for the
3 certification period.

4 Similarly, for the application date
5 of 10/17 roughly 60 days prior to that is
6 August 18. And if a community wanted to allow
7 90 days for their citizens to review it, you
8 would have to have your host the agreement in
9 place by the very beginning of July.

10 For the early date of 9/23 if you
11 wanted 90 days, it would essentially need to be
12 completed by the middle to the end of June.
13 And 60 days prior is the middle of July.

14 As we sit today roughly the 60 days
15 plus 10 days before the July 23rd application
16 date is May 12. If a community wanted 90 days
17 that would roughly be about April 11, which is
18 in about a week or so. If we wanted to afford
19 citizens the full 90-day review period, in
20 essence we are already there.

21 CHAIRMAN CROSBY: Let's think about
22 what we're trying to accomplish here and why.
23 The question that we asked at the meeting, I
24 guess, it was a couple weeks ago was what can

1 be done if anything to enhance the competitive
2 situation in Region C?

3 And if I'm hearing the feedback
4 properly there have been two problems which
5 cause people to want to request more time. One
6 is the uncertainty of the situation with the
7 tribe. And the other is that the Region A
8 decision wouldn't be made in enough time before
9 our present deadline to give the non-winner in
10 Region A an opportunity to compete in Region C,
11 which had always been something we were
12 encouraging.

13 Our friends in Boston have now moved
14 the Region A deadline out to August. So, any
15 of these dates would almost be impossible for
16 the Region A loser to get involved. Not
17 technically impossible but practically pretty
18 close to it. And the tribal situation isn't
19 going to change. Unless it changes and we have
20 no way of knowing whether it's going to be
21 sooner. That uncertainty is the foundation
22 problem in Region C and has been from the day
23 the law was written.

24 As I am thinking about it now, I am

1 not sure what we really gain -- I think we have
2 to extend some because we don't have anything
3 in the pipeline at this point. But I'm not
4 sure that any of the extensions really change
5 the lay of the land and can address any of the
6 issues that we're really talking about.

7 COMMISSIONER ZUNIGA: I don't know
8 that the main feedback that we got in some of
9 the documents has to do with loser from Region
10 A moving into Region C.

11 CHAIRMAN CROSBY: That was one of
12 them. Okay.

13 COMMISSIONER ZUNIGA: That's a
14 possibility. That possibility has now narrowed
15 to your point, but I don't think that that's
16 the main concern here.

17 The main concern is the completion
18 of the investigation, which I want to talk a
19 little bit more about because at this point, as
20 Director Wells said, we don't have a full
21 picture of any of the reported players in that
22 region. And another one is the host community
23 and local process relative to election and how
24 much the community can input in terms of the

1 host community. There is no host community
2 agreement inked or agreed to in that region so
3 far.

4 So, the current deadline is very
5 tight. The current deadline that we have would
6 have us starting the suitability review for all
7 additional qualifiers, for example, next week.
8 That's a concern there. And would have some of
9 these host community agreements be approved by
10 referendum starting also next week.

11 So, regardless of the uncertainty of
12 the tribal, our timeframe and those two
13 requirements, we cannot -- they're not being
14 met for all intents and purposes. So, I think
15 that's a discussion. I'd like to hear a little
16 bit more about the one response that we got
17 from the city of Fall River that they believe
18 that we should keep the deadline because first
19 of all there's no host community agreement.

20 As far as we know, when we last
21 looked at that applicant, the applicant that
22 has been reported as being in Fall River had a
23 portion that was missing from the complete
24 package of suitability.

1 CHAIRMAN CROSBY: Capital structure.

2 COMMISSIONER ZUNIGA: Given their
3 capital structure. To your knowledge,
4 Director, there has not been --

5 MS. WELLS: I have not received
6 anything official notifying me of the proposal
7 for what anyone wants to do in Fall River. I
8 have had communications with the attorney for
9 entities that are looking to do that. And
10 there is certainly discussion there, but we
11 have not received the plan.

12 COMMISSIONER MCHUGH: If we come
13 back to Chairman Crosby's initial thought, what
14 are we trying to accomplish here? Part of the
15 problem, it seems to me, is the uncertainty
16 about the tribe.

17 The other part of the problem though
18 is the fact that nobody has gotten new, except
19 one applicant KG Urban, has any new money in
20 the game. These are people who have already
21 done stuff and they're sitting. There is no
22 sense of urgency here either on the municipal
23 side or on the applicant's side.

24 The applicants don't have completed

1 packages. The municipalities in some cases
2 want more time, in some cases they don't want
3 more time, but they sort of might want more
4 time. So, as I think about the fact that we
5 don't have anything and are unlikely to have
6 anything that's different when this deadline
7 arrives, I am not sure what the functional step
8 we can take that would assure a different
9 result when that deadline approaches.

10 We could extend it to November
11 hypothetically. Are we doing that in a
12 functional way that holds out the promise of a
13 better result, a more competitive result, a
14 more complete and timely result by November 17
15 than we're going to have in two weeks, maybe,
16 maybe not.

17 So, I don't quite frankly have an
18 answer. But I'm reluctant to just sort of act
19 and say well another 30 days or another 60 days
20 or another 90 days is what we're going to do
21 without trying to figure out functionally what
22 we're trying to do and how to make it happen.

23 COMMISSIONER ZUNIGA: Well, two of
24 the applicants sent us a letter to the effect

1 of extend the deadline because in the meantime
2 we will make some additional progress or that's
3 our intention. Now whether they do or not is
4 an important question. But that was the
5 feedback from two of them.

6 COMMISSIONER MCHUGH: I know, but
7 the world is made up of wonderful wishes and
8 they've had since --

9 CHAIRMAN CROSBY: Years.

10 COMMISSIONER MCHUGH: -- they've
11 years to do this. So, I hear what you say, and
12 I have no doubt that they say that in good
13 faith. But what assurance do we have that it
14 happens?

15 MR. ZIEMBA: Commissioner, there's a
16 second subset to the requests that are before
17 us. And maybe if I can just give a little
18 background of that second subset of requests,
19 it might open up some possibilities. I
20 understand your point, and it's a very good one
21 which is if you just keep on extending
22 deadlines and nothing changes in the interim,
23 what makes anybody think that the next deadline
24 is just not going to hit and it's going to be

1 the same thing and we're going to have to
2 extend another deadline.

3 I think what the Commission asked
4 staff and our consultants to do at the last
5 meeting was to take a look at the requests, one
6 of the requests that has been put before us on
7 enhancing the competition or the competitive
8 environment in the region by taking a look at
9 some of our regulatory requirements that might
10 be providing an impediment to competition.

11 And namely the Mass. Gaming and
12 Entertainment folks asked us to take a look at
13 the minimum capital investment requirement that
14 we have within the context of the region.

15 So, the background that I'm about to
16 provide you is unfortunately not ready for
17 today but I wanted to give you an update on
18 where we are.

19 So, at the last meeting, the
20 Commission asked us to go back and take a look
21 at the request in the context of the
22 competitive environment. So, we engaged our
23 consultants, HLT Advisory, to take a look at
24 some of the claims that were made in that

1 region that it would not be able to sustain --
2 some of our requirements would provide a
3 serious impediment to a full casino, \$500
4 million minimum with our exceptions included in
5 that \$500 million, and whether or not if
6 there's a competitive environment whether or
7 not they could proceed within that regulatory
8 structure. HLT Advisory is in the process of
9 reviewing that. Unfortunately, they are not
10 exactly there yet.

11 But if I could ask Commissioner
12 Zuniga to give us a little bit of an update on
13 what they are looking at.

14 COMMISSIONER ZUNIGA: I can. We
15 went back to them on the question of is there
16 something relative to that threshold, the 500
17 minimum and the way we've made exceptions to
18 that capital investment that might be having an
19 effect just like you described.

20 And like many good consultants, they
21 came back with four more questions after we
22 posed the one question. They are working --
23 which starts getting to the notion of the
24 viability of a commercial license and its

1 effect on the rest of the state, let alone that
2 region by itself. So, they are doing that
3 analysis. It's not ready. I had a good
4 discussion with them yesterday, but there is
5 not yet a memo or a framework at this point.

6 I hope that by next week -- by next
7 Commission meeting we could have something
8 that's a lot more substantive and thoughtful,
9 but that's essentially the update. We were
10 hoping that we would but we don't have at this
11 point.

12 MR. ZIEMBA: Even since yesterday,
13 last night we received a letter from the city
14 of New Bedford that they support that drop or
15 that refinement of our exceptions in our
16 regulations on the minimum capital requirement.
17 And I spoke with KG Urban earlier today, and
18 they indicated that they would support that.
19 That would enhance competition in the region
20 according to them.

21 COMMISSIONER MCHUGH: That's the
22 kind of thing that we ought to take a very
23 careful look at and think of the policy
24 implications of that as to which there are

1 many. But we ought to take a look at that.

2 It seems to me that we ought also
3 take a look at other incentives toward bringing
4 this to ahead. I don't know what that might
5 be, we've set a deadline, but if we can't meet
6 the deadline then we're going to take this off
7 the table for X period of time to let people
8 coalesce. I don't know if that's a good idea.

9 But something that would help
10 everybody focus on the need for speed and the
11 need for making abstract plans concrete so that
12 we can move this forward.

13 CHAIRMAN CROSBY: I think on the
14 \$500 million issue I am puzzled by this study
15 as Commissioner Zuniga and I just discussed.
16 It sounds like we're not going to resolve that
17 one until we get whatever it is HLT has to say.
18 So, let's set that one aside.

19 On the issue of the extension, the
20 only thing, the only constructive thing I think
21 as a practical matter about the passage of time
22 is that you get closer to the day when the land
23 in trust decision is made. When that day is,
24 we don't know but every day that goes by we are

1 one day closer to it. And if that land in
2 trust decision were made and were made
3 positively then that's going to throw a huge
4 variable into the mix.

5 So, in that sense waiting for time,
6 extending the timeframe is moderately
7 constructive, I guess, although maybe what we
8 ought to do is wait until that decision gets
9 made. But then we still we'll have the lawsuit
10 issue to deal with.

11 But beyond that nothing is going to
12 change, the circumstances just aren't going to
13 change. The reason these deals haven't come
14 together is because nobody knows what to do in
15 a market that is (A) congested and (B) has the
16 significant possibility of a no-tax rate tribe
17 casino. And until that issue is effected, I
18 don't think any of this is going to change.
19 And time isn't going to help. It just doesn't
20 address the issue.

21 COMMISSIONER ZUNIGA: It's not just
22 time. The investment amount is very important
23 here, which is what Ombudsman Ziemba was just
24 talking about.

1 CHAIRMAN CROSBY: I'm talking about
2 the timeline. I'm setting -- The investment is
3 different. That one we can talk about, but the
4 time, if we change the investment amount then
5 there's a reason to do time, because now you've
6 got a different deck of cards. Then the people
7 who are trying to put these deals have a
8 different discussion to have. So, time is
9 constructive if we decide to change the \$500
10 million.

11 But in and of itself, it doesn't
12 seem to me that time addresses -- I think we're
13 sort of stuck with extending it some right now,
14 because we're essentially going to get no
15 proposals if we stick with our present deadline
16 or very likely get no proposals. So, I think
17 we're going to make some extension.

18 But whether it's the September,
19 October or November, it just doesn't seem to me
20 that more time is going to help a deal get
21 together and therefore enhance the situation, a
22 competitive situation unless we decide to
23 change the \$500 million.

24 MR. ZIEMBA: One caveat on that, Mr.

1 Chairman, is that I think the city of Fall
2 River is asking for the deadline not to be
3 changed. So, that potentially they would put
4 together a quick application as much as they
5 possibly could.

6 CHAIRMAN CROSBY: I agree, but we
7 know a lot more about this than they do. We've
8 been through it. We know who they're talking
9 to. We know that the practical realities of
10 getting a deal done with that bidder in this
11 timeframe, it would be a real long shot to pull
12 that off. And I think we can use our judgment
13 on that.

14 COMMISSIONER CAMERON: Ombudsman
15 Ziemba you are recommending, it sounds to me
16 that you are recommending an extension. Do you
17 have a particular extension knowing all of the
18 circumstances better? You are certainly --
19 You've spoken to each potential bidder and you
20 know their circumstances. Do you have one in
21 particular that you think makes the most sense?

22 I think we owe it to them to extend.
23 The majority of the folks involved are asking
24 for an extension. I don't think we should at

1 this point say we don't think that time would
2 matter and insert ourselves in that way and
3 just stop the whole process.

4 I think we owe it to them to at
5 least have an extension and see how this plays
6 out. They've spent money, resources, effort to
7 put these together, maybe not as quickly as
8 they would have like to have but -- Do you have
9 a particular recommendation that you think
10 would make the most sense at this time?

11 MR. ZIEMBA: I think what might be
12 in order is that the Commission expresses its
13 opinion that some extension is necessary. And
14 that it be at least the September date in that
15 that is after the summer season. Whether or
16 not it's September or October, or if I'm wrong
17 in not modeling a December application date,
18 certainly we can hear about that.

19 But between now and two weeks when
20 we come back and hopefully talk about the whole
21 Region C construct, if there's a sense of the
22 Commission that it's likely that there would
23 need to be at least the extension to September
24 that would send an important signal, I think,

1 to everyone out there in the Region that we are
2 not forcing them to put together an application
3 that might not be as fully developed as they
4 would like it to be.

5 CHAIRMAN CROSBY: I think that's a
6 good approach.

7 COMMISSIONER ZUNIGA: I'm generally
8 in favor of that. But we don't have to extend
9 anything yet. July 23 is the current deadline.

10 COMMISSIONER STEBBINS: June 23.

11 COMMISSIONER ZUNIGA: It's July 23.

12 COMMISSIONER STEBBINS: July, I'm
13 sorry.

14 COMMISSIONER ZUNIGA: July 23 is the
15 current deadline. Nobody has signed a host
16 community agreement or called for a referendum.
17 So, if you take July 23 minus 60 days, which is
18 the fastest that they could schedule a
19 referendum that takes us to May 21st, correct?

20 MR. ZIEMBA: I just would note that
21 there have been public reports that the city of
22 Fall River was considering a host community
23 agreement as early as next week. Since then
24 there may have been other developments.

1 COMMISSIONER ZUNIGA: May 23 would
2 be the latest date that anybody could ask for a
3 referendum. Our current regs. have us complete
4 the suitability review prior to the referendum.
5 That's the other end of the schedule that we
6 don't have yet.

7 So, in a few weeks say, certainly
8 prior to July 23 -- May 23, we may know whether
9 we are both done with the suitability and they
10 can go ahead and have the referendum. Or have
11 called for a referendum because they have
12 signed a host community agreement.

13 MR. ZIEMBA: But as you know,
14 Commissioner, we have an exception in our
15 regulations that allow communities to move
16 forward in advance of the determination of
17 suitability prior to the referendum.

18 COMMISSIONER ZUNIGA: But don't they
19 have to request that for our approval? Or they
20 just have to notify?

21 MR. ZIEMBA: It's a vote of the
22 governing body prior to the vote that they
23 decide on when to move forward with the
24 referendum date.

1 COMMISSIONER MCHUGH: But part of
2 the discussion that we're having is how to
3 increase competitiveness. This is why I think
4 extending deadlines without looking at the
5 function to be served by the extension is
6 simply to invite another problem of a different
7 kind or a deadline that's unrealistic.

8 If we keep the deadline at July 23,
9 given what you've just described, we've got to
10 force people into a host community agreement
11 that there is some doubt that they are ready to
12 do by a month from now. And in addition to
13 that, we are likely to have one Region C
14 applicant. So, we don't achieve the
15 competitiveness deadline.

16 We push people over the next few
17 weeks into a host community agreement in an
18 environment where we may change the capital
19 requirements. I'm not sure of that. We've got
20 that on the table. And we create an artificial
21 -- We create an environment in which we are
22 either going to say we've got to change it
23 again after these people have really exerted
24 themselves to do something that they're unhappy

1 with. Or we are going to be left with an
2 noncompetitive environment in which we have
3 only one choice.

4 CHAIRMAN CROSBY: What about
5 Ombudsman Ziemba's proposal that we say today
6 that we will grant an extension here. At a
7 minimum, it will be the September extension.
8 We will decide which extension to adopt next
9 meeting after we have heard all of the
10 background on the \$500 million issue and
11 decided whether or not to grant that waiver.
12 To me that --

13 COMMISSIONER MCHUGH: Can I just add
14 to that? And then perhaps as we ask for
15 comment on that over the next couple of weeks,
16 ask everybody what they can do to assure us
17 that that deadline will be met. There may be
18 some ideas in there.

19 CHAIRMAN CROSBY: Maybe.

20 COMMISSIONER ZUNIGA: To your prior
21 point, Commissioner, I think I was initially
22 hoping especially when we were not going to be
23 ready to present the capital investment memo
24 today, I was hoping that we could really

1 decouple the conversation and decision about
2 the extension versus the conversation and
3 decision about the waiver of the minimum
4 capital investment as we defined it with
5 exceptions.

6 But it occurs to me based on what
7 you're saying Commissioner, that maybe they
8 really are together. We could stay as we
9 currently are, ask for more comment.

10 But really these two decisions are
11 linked together. If we are granting an
12 exception to the capital investment, maybe that
13 is really what provides a catalyst for somebody
14 or not to do what they believe they can do.

15 COMMISSIONER MCHUGH: It may well be
16 that the indecision and the place where we are
17 is the market's response to the capital
18 requirements in an uncertain environment.

19 COMMISSIONER ZUNIGA: In an
20 uncertain environment, right.

21 CHAIRMAN CROSBY: All right. Shall
22 we go with that suggestion?

23 COMMISSIONER CAMERON: I agree. I
24 think it makes sense.

1 CHAIRMAN CROSBY: I think it does
2 too. There will be a minimum of an extension
3 to September. We will decide when the
4 extension actually will be to at our next
5 meeting after we have decided on whether or not
6 to grant a waiver on the \$500 million
7 constraints. I don't think there is any need
8 to vote, is there? It's okay to just leave it
9 at that. Okay. Great.

10 COMMISSIONER CAMERON: Thank you.

11 CHAIRMAN CROSBY: What else do you
12 got?

13 MR. ZIEMBA: Mr. Chairman, that was
14 both A and B. We can jump right into C. This
15 is a request for a variance of Region B
16 arbitration schedule.

17 This request is another request from
18 applicants or communities that perhaps our
19 timetables were -- that they need some
20 amendment to our timetables. This variance
21 request obviously did not spring from us. We
22 had a set regulation that's had been in place
23 for quite some time, a set number of days for
24 arbitration.

1 But here the parties themselves
2 notably MGM, Longmeadow and West Springfield
3 that are involved in arbitration, they are
4 making a request jointly that we extend our
5 arbitration deadlines by approximately two
6 weeks. And the reason for that is that they
7 have two arbitrations that are occurring
8 simultaneously and we have one arbitrator.

9 There's a three-member arbitration
10 panel for the West Springfield arbitration.
11 And a one arbitrator panel for the Longmeadow
12 arbitration. And they involve the same
13 arbitrator, the same arbitrator firm.

14 So, given the tight timetable of 20
15 days and the fact that all of the parties are
16 very comfortable with their arbitration
17 decisions, they've asked for a slight amendment
18 to our schedule of the 20 days. And that they
19 could issue the report to us by either the 28th
20 or the 30th of this month as opposed to April
21 16 which is when it was due to be sent to the
22 Commission.

23 Given the circumstances, given that
24 this is the first time that anyone is going

1 through arbitration and given that it's a very
2 limited duration and it's due to some
3 efficiencies that they can achieve by having an
4 arbitrator understand what the process is and
5 understand what the issues are, I believe that
6 it makes sense that we can move forward on a
7 variance request.

8 Noting that this variance request
9 will impact our ability to issue licenses in
10 Region B. We will no longer, if arbitration
11 continues to the end, no longer be able to make
12 a decision on a license by May 30. It would
13 occur in the middle of June in the event that
14 all of the arbitrations go to their fullest
15 extent.

16 COMMISSIONER CAMERON: I think it's
17 a reasonable request the way you just explained
18 it. I don't see a reason why we shouldn't
19 grant it.

20 COMMISSIONER MCHUGH: It's a self-
21 inflicted wound, isn't it? They hired somebody
22 who's got overlapping duties.

23 CHAIRMAN CROSBY: I think it sort of
24 depends on what is the issue. There's millions

1 of arbitrators. Finding an arbitrator is not a
2 problem. If you want to find another
3 arbitrator, they can find another arbitrator.

4 COMMISSIONER MCHUGH: This is a
5 really good panel, by the way, the three of
6 them. The West Springfield ones are absolutely
7 terrific. So, there is some value to the
8 people, but still it's a self-inflicted wound
9 it seems to me.

10 CHAIRMAN CROSBY: So, a two-week
11 extension. It's still going to be in this
12 fiscal year.

13 COMMISSIONER ZUNIGA: No.

14 CHAIRMAN CROSBY: Pardon?

15 COMMISSIONER ZUNIGA: The award
16 maybe, but not the receipt of the licensing
17 fee. The 30 days that they have to pay for the
18 license puts it in the next fiscal year.

19 CHAIRMAN CROSBY: There's a lookback
20 period. I thought it was 14 days. Isn't there
21 a lookback period?

22 COMMISSIONER ZUNIGA: It's four or
23 five.

24 CHAIRMAN CROSBY: So, we'd be off by

1 10 days. It seems to me that's material.
2 There are a couple of ways to address that.
3 One would be to shorten the amount of time to
4 do the arbitration. They have, what is it 20
5 business days?

6 MR. ZIEMBA: Twenty business days.

7 CHAIRMAN CROSBY: They could take
8 their two weeks out of their own arbitration
9 time.

10 MR. ZIEMBA: No. That's essentially
11 the point that they can't get done in that 20
12 days. So, they need an additional 14 days to
13 complete that arbitration report.

14 CHAIRMAN CROSBY: That's because the
15 guy's late. They guy's doing something else.

16 MR. ZIEMBA: He's not available
17 until the middle of April, and they have
18 concurrent arbitrations going on involving at
19 least one of the same arbitrators.

20 COMMISSIONER MCHUGH: The lawyer is.

21 MR. ZIEMBA: The arbitrators, as
22 it's been portrayed to me, the availability of
23 the arbitrator is the paramount interest. I
24 have had some conversations on whether or not

1 the parties could have arranged things
2 differently or whether or not the applicant
3 knowing that we've had our regulations in place
4 should have done -- made alternative
5 arrangements for themselves and also for the
6 arbitrators.

7 CHAIRMAN CROSBY: But if the law had
8 said the arbitration period was 10 days or 14
9 days, we would be using 14 days. It's a little
10 bit arbitrary. And they can get it done in
11 whatever time they're given to get it done.
12 So, they could shorten the amount of time that
13 they take to do these two arbitrations and pull
14 the announcement date, the decision date back.
15 That would be one way to address this issue.

16 The second issue would be to have
17 one of the parties who's asking for this, which
18 is the applicant to agree to pay, if they
19 accept the award in 20 days not 30.

20 COMMISSIONER STEBBINS: Make it a
21 condition of the license.

22 COMMISSIONER ZUNIGA: That
23 requirement is statutory, 30 days.

24 CHAIRMAN CROSBY: Yes. But there's

1 nothing that says they couldn't volunteer to
2 say we'll pay in 20.

3 COMMISSIONER ZUNIGA: But also the
4 first option would be shortening the process of
5 arbitration effectively.

6 CHAIRMAN CROSBY: Right.

7 COMMISSIONER ZUNIGA: And that could
8 have a detrimental effect the process and the
9 outcome, I would argue.

10 CHAIRMAN CROSBY: But all they're
11 doing is presenting best and finals. They
12 probably already know what they best and final
13 is. The only time that's involved is for the
14 arbitrating team to talk over the best and
15 finals and make their choice.

16 We make decisions like that in an
17 afternoon. I don't know why you need three
18 weeks to do it. While they're waiting for this
19 guy who's busy -- What's funny about that?

20 COMMISSIONER ZUNIGA: It's not just
21 a matter one number. There's a lot -- The best
22 and final needs to come in an executable host
23 community agreement format.

24 That at a minimum is going to have a

1 number of clauses and aspects like all of the
2 other host community agreements and surrounding
3 community agreements that we don't know what
4 these may be. The point is the arbitrator
5 might not know, really doesn't know what that
6 may be.

7 And the arbitrator it is not as
8 familiar as us when it comes to the
9 regulations, the Chapter 23K for example and
10 whatever got them to that point.

11 So, I don't know that relying on
12 shortening that process is going to be very
13 good for the process itself.

14 CHAIRMAN CROSBY: That's fine. But
15 I think you can cut it down, but that's fine.
16 But then we should ask the applicant to commit
17 to making the payment in 20 days.

18 Why should we be taking \$85 million
19 out of the Commonwealth's -- We committed to
20 doing this. -- because these people have been
21 arguing for months and months and months and
22 months. And they want to use these
23 arbitrators, okay, use these arbitrators. But
24 it's not that they can't come up with the money

1 in 30 days. They either come up with it or
2 they can't.

3 MR. ZIEMBA: As you mentioned, Mr.
4 Chairman, in your review of legislation, again,
5 there is certainly some uncertainty regarding
6 the \$85 million. Undoubtedly, the Commission
7 has put forward a proposal to the Legislature
8 regarding refundability of that matter.

9 I think we would be remiss to note
10 that there are very substantial things going on
11 before the SJC and other places regarding
12 what's going to happen with gaming in general.
13 So, there are some questions.

14 CHAIRMAN CROSBY: Right. But we
15 can't prejudge that and we don't want to create
16 incentives for people to try to negotiate with
17 this. What we're going to ask people to do is
18 to accept the law as it stands.

19 If somebody doesn't want to put up
20 the \$85 million, there's nothing that says we
21 won't let somebody else bid. We haven't
22 committed to anything. So, at the moment the
23 law is pay it within 35 days if you want the
24 award.

1 COMMISSIONER ZUNIGA: Thirty.

2 CHAIRMAN CROSBY: Sorry, within 30
3 days. It's for a reason. Everybody has been
4 assuming it in the budget. We don't know
5 whether they'll put it up or not. So, I don't
6 see what the harm would be to say to change the
7 30 days to 20.

8 COMMISSIONER MCHUGH: I think
9 certainly the statutory period is 30 days. But
10 the price of -- There's nothing that prohibits
11 them from making a voluntary election to pay
12 the amount earlier.

13 CHAIRMAN CROSBY: In exchange for
14 this waiver.

15 COMMISSIONER MCHUGH: In exchange
16 for the waiver. I don't think that's unlawful.
17 And I don't think it's unfair because this is
18 really a self-created problem. And it
19 interferes with promises -- not promises,
20 commitments and objectives we've been striving
21 to reach from the outset and that we can't fix
22 with a late payment. And the dependencies that
23 are already built on those, we've already had a
24 problem with one of them.

1 So, I recognize all of those
2 uncertainties but if there's uncertainties that
3 are going to be asserted later on, why not hear
4 them now and begin to think about how to deal
5 with them.

6 CHAIRMAN CROSBY: It would only say
7 if you accept the award, you pay within 20
8 days. If you don't accept the award because
9 you've got some problems with the circumstances
10 that's another matter. But if you accept the
11 award, you pay it within 20 days.

12 COMMISSIONER MCHUGH: If you don't
13 accept the award then you don't accept the
14 license basically.

15 CHAIRMAN CROSBY: Right.

16 COMMISSIONER MCHUGH: Right.

17 COMMISSIONER ZUNIGA: I would be
18 fine with that as long as we don't short-
19 circuit the amount that we have allowed for
20 arbitration. That's the one piece that I think
21 would do a disservice to the process. Never
22 mind that they're starting later than we
23 anticipated, the duration of the arbitration, I
24 think, we need to keep intact.

1 COMMISSIONER MCHUGH: I agree with
2 that.

3 CHAIRMAN CROSBY: Shall we have a
4 motion to grant the waiver subject to this
5 agreement on the part of MGM to fine-tune, we
6 need to sit with a calendar to make sure we
7 know what days we're talking about because
8 we're really getting short here. Just make
9 sure that you've got the days straight.
10 Subject to putting in the right days move
11 that --

12 COMMISSIONER ZUNIGA: The right days
13 is the latest of July 5 because is it five days
14 after June 30?

15 MR. LENNON: It depends. Usually,
16 48 hours but they will push it up to five
17 business days.

18 COMMISSIONER ZUNIGA: Five business
19 days.

20 MR. LENNON: Yes, if there's
21 reasonable expectation that money will be
22 coming in, they will push it back.

23 COMMISSIONER MCHUGH: Why don't we
24 make it easy? Why don't we say provided that

1 the license fee if the license is awarded is
2 paid by June 30?

3 COMMISSIONER CAMERON: Yes, that
4 makes sense, 15 days.

5 CHAIRMAN CROSBY: Just make it June
6 30. So, we grant the waiver conditional upon
7 MGM's agreement to if they accept the license
8 to pay within, by June 30.

9 COMMISSIONER MCHUGH: Right.

10 CHAIRMAN CROSBY: Does somebody want
11 to so move?

12 COMMISSIONER MCHUGH: I move that
13 the arbitration completion date waiver
14 requested by West Springfield and MGM be
15 extended until April 28 provided that MGM agree
16 to pay the license fee if a license is awarded
17 to it no later than June 30, 2014.

18 COMMISSIONER ZUNIGA: Commissioner,
19 will you accept an edit to that motion?

20 COMMISSIONER MCHUGH: Absolutely.

21 COMMISSIONER ZUNIGA: It also should
22 include Longmeadow and MGM. You mentioned only
23 West Springfield and MGM, but this is applies
24 -- they both want --

1 MR. ZIEMBA: Well, West Springfield
2 was the 28th and Longmeadow is the 30th. Let
3 me just double-check that. West Springfield
4 asked for a request to the 28th and Longmeadow
5 asked for a request to the 30th.

6 COMMISSIONER MCHUGH: Let me
7 rephrase the motion so it's clear. So, I move
8 that the application of West Springfield and
9 MGM to extend the arbitration completion date
10 to May 28 (SIC) and the application of
11 Longmeadow and MGM to extend the arbitration
12 completion date to April 30 be granted provided
13 that MGM agrees to pay the license fee for a
14 Category 1 casino if they are awarded that
15 license no later than June 30, 2014.

16 CHAIRMAN CROSBY: Second?

17 COMMISSIONER CAMERON: Second.

18 CHAIRMAN CROSBY: Any further
19 discussion? Is that clear to everybody? All
20 in favor, aye.

21 COMMISSIONER MCHUGH: Aye.

22 COMMISSIONER CAMERON: Aye.

23 COMMISSIONER ZUNIGA: Aye.

24 COMMISSIONER STEBBINS: Aye.

1 CHAIRMAN CROSBY: Opposed? The ayes
2 have it unanimously. Thank you.

3 Item number six, research and
4 problem gambling, Director Vander Linden.

5 MR. VANDER LINDEN: Good afternoon,
6 Chairman, Commissioners. I appreciate your
7 time this afternoon. I know that the research
8 agenda is of central concern to you all. But
9 the day gets long and the agenda gets long as
10 well.

11 Section 71 of the Gaming Act
12 requires that Massachusetts Gaming Commission
13 establish an annual research agenda to assist
14 in understanding the social and economic
15 effects of casino gambling in Massachusetts.
16 There's three pieces to this research agenda
17 that are very important.

18 First is understanding the social
19 and economic effects of expanded gaming,
20 implementing a baseline study of problem
21 gambling and the existing prevention and
22 treatment programs that address the harmful
23 consequences. And third is to obtain
24 scientific information on neuroscience,

1 psychology, sociology, epidemiology and
2 etiology of gambling.

3 It's with the advice and support of
4 the Gaming Research Advisory Committee, the
5 Gaming Policy Advisory Committee that the
6 Massachusetts Gaming Commission seeks to add a
7 longitudinal cohort study to the research
8 agenda.

9 So, what is it that a longitudinal
10 cohort study will provide? The purpose is to
11 study gambling behavior and follow a group of
12 people with a shared experience that being
13 exposure to expanded gaming here in
14 Massachusetts at intervals over time.

15 This type of study will provide
16 detailed etiological information about how
17 problem gambling develops, how it progresses
18 and how it remits. Information collected
19 through a cohort study has significant value as
20 it will highlight the risk and protective
21 factors important to developing effective
22 prevention, treatment and recovery support
23 services in Massachusetts.

24 Further specified within the request

1 for proposal that we released was to assess the
2 incidence of new cases of problem gambling in
3 Massachusetts, to problem gambling prevalence
4 rates over time -- I'm sorry, to assess the
5 incidence of new cases of problem gambling in
6 Massachusetts and changes to the problem
7 gambling prevalence rates over time. Assess
8 patterns of continuity and discontinuity in
9 gambling behaviors as well as patterns of
10 recovery from problems. To assess a broader
11 array of factors that may be risk or protective
12 factors from problem gambling to determine the
13 relationship. And finally, to assess the
14 impact of various age cohorts that occur over
15 time related to environmental changes including
16 casino proximity, gaming advertising, public
17 attitudes and development of treatment and
18 prevention programs.

19 So, this is in terms of the
20 procurement process. On November 20, 2013, the
21 Commission released a request for proposal to
22 conduct a cohort study on gambling behaviors to
23 the University of Massachusetts Amherst and the
24 Cambridge Health Alliance Division on

1 Addiction. The rationale for limiting to these
2 two applicants was that they both hold an
3 enormous amount of experience and a unique set
4 of qualifications that lent it to this specific
5 study. I could go on further about that but I
6 think I'll leave it at that.

7 The review committee included for
8 the reviewer of the proposals, Dr. Lia Nower.
9 She is an Associate Professor and Director of
10 the Center for Gambling Studies and Co-Director
11 for the Addiction Counselor Training
12 certificate program at Rutgers University and
13 the School of Social Work.

14 We had Dr. Wendy Slutske. She's a
15 Professor in the Department of Psychological
16 Sciences at the University of Missouri. And
17 she's also on the scientific review board at
18 the National Center for Responsible Gaming.
19 And then myself as Director of Research and
20 Problem Gambling at the MGC.

21 We also sought consultation and
22 feedback from several including, as I mentioned
23 previously, the Massachusetts Gaming Commission
24 Gaming Research Advisory Committee. We also

1 included and received feedback and consultation
2 from Steve Keel who is with the Massachusetts
3 Department of Public Health. He is their newly
4 appointed Director of Problem Gambling
5 Services, as well as Dr. Thomas Land. He is
6 with the office of the Commissioner and Interim
7 Director of the Office of Health Information
8 and Policy Informatics.

9 CHAIRMAN CROSBY: At DPH.

10 MR. VANDER LINDEN: Pardon me?

11 CHAIRMAN CROSBY: At DPH.

12 MR. VANDER LINDEN: At DPH, correct.
13 When we developed the request for proposals, we
14 identified four specific areas of central
15 concern by which we would judge these
16 proposals. First was what is the contribution
17 to Massachusetts? The findings for the
18 research are important in determining the
19 treatment and prevention strategies to mitigate
20 harm of expanded gaming in Massachusetts to the
21 maximum extent possible.

22 The second area was methodology.
23 Considering the strength and feasibility of the
24 proposed strategy, the methodological and

1 analysis in accomplishing the objectives stated
2 in the RFP. Third was the cost-effectiveness,
3 taking a look at how could they utilize and
4 leverage their existing efforts, how effective
5 was the cost in the context of the proposal
6 that they were submitting.

7 And the fourth was demonstrated
8 excellence. While both of the applicants have
9 an amazing team of researchers, we wanted to
10 take a look at and consider the experience of
11 the applicant in conducting high-quality
12 research directly related to the scope of the
13 proposed study.

14 The review committee felt that both
15 applicants prepared excellent proposals.
16 Regardless of findings, if we were able to fund
17 those, each study proposed would contribute
18 valuable information to Massachusetts in the
19 field of problem gambling in general.

20 However, the review committee was in
21 unanimous agreement that the proposal submitted
22 by the University of Massachusetts Amherst had
23 a stronger research strategy and would more
24 successfully carry out the objectives of the

1 study.

2 The proposals and evaluator
3 recommendations have been shared with Steve
4 Keel at the Massachusetts Department of Public
5 Health as well as Dr. Thomas Land also with
6 DPH. Mr. Keel and Dr. Land are in agreement
7 with the recommendations of the review
8 committee and support the proposals submitted
9 by the University of Massachusetts Amherst.

10 Going back to the review criteria, I
11 am going to just briefly highlight what the
12 strengths were of the application submitted
13 UMass Amherst. And just for your information,
14 they're calling it MAGIC, which stands for
15 Massachusetts Gambling Impact Cohort. It
16 promises to be a landmark study providing new
17 and much-needed information about the incidence
18 rates and course of problem gambling in
19 Massachusetts. MAGIC will yield important and
20 unique information leading to treatment and
21 prevention initiatives that are tailored to the
22 needs of the people of Massachusetts.

23 Additionally, this invaluable addition to
24 our research agenda will establish the raw

1 number of new problem gamblers each year, which
2 is necessary to understand how we need to
3 allocate resources. Do we need to allocate it
4 more towards prevention services? Do we need
5 to allocate it more towards treatment services?
6 How do we need to support people who are in
7 recovery?

8 It will help us determine whether
9 proportionally more resources should be put
10 towards prevention or treatment, as I said,
11 identify the variables of greatest etiological
12 importance in the development of and remission
13 from problem gambling and should therefore
14 focus on prevention and treatment efforts. And
15 provide guidance on what are the safe levels of
16 gambling involvement.

17 So, in terms of their methodology,
18 they will be drawing from the SEIGMA baseline,
19 the baseline that is currently in the field
20 right now. And that will constitute wave one.

21 CHAIRMAN CROSBY: They're going to
22 pull their sample for the cohort study from the
23 sample that they're already doing for the
24 cross-sectional study?

1 MR. VANDER LINDEN: That is correct.
2 And that will constitute wave one. And that
3 will be 2600 people will be pulled from that
4 baseline study. 1300 of them or half of that
5 2600 will be identified as a high-risk group
6 based on their current risk of becoming a
7 problem gambler or their current gambling
8 behavior or other risk factors that would be
9 associated.

10 CHAIRMAN CROSBY: This isn't a
11 random selection of 2600. This is 1300 are
12 random, but 1300 are selected because they are
13 in basically the 20 percent of the total sample
14 that is the most at risk.

15 MR. VANDER LINDEN: That is correct.
16 They do that with the hopes that this promises
17 a higher yield of the number of problem
18 gamblers over the course of the project and
19 creates a better understanding of problem
20 gambling, creates a more comprehensive
21 etiological model of problem gambling.

22 COMMISSIONER MCHUGH: I'm lost
23 there. You've got 2600 people out of the
24 10,000.

1 MR. VANDER LINDEN: Yes.

2 COMMISSIONER MCHUGH: Half of the
3 2600, the 1300 have been selected because of
4 their high risk.

5 MR. VANDER LINDEN: Correct.

6 COMMISSIONER MCHUGH: The other 1300
7 are random.

8 MR. VANDER LINDEN: Correct.

9 COMMISSIONER MCHUGH: The objective
10 is to create an entire group that promises to
11 yield more problem gamblers than the society at
12 large? That's obvious.

13 MR. VANDER LINDEN: Through the 1300
14 and by drawing that 1300 of high-risk gamblers
15 or of high risk, we will be able to focus more
16 attention. It will provide more information
17 about problem gambling because there will be a
18 higher proportion of problem gamblers within
19 that group.

20 COMMISSIONER MCHUGH: But how are we
21 going to fairly learn something about the
22 incidence rate of problem gambling when we've
23 selected -- I'm sure I'm missing something
24 because you've thought this through.

1 How are we going to learn something
2 about the incidence rate of problem gambling if
3 we've selected a group of people that's more
4 likely than the average population to be
5 problem gamblers?

6 MR. VANDER LINDEN: The incidence
7 rate has to do with how many new problem
8 gamblers are coming in. So, the incidence rate
9 that is just of that small 1300. The incidence
10 rates will be also calculated based on the
11 other 1300 as well that are not high-risk
12 problem gamblers.

13 CHAIRMAN CROSBY: You're not going
14 to get your Massachusetts incidence rate out
15 the loaded sample.

16 MR. VANDER LINDEN: No, you will
17 not get it out of that.

18 CHAIRMAN CROSBY: No, you don't use
19 it for that. You simply use it --

20 COMMISSIONER MCHUGH: All right.
21 So, I'm stupid but explain. I don't
22 understand.

23 CHAIRMAN CROSBY: I'm trying to help
24 him clarify. You asked a very legitimate

1 question. But the 1300 that's loaded for high-
2 risk people is simply to get a big enough pool
3 of high-risk people, since there's only two or
4 three percent or maybe max up to five that are
5 going to become, shows symptoms of problem
6 gambling, you need more than five percent of
7 any number.

8 So, if you are selecting just out of
9 the 1300 who are the 20 percent most likely to
10 have problems, you're going to have a bigger
11 sample than if you just pulled out of a random
12 sample. So, that 1300 is simply for the
13 purpose of putting together a big enough pool
14 that we can track those people meaningfully.
15 The incidence in Massachusetts --

16 COMMISSIONER MCHUGH: Let me stop
17 you there. What are we going to learn from
18 tracking those people meaningfully? Are we
19 going to learn about the course of the disease?

20 CHAIRMAN CROSBY: How they learned
21 about.

22 MR. VANDER LINDEN: You are
23 referring to the 1300 high-risk group; is that
24 right?

1 COMMISSIONER MCHUGH: Yes.

2 COMMISSIONER ZUNIGA: Well, the
3 cohort over all. I think the question really
4 applies to the cohort study.

5 MR. VANDER LINDEN: The aims are
6 twofold, the etiology as well as --

7 CHAIRMAN CROSBY: Explain etiology.

8 MR. VANDER LINDEN: Etiology is what
9 are the new cases that are coming into the
10 population. The prevalence would be at any
11 given point in time, what is the percentage of
12 the population that is experiencing or suffers
13 from this disorder. Whereas etiology is what
14 are the new cases that are coming in to the
15 population.

16 CHAIRMAN CROSBY: Not just what are
17 they, but why --

18 COMMISSIONER MCHUGH: What symptoms.

19 CHAIRMAN CROSBY: -- what's going on
20 in their life, what do they do with their extra
21 time, what other morbidities do they manifest,
22 etc.

23 COMMISSIONER MCHUGH: I get it. I
24 get that part. We are we going to learn that's

1 different from the other 1300?

2 MR. VANDER LINDEN: For the high-
3 risk group?

4 COMMISSIONER MCHUGH: No, for the
5 non-high-risk group of the 2600, the half
6 that's not high-risk, what are we going to
7 learn from them?

8 MR. VANDER LINDEN: That would
9 provide us with the incidence rate.

10 COMMISSIONER ZUNIGA: The other
11 1300, as I understand it, it's a control, is
12 the group of people that may not develop any
13 kind of risk of gambling addiction but have
14 been exposed to casinos just like the first
15 1300.

16 COMMISSIONER MCHUGH: My problem is
17 I think of a control study, you get two groups
18 of people that are essentially the same. And
19 then you expose them to a similar set of
20 stimuli and then you see what results happen if
21 you give them a drug or a placebo. That's in
22 its simplest form.

23 So, if you have a control group that
24 is prone to gambling addiction and a group that

1 is just random, and you expose them both to
2 gambling, it strikes me as unbalanced results.
3 Like taking a sample of which already has
4 cancer and half the dozen and giving them both
5 either a drug or a placebo and seeing which
6 group does better.

7 CHAIRMAN CROSBY: I don't think it's
8 a control.

9 MR. VANDER LINDEN: The 1300 that
10 aren't high-risk, the non-high-risk group are
11 randomly selected. So, that group may have
12 individuals that would also possess high-risk
13 attributes. But it's from that group you would
14 be able to determine the incidence rate.

15 CHAIRMAN CROSBY: What is incidence
16 as opposed to prevalence?

17 MR. VANDER LINDEN: So, incidence
18 rate is the number of new cases per population
19 at risk in a given period of time. And it
20 conveys information about the risk of
21 contracting the disease or the disorder.

22 Whereas prevalence is a proportion
23 of cases in the population at any given point
24 in time, how widespread it is. Prevalence is

1 the proportion of the total number of cases in
2 the population. It's more of a measure of what
3 is the burden at that point in time of the
4 disorder.

5 COMMISSIONER MCHUGH: Is the bottom-
6 line that we in effect have two studies running
7 in parallel at the same time?

8 MR. VANDER LINDEN: There are two
9 studies running in parallel but provide very
10 different information with different
11 implications.

12 COMMISSIONER MCHUGH: The point is
13 you are not comparing, you're not using one of
14 those groups as a control for the other.

15 MR. VANDER LINDEN: No.

16 COMMISSIONER MCHUGH: You're doing
17 two essentially independent --

18 MR. VANDER LINDEN: Well, there's
19 two pieces. There's two aims to this. One,
20 what is the incidence rate of problem gambling.
21 And two, developing the etiological model to
22 gain a better understanding of the disorder.

23 COMMISSIONER MCHUGH: Okay.

24 CHAIRMAN CROSBY: That was helpful.

1 Thank you. I didn't understand that either.

2 MR. VANDER LINDEN: Now I've lost my
3 place. Another unique piece of the methodology
4 that's being proposed by UMass Amherst is the
5 use of the problem gambling measure, which is
6 the problem and the pathological gambling
7 measure, the PPGM. And it was developed by Dr.
8 Volberg and Dr. Williams who are two of the PIs
9 for this project. The measure has proven
10 superior to existing other problem gambling
11 measures.

12 COMMISSIONER MCHUGH: Is that
13 through peer-reviewed studies?

14 MR. VANDER LINDEN: Correct.
15 Another piece of important factor is their
16 experience and retention plan. Certainly, one
17 of an important variable in producing high-
18 quality data and confidence in the findings is
19 being able to retain the cohort over time.
20 They've identified multiple methods in
21 attaining the highest possible retention rates.

22 CHAIRMAN CROSBY: So, they were
23 distinctive in the methodologies that they use
24 for retention?

1 MR. VANDER LINDEN: Correct, yes.
2 There's many ways in which they were
3 identifying ways that they would retain their
4 subjects over time.

5 Finally, the cost-effectiveness.
6 MAGIC will be complimentary and synergistic
7 with this SEIGMA study, each one providing
8 considerable information relevant to the other
9 study's goals.

10 An additional added value element to
11 the MAGIC project is the scrutiny of the
12 findings for other longitudinal cohort studies
13 in the final stages of analysis that identify
14 variables that would merit more detail and
15 examination will be added to the MAGIC project.
16 Because of the direct involvement of all four
17 of these studies by either Dr. Volberg or Dr.
18 Williams, the MAGIC team has unique access to
19 that data.

20 Demonstrated excellence, Dr. Volberg
21 is arguably one of the world's leading experts
22 in epidemiologic surveys of problem gambling.
23 She has decades of experience. Drs. Volberg
24 and Williams have previously conducted

1 longitudinal gambling surveys with high
2 retention rates.

3 Dr. Stanek is an experienced
4 biostatistician. And his experience will be a
5 great value to the project. The budget for the
6 initial project period which would run through
7 the end of fiscal year 2016 is \$1,975,680.

8 CHAIRMAN CROSBY: What was the CHA
9 budget?

10 MR. VANDER LINDEN: I want to say
11 that their initial project period was \$2.3
12 million. We had put a limit of \$2.5 million on
13 the overall project for the initial project
14 period.

15 So, in the initial year, fiscal year
16 2014, the proposal included \$126,101. In
17 fiscal year 2015 it would be \$149,274. And in
18 fiscal year 2016, \$1,000,305.

19 CHAIRMAN CROSBY: 1,000,305?

20 MR. VANDER LINDEN: Correct.

21 CHAIRMAN CROSBY: Not six?

22 MR. VANDER LINDEN: Not six, not
23 four. The estimated cost to continue the
24 project beyond fiscal year 2016 is \$900,000

1 annually.

2
3 The proposed study will advance the
4 steadfast commitment of the Commission to
5 mitigate to the maximize extent possible the
6 potentially negative or unintended consequences
7 of expanded gaming in Massachusetts.

8 I therefore recommend that the
9 University of Massachusetts Amherst be granted
10 a contract to conduct a longitudinal cohort
11 study of gambling behavior in Massachusetts as
12 described in their proposal and submitted to
13 the Massachusetts Gaming Commission.

14 COMMISSIONER CAMERON: I had a
15 couple of questions, Director. First of all,
16 this is well done. I see that you put a lot of
17 time and effort and you put a terrific team
18 together to help you assess the two candidates
19 and make a decision.

20 MAGIC, a lot of acronyms here and
21 this is a new one, MAGIC. But my question is
22 really about strategy and actually fiscal
23 strategy. I know one of the things I've had
24 discussions with Director Wells and others,
25 focusing on the fact that we're going to have

1 one facility, which is a very small facility a
2 year from now. And then others, it really hit
3 me in touring with MGM earlier in the week that
4 frankly, they're pretty much three years away
5 from opening a facility.

6 And in talking about key hires and
7 when it would be strategically smart for us to
8 make those hires, we still have some fiscal
9 constraints. We are always managing that and
10 concerned about that. I just was wondering
11 where we are almost from the big resort casinos
12 pretty much three years away if a project like
13 this, which is really important and I really
14 see the value, say until the end of this year,
15 rather than this part of the year, maybe
16 December, January.

17 Would there be any significant
18 reason why we couldn't do that? And would that
19 be strategically a good thing for us to do
20 because we have some fiscal concerns and really
21 looking at this as one small facility a year
22 from now but the major facilities that would
23 still give a good two years to get this up and
24 running and be in place to be able to make a

1 significant difference. Do you have an opinion
2 on that?

3 MR. VANDER LINDEN: I do. I think
4 that there would be little to no impact on
5 that. For one, the wave one of MAGIC is
6 integrated into the baseline study that's in
7 the field right now. It's important to align
8 the data collection between the two studies, so
9 between SEIGMA that is in the field now and
10 MAGIC.

11 So, the data collection period for
12 both studies should be the same. Right now,
13 the data collection period is September to May.
14 So, while that constitutes wave one, we would
15 want to have wave two be in the field at the
16 exact same time later this year into 2015, so,
17 September 2014 to May 2015.

18 I think that that is important. And
19 that's one of the strategies that they identify
20 to attain a high retention rates just to make
21 sure that you do it consistently year after
22 year. So, that is a consideration that would
23 not be a problem if we were to push the
24 implementation of this off until later in the

1 year.

2 In terms of when casinos open up and
3 when the slot parlor is scheduled to open up,
4 it may produce a bit of a challenge if we
5 wanted to say get two waves of the cohort study
6 in the field and done in advance of the slot
7 parlor opening up. But we're almost talking
8 about a different issue.

9 COMMISSIONER ZUNIGA: A different
10 what?

11 MR. VANDER LINDEN: A different
12 issue.

13 COMMISSIONER MCHUGH: Is it so,
14 again, just so I understand, is the launch of
15 the cohort study, wave one, wave two, designed
16 initially to establish a baseline against which
17 changes are going to be measured?

18 MR. VANDER LINDEN: Correct.

19 COMMISSIONER MCHUGH: And the
20 changes will be measured against or an
21 ingredient of the changes will be the impact of
22 the commencement of closely available gambling,
23 right?

24 MR. VANDER LINDEN: That is correct.

1 What is the impact of expanded gaming in
2 Massachusetts.

3 COMMISSIONER ZUNIGA: I had the same
4 concern, but I'll start with the same comment
5 as Commissioner Cameron. I think the process
6 that you undertook is very good. The approach,
7 the advisors that you sought, the input of the
8 Gaming Research Advisory Committee and the
9 larger Gaming Policy Advisory Committee is
10 critical and very good.

11 I am though as well a little bit
12 thoughtful of the larger context in which these
13 large financial commitment plays. On the
14 backdrop of the large commitment that we have
15 made already with the SEIGMA study and the fact
16 that some of our schedule continues to slip
17 with at least some uncertainties as to our
18 ability to assess everybody that we can for all
19 of the costs that we will have.

20 So, we already have made a decision
21 that the Public Health Trust Fund is only going
22 to be assessed starting in 2016. That really
23 leaves only the one other part to pay for this,
24 which is our assessments on applicants up until

1 recently but very soon it's going to be only
2 licensees.

3 So, I would be very much in favor of
4 trying to defer this implementation or even a
5 decision for at least a few months where there
6 is no damage to the integrity of the project or
7 where that is minimized to the maximum extent
8 possible. Maybe in the meantime, we can get a
9 lot more comfortable relative to the other and
10 larger context in which we operate financially.

11 So, I just wanted to put that out
12 there. I think that there's a lot we are
13 already undertaking. I think the
14 recommendation is great. There's a lot of
15 thought that went into it. I realize that if
16 we come back to this six months from now or
17 later, there may be some cost to that effect.
18 There may be a new cost proposal or etc., but I
19 wonder if really the best course of action for
20 us at this point not as a comment on the
21 process that you have undertaken, but rather
22 the larger context of our financial operations
23 is really to push this out for at least a few
24 months.

1 CHAIRMAN CROSBY: Push it off
2 meaning what?

3 COMMISSIONER ZUNIGA: Not make a
4 decision, not take a vote on this
5 recommendation and come back and revisit this
6 later.

7 CHAIRMAN CROSBY: Commissioner
8 Cameron raised the issue of pushing it off
9 until the end of the year, which I gather
10 that's not a problem in terms of the integrity
11 of the research. And I'm fine with that for
12 other reasons actually which is the bandwidth
13 of the SEIGMA team.

14 But I don't see why would you add to
15 that don't make a decision today? There's no
16 financial commitment in the decision. There's
17 no money spent in making the decision. And we
18 don't want to have to go through this again.

19 I think we ought to go ahead. If we
20 agree with the decision, we ought to accept the
21 proposal but postpone the implementation, the
22 start. Postpone the expenditure of any money
23 until the end of the year when all of these
24 swirling uncertainties will be resolved one way

1 or the other.

2 COMMISSIONER ZUNIGA: Well, the only
3 reason would be that there could be a change in
4 circumstances between now and the next time
5 that we decide that it's time to implement it.
6 But I guess we always have --

7 CHAIRMAN CROSBY: Change our minds.

8 COMMISSIONER ZUNIGA: We can change
9 our minds then too, as we're changing it now
10 here, if that's what we're doing.

11 COMMISSIONER MCHUGH: I think this
12 is a good idea. I'd like to talk more about
13 some of the nuances of it. I think it's
14 fascinating about the yield from this as
15 opposed to the longitudinal study that's
16 already underway. But I think this is a very
17 thoughtful way. And obviously the selection
18 process, the topics and everything else has
19 been peer reviewed by experts. I think we are
20 on the way to getting the best set of studies
21 that anybody's ever done in this field. And I
22 think that's really important. So, I am fully
23 supportive of it.

24 I am sharing the same concerns that

1 Commissioner Cameron and Commissioner Zuniga
2 articulated. So, I'd be in favor of accepting
3 this proposal and accepting your recommendation
4 with the implementation to commence at the end
5 of the year and upon an affirmative vote of the
6 Commission that it's time to commence it,
7 because that would build in a required look at
8 circumstances as they then exist rather than
9 have a default move forward unless we stop it.

10 So, I would approach it that way.
11 For planning purposes and commitment purposes,
12 I think that is a good idea, a good approach.

13 CHAIRMAN CROSBY: I'd be fine with
14 that. Just to reiterate, there were five --
15 there were three people on the actual selection
16 committee.

17 MR. VANDER LINDEN: Correct.

18 CHAIRMAN CROSBY: And there were two
19 other representatives from DPH, who we are
20 increasingly now involving in our decision-
21 making process. All five exercised their
22 judgment to say that they thought the MAGIC
23 UMass Amherst proposal was the stronger of the
24 two?

1 MR. VANDER LINDEN: So, the review
2 committee, including Dr. Slutske, Dr. Lia Nower
3 and myself were all in agreement to support the
4 UMass proposal. That the information including
5 both proposals, including the reviewer feedback
6 any supporting information was then taken to
7 Steve Keel and to Tom Land. It was reviewed
8 with them. They in turn agreed with our
9 recommendation and supported the proposal that
10 was submitted by UMass.

11 CHAIRMAN CROSBY: Okay. That's
12 pretty impressive.

13 MR. VANDER LINDEN: It is. And if I
14 just may add, both teams when we limited it to
15 these two teams because they both brought
16 something special to the table. They really do
17 bring something special to the table, something
18 unique. And it's unfortunate that we can only
19 choose one, because I do feel like the team of
20 researchers at Cambridge Health Alliance is
21 amazing. They've been a great resource to the
22 Commission. They put a lot of thought into
23 their proposal. They've put a lot of thought
24 into feedback that they have given to the

1 Commission over the past couple of years. And
2 I appreciate their contribution.

3 CHAIRMAN CROSBY: I agree with that.
4 They are a great resource. And they are as
5 renowned as Rachel and Rob Williams. And we
6 ought to just keep in mind, we would like to
7 make use of their resources somewhere along the
8 line here if we can.

9 MR. VANDER LINDEN: I absolutely
10 agree with that. The team at UMass Amherst, we
11 are incredibly fortunate to have that research
12 team here local and providing the research that
13 they are.

14 CHAIRMAN CROSBY: I think it might
15 be useful -- Commissioner McHugh just expressed
16 interest and I'm interested and I'll bet
17 everybody else would be, maybe we could have
18 Rachel come in and do an education session for
19 the Commissioners sometime and we just really
20 talk more about this in a relaxed environment
21 where we could learn much more about exactly
22 how this is all working and what the products
23 are of these various samples and so forth.

24 MR. VANDER LINDEN: Right, I think

1 so. I think when we talk about the differences
2 between incidence and prevalence, when we talk
3 about what is it the specific information that
4 we will get from each of these studies and what
5 is the utility of those findings is all very,
6 very important.

7 I am very supportive of having both
8 of these studies in the field at the same time.
9 I don't think -- there is not an overlap it
10 what we will be finding and what we will draw
11 from them. They both have very unique utility.
12 And I would absolutely support bringing Dr.
13 Volberg in to discuss that with you.

14 CHAIRMAN CROSBY: Why don't you work
15 with Janice to arrange a time. There's no
16 particular rush, but I think that would be a
17 really worthwhile time. Commissioner Zuniga,
18 do you want to frame a motion?

19 COMMISSIONER ZUNIGA: Sure. I would
20 move that this Commission accept the
21 recommendation as outlined here by Director
22 Vander Linden in terms of selecting the team of
23 SEIGMA to conduct a cohort study at a time
24 later to be determined by the Commission, by a

1 vote of this Commission for its implementation.

2 CHAIRMAN CROSBY: But presumptively
3 the end of the year. This needs to be in a
4 tickler file that come November, December it
5 comes back before us.

6 COMMISSIONER ZUNIGA: Yes, to be
7 reviewed and vote on by this Commission before
8 the end of the year.

9 COMMISSIONER CAMERON: Second.

10 CHAIRMAN CROSBY: Any further
11 discussion? Any issues with you on that?

12 MR. VANDER LINDEN: The only
13 distinction I'd like to make is that it's the
14 University of Massachusetts team. And that
15 SEIGMA is the project that's in the field right
16 now. And this would be distinct from that
17 project.

18 CHAIRMAN CROSBY: Right. So, it's
19 not the SEIGMA team. It's the University of
20 Massachusetts team.

21 MR. VANDER LINDEN: Correct.

22 COMMISSIONER ZUNIGA: Thank you for
23 that. I should have used the right acronym,
24 MAGIC.

1 CHAIRMAN CROSBY: We had a second.
2 Any further discussion? All in favor of
3 accepting this proposal as conditioned, all in
4 favor say aye. Aye.

5 COMMISSIONER MCHUGH: Aye.

6 COMMISSIONER CAMERON: Aye.

7 COMMISSIONER ZUNIGA: Aye.

8 COMMISSIONER STEBBINS: Aye.

9 CHAIRMAN CROSBY: Opposed? The ayes
10 have it unanimously. Thank you. Director
11 Acosta.

12 MR. DAY: Mr. Chairman, as the crew
13 is assembling, I just had a connected issue I
14 want to clarify with the Commission. As a
15 result of the city of Boston process, we had
16 initially been trying target host community
17 meetings for Revere and Everett on the sixth
18 and seventh of May. We anticipate we would go
19 ahead and find new dates for those a few weeks
20 ahead if that's acceptable to the Commission.

21 CHAIRMAN CROSBY: Yes, thank you. I
22 am going to suggest another break.

23 COMMISSIONER ZUNIGA: Let's take a
24 five- minute break.

1 (A recess was taken)

2

3 CHAIRMAN CROSBY: We're reconvening
4 on the last round at 4:15, Director Acosta.

5 MR. ACOSTA: Commissioners, staff
6 has identified that there are no processes in
7 place for how the Commission wishes staff to
8 process and the Commission to consider the
9 application for a new qualifier for the gaming
10 licensee.

11 Qualifiers of the gaming licensee at
12 times will go on and may be replaced by the
13 gaming licensee. It is the duty of licensee to
14 notify the Commission when a qualifier leaves
15 the company and when a new qualifier is
16 identified. Once a potential qualifier is
17 identified, the potential qualifier is required
18 to file a multi-jurisdiction application, a
19 Mass. supplemental application.

20 The question is how does the
21 Commission wish the staff to process these
22 applications? Does the Commission wish to
23 consider the recommendation from the IEB after
24 an intensive background investigation at a

1 public meeting versus granting qualification
2 status without Commission consideration?

3 It is staff's recommendation that
4 the application for qualification be handled
5 similarly to a key gaming executive employee or
6 a gaming vendor primary license application.
7 The staff is recommending that the Commission
8 -- that staff present to the Commission for
9 consideration at a public meeting a detailed
10 report of the IEB's finding and ask the
11 Commission after discussion of the report for
12 approval or denial of the application.

13 That report will be similar to the
14 reports that IEB prepares and presents for
15 consideration during the license suitability
16 hearings. Once the Commission approves or
17 denies the application for qualification, the
18 licensee will be notified of the Commission's
19 decision. And the applicant may or may not
20 assume the responsibilities of a qualifier to
21 the gaming employee licensee. It is staff's
22 further recommendations that regulations be
23 drafted and approved to reflect this process.

24 COMMISSIONER CAMERON: Thank you,

1 Director. I had a question about, I guess,
2 consistency. If we've had an issue or IEB
3 identifies an issue during the investigation,
4 we've proceeded with an adjudicatory process,
5 which gives the individual qualifier a chance
6 to present before the Commission.

7 This sounds like you are suggesting
8 a public hearing in order to have that process.
9 Is that separate from how we've done things in
10 the past?

11 MR. DAY: Commissioner Cameron, I
12 think the concept is that we'd be doing it very
13 much similar. If there were no objections, we
14 had -- you would consider in a public meeting.
15 If there were concerns, it would be an
16 adjudicatory meeting.

17 COMMISSIONER CAMERON: I see, okay.
18 Thank you.

19 MR. DAY: That's part of what we
20 wanted to check in with you is to see if that's
21 the concept that you would like to proceed in.

22 COMMISSIONER CAMERON: That makes
23 sense to me. I just wasn't sure if that's what
24 you were referring to.

1 COMMISSIONER MCHUGH: Why would we
2 have these? The hearing in the first instance
3 would be before the five of us? Is that the
4 proposal?

5 COMMISSIONER CAMERON: Yes.

6 COMMISSIONER MCHUGH: Why as opposed
7 to a hearing examiner with an appeal to us?

8 CHAIRMAN CROSBY: This is talking
9 about qualifiers.

10 COMMISSIONER MCHUGH: Yes.

11 COMMISSIONER CAMERON: Qualifiers, a
12 new company official.

13 MR. DAY: It might help out, right
14 now there's a level that requires a Commission
15 approval.

16 COMMISSIONER MCHUGH: I'm sorry.
17 This is a qualifier not -- yes, okay. Okay,
18 sorry.

19 CHAIRMAN CROSBY: This would be the
20 licensee. Qualifiers would make up a number
21 the license holder.

22 COMMISSIONER CAMERON: A new CEO,
23 CFO.

24 COMMISSIONER ZUNIGA: Significant

1 control of the company.

2 CHAIRMAN CROSBY: I'm fine with
3 that.

4 COMMISSIONER ZUNIGA: Same here.

5 COMMISSIONER MCHUGH: Me too.

6 CHAIRMAN CROSBY: I assume IEB is on
7 board.

8 MS. WELLS: Yes, we are ready to go.

9 CHAIRMAN CROSBY: Is that it?

10 MR. ACOSTA: Yes, excellent.

11 COMMISSIONER ZUNIGA: The quickest
12 item of the day.

13 MR. GLENNON: I wish I could be
14 quicker, but I don't think I will be. Mr.
15 Chairman and members of the Commission, I'm
16 here today with David to provide you an update
17 on the status of the licensing management
18 system project.

19 Before I get into some of the
20 details, I want to acknowledge the hard work
21 and effort of those involved to date. Our own
22 staff, Director of Licensing, David Acosta,
23 project manager Kathy Barsch, Bill Curtis and
24 Trooper Gina Joyce have done an outstanding job

1 providing the requirements for the application
2 and the business process flow

3 AdvizeX is our system's integrator.
4 Engineers from AdvizeX have built out the
5 infrastructure that will host the enterprise
6 content management platform and the licensing
7 application. NTT DATA is our development
8 partner on the project. And they've been
9 responsible and they are responsible for the
10 full lifecycle development of the LMS
11 application.

12 The Information Technology Division,
13 an agency within the Executive Office of
14 Finance and Administration. ITD is the
15 Commonwealth's overarching technology agency.
16 And they provide resources, project management,
17 network engineering, security risk assessments,
18 security engineering and technical support.
19 And Verizon has recently provisioned a high-
20 speed connection for our environment to allow
21 our hardware to be connected to the
22 Commonwealth's network.

23 I also want to acknowledge the
24 efforts of Dan McDonald on my staff. Dan has

1 kept all parties talking and providing a point
2 of contact for quick response to information
3 requested and required by our partners.

4 We're more than halfway through the
5 project plan. And the professionalism and
6 collaboration exhibited by our partners and our
7 own team has been outstanding.

8 So, I'm going to give you a little
9 bit of update. If you can go to the timeline,
10 Artem. In your packet is the timeline for the
11 project. And due to a number of factors, we
12 have had to extend the timeline out by about
13 three weeks. Those factors include the
14 provisioning of a platform here locally to work
15 with. A prior contractor was unable to deliver
16 in the timeline we had committed to. NTT
17 stepped in and provided an environment. But
18 the lack of the environment that was supposed
19 to be provided added to the delay.

20 We also had some additional
21 requirements that were provided between the
22 time we locked things down in early January and
23 the end of March. So, there was some change.
24 And there was an additional form. So, all of

1 these things led to a change order that
2 Executive Director Day signed. There was an
3 impact on the project costs, but it is all
4 justifiable.

5 So, we add three weeks. I must say
6 that NTT has bent over backwards to mitigate
7 some of the circumstances that were caused by
8 our inability to deliver some things. So, they
9 really have been a good partner.

10 Overall, the project is running
11 well. And I'm going to ask Artem to play in
12 the background a video of some of the software.
13 So, as I'm talking through some of the updates,
14 you can watch the five sections up here and the
15 audience can see it. This is the development.

16 This is actually the application
17 that's being shown up here on the screen that
18 is being built for us. This runs about five
19 minutes. And as I give you the updates, you
20 can watch.

21 Our platform and infrastructure was
22 configured and has been installed. So, that's
23 a major milestone for us. It was connected on
24 3/21. The business requirements document,

1 which basically specifies how the system is
2 going to work was approved by us on 3/21. And
3 that's the first deliverable.

4 The technical architecture document
5 has been submitted by NTT and will be reviewed
6 in the next week, and should be approved. And
7 we will start this week or next with the
8 application user interface, which is basically
9 looking at how the application has been built
10 for functionality. The team will have their
11 first view of the actual application itself and
12 the functionality.

13 What you're seeing here is just
14 screen captures of some of the various
15 functions of the application just to give you
16 an idea of what is being developed.

17 We expect to start system
18 integration testing the first week of May.
19 User acceptance testing should be completed or
20 will start sometime in June. And our go-live
21 date now is 6/27.

22 We have an interim process in place
23 to be able to handle the applications that are
24 coming in. That's been worked out between

1 Licensing and Director Acosta's team. We
2 believe that we will be able to handle the
3 volume of applications that come in for
4 licensing.

5 All in all, I think a very favorable
6 report where we stand. And I look forward to
7 providing you with probably a live demo the
8 next time I come before you to talk about the
9 licensing management system. I'll take any
10 questions.

11 CHAIRMAN CROSBY: Great.

12 COMMISSIONER MCHUGH: Is this going
13 to be available on the web for applicants?

14 MR. GLENNON: Yes.

15 COMMISSIONER MCHUGH: So, this
16 starts off, the initial screens we looked at
17 are people who are trying to enter the
18 licensing system and provide us with baseline
19 information that we need to process their
20 application?

21 MR. GLENNON: Basically, what we
22 will do is we will do an authentication, much
23 like signing up on a site. We'll credential
24 somebody who wants to provide an application.

1 Then they will be able to sign on to
2 login and to start the application process.
3 All of the forms which are currently out on our
4 web -- what you are seeing here if you look is
5 this is filling in real-time the fields on the
6 forms except it's electronic.

7 So, we're not going to be taking in
8 paper copies or PDFs. This will all be done
9 online. People will be able to stop and start.
10 These forms are very complicated. So, we're
11 going to provide them the ability to navigate
12 online, to fill in the information, to come
13 back, to attach documents and other additional
14 information. And then drive the process of the
15 review by Licensing and the IEB for both the
16 financial and the criminal background checks.
17 All of that will be a work flow.

18 The hardest thing I think is really
19 taking the 500 fields in those forms that are
20 out there now and making them easy for
21 applicants to fill in. So far, so good.

22 CHAIRMAN CROSBY: Are these the
23 business licenses?

24 MR. GLENNON: All of them.

1 MR. ACOSTA: The one that you were
2 just looking at is for the gaming vendor
3 primary. The first screen that you saw, and I
4 just want to go back a little bit. The first
5 screen that you saw is a process of
6 authentication. And there's some steps built
7 in there to avoid hackers of programs to just
8 simply infiltrate the system and make it go
9 nuts.

10 So, we can control this. But this
11 will be available for companies as well as
12 individuals. You can do it at home. You can
13 do it at a casino website. And there will be a
14 terminal in our office so if they come in, they
15 can sit down and complete the application.

16 CHAIRMAN CROSBY: Because apropos of
17 our wish to find minority vendors and hard to
18 employ people and so forth, you're bound to
19 have people that find this -- I would find this
20 daunting probably, so that means almost anybody
21 would.

22 MR. ACOSTA: Talking about vendors,
23 this is a step right there where we ask for the
24 vendor minority owned and provide kind of

1 information that is being required so we can
2 capture it.

3 Once this information is captured we
4 can develop reports that we can present and say
5 these are the number of vendors.

6 CHAIRMAN CROSBY: Right. But I was
7 talking about the intake side. That we are
8 going to need to make sure that we have the
9 tools to help people who don't know how to do
10 this and can't figure out how to attach a
11 document, etc.

12 MR. GLENNON: I think there will
13 definitely be a helpline support necessary by
14 staff to be able to answer questions from the
15 applicants as they try to get to this. There
16 will be a lot of contextual help available
17 within the application itself, help buttons and
18 help with navigation.

19 CHAIRMAN CROSBY: Is Jill looped
20 into this discussion and her Vendor Advisory
21 Committee, for example?

22 MR. GLENNON: I think once we get to
23 a point where we start to do usability testing,
24 I think we're going to involve a lot of people

1 and bring them in to make sure it's usable as
2 we think. It needs to be intuitive. It needs
3 to be easy to use and navigate.

4 We think we're building it that way.
5 We will do a lot of not only internal user
6 acceptance testing but focus groups and we'll
7 involve other people in that process to make
8 sure.

9 CHAIRMAN CROSBY: I think earlier
10 than later you ought to have people like --
11 people who are expert in the business of
12 recruiting MBEs and hiring minority employees
13 should be in it early on. People like us can
14 make assumptions. Maybe you would make a
15 certain kind and you would make a certain kind
16 but I think she and her group ought to fit a
17 way into be in there at the beginning.

18 MR. GLENNON: Absolutely.

19 CHAIRMAN CROSBY: How are you
20 dealing with English as a second language
21 issues?

22 MR. GLENNON: I think that is
23 something that we're going to have to talk
24 about in terms of accommodation. There's

1 certainly a way to take the forms and to
2 translate them.

3 I know that other agencies do it.
4 And it's incumbent that they do it for a
5 primary group of languages. So, I think that's
6 a discussion we have to have. I can also say
7 we're not assuming that everybody has a
8 computer either. The forms that are out there
9 online are for people that don't have a
10 computer and want to manually fill them out.
11 And there will be a process to accept manual
12 forms.

13 CHAIRMAN CROSBY: I didn't realize
14 that. That's good.

15 COMMISSIONER STEBBINS: How can you
16 have an opportunity to work with a licensee,
17 and in our first case with Penn, in that Penn
18 is somewhat trained on the forms. Penn may be
19 able to offer a remote station at their
20 facility where they're obviously doing a lot of
21 interviewing that they can say we want to hire
22 you and we are going to slide you over to a
23 machine at start the paperwork.

24 MR. ACOSTA: In our conversations

1 with Penn already we discussed having terminals
2 available for either companies or individuals
3 in their facilities. So, that a person can sit
4 down and complete the form. For companies,
5 it's very likely that they will require
6 additional time because of the complexity of
7 the form and they may need to do it in their
8 place.

9 But I envision meeting with
10 different support groups throughout and showing
11 them. For example, a person with limited
12 English-speaking can go to a particular agency.
13 This is web-based. So, they can access it
14 through the web. go in there and assist the
15 individual in completing the application.

16 The thing is that they are able to
17 file the application. Once the application is
18 filed then we can go to the next step and that
19 is the fingerprinting, taking photograph,
20 getting their identification that kind of
21 stuff.

22 COMMISSIONER STEBBINS: Keep in mind
23 some of our other key partners, the community
24 colleges, the career centers, etc.

1 MR. ACOSTA: Correct.

2 MR. DAY: We do anticipate being out
3 at the establishment to help with licensing
4 when it gets closer.

5 MR. ACOSTA: That is correct.

6 CHAIRMAN CROSBY: Great. Anything
7 else? Any other comments?

8 COMMISSIONER MCHUGH: Looks good.

9 COMMISSIONER ZUNIGA: Looks great.
10 John, I know our next meeting has quarterly
11 update on our finances. I'd be interested just
12 make sure that Derek has the latest update in
13 terms of this project.

14 MR. GLENNON: Yes. I brought it
15 back up in case you asked the question. I can
16 share that with you in terms of what the
17 spending has been to date against the budget.

18 COMMISSIONER ZUNIGA: Great. Thankn
19 you. Let's leave it for the next meeting.

20 CHAIRMAN CROSBY: I think that's it.
21 Anybody else? Anything else?

22 COMMISSIONER ZUNIGA: I have one
23 quick clarification, Mr. Chairman. Director
24 Driscoll asked me a question and I think

1 there's discussing and clarifying for the
2 record. I think it was all implicit, but I
3 think it's important.

4 When we talked about the 500 million
5 capital investment, we referred to it just like
6 that the 500 million. What we have effectively
7 done by regulation is increased that because
8 we've excluded a number of costs. For example,
9 the land was we had the discretion to exclude
10 or include. And by regulation we chose to
11 exclude.

12 But we also took other costs and
13 excluded them from the minimum investment
14 calculation. And that has resulted in an
15 overall minimum total project cost that's in
16 excess of the 500 million.

17 So, what we've been asked to do and
18 evaluate is whether to grant a waiver to our
19 own regulations not the statutory 500 million.
20 And that like any regulations we issue, we have
21 the ability to grant waivers or not. And as we
22 are doing this evaluation of the Region C
23 that's the limit of what we are considering.

24 CHAIRMAN CROSBY: Right.

1 COMMISSIONER ZUNIGA: Not a
2 statutory threshold.

3 CHAIRMAN CROSBY: Right.

4 COMMISSIONER CAMERON: Good
5 clarification.

6 CHAIRMAN CROSBY: Anything else?
7 Motion to adjourn?

8 COMMISSIONER ZUNIGA: So moved.

9 CHAIRMAN CROSBY: All in favor, aye.

10 COMMISSIONER MCHUGH: Aye.

11 COMMISSIONER CAMERON: Aye.

12 COMMISSIONER ZUNIGA: Aye.

13 COMMISSIONER STEBBINS: Aye.

14 CHAIRMAN CROSBY: All right. Thank
15 you everybody.

16

17 (Meeting adjourned at 4:33 p.m.)

18

19

20

21

22

23

24

1 ATTACHMENTS:

- 2 1. Massachusetts Gaming Commission April 3,
3 2014 Notice of Meeting and Agenda
- 4 2. Diversity Plan for the Design and
5 Construction Phase of Plainridge Park
6 Casino
- 7 3. April 1, 2014 Massachusetts Gaming
8 Commission Memorandum Regarding Proposed
9 Legislative Changes and Attachments
- 10 4. April 3, 2014 Massachusetts Gaming
11 Commission Memorandum Regarding
12 Determining a Gaming Establishment
- 13 5. Three Small Business Impact Statements
- 14 6. DRAFT 205 CMR 135.00
- 15 7. Region C Comment Letters and Summary of
16 Issues
- 17 8. Massachusetts Gaming Commission 4/3/2014
18 Licensing Schedule Update Region B: MGC
19 Decision on Arbitration
- 20 9. Three Scenarios of Massachusetts Gaming
21 Commission 3/31/2014 Licensing Schedule
22 Update for Region C
- 23 10. Massachusetts Gaming Commission April 3,
24 2014 Memorandum Regarding Recommendation

1 to Award Contract for Longitudinal Cohort
2 Study on Gambling Behavior
3 11. Licensing Management System (LMS) Update
4
5 GUEST SPEAKERS:
6 Karen Bailey, Penn National
7 Eric Schippers, Penn National
8 Timothy Wilmott, Penn National
9 Emil Giordano, Turner Construction
10 Alison Stanton, Turner Construction
11
12 MASSACHUSETTS GAMING COMMISSION STAFF:
13 David Acosta, Director of Licensing
14 Catherine Blue, General Counsel
15 Richard Day, Executive Director
16 John Glennon, Chief Information Officer
17 Jill Griffin, Director Workforce, Supplier and
18 Diversity Development
19 Todd Grossman, Deputy General Counsel
20 Mark Vander Linden, Dir. Research and Problem
21 Gambling
22 Karen Wells, Director of Investigations and
23 Enforcement Bureau
24 John Ziemba, Ombudsman

C E R T I F I C A T E

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

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

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

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

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

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

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