

THE COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION
PUBLIC MEETING #121

CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

Gayle Cameron

James F. McHugh

Bruce W. Stebbins

Enrique Zuniga

May 15, 2014 10:30 a.m.

HYNES CONVENTION CENTER

900 Boylston Street, Room 311

Boston, Massachusetts

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

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3 CHAIRMAN CROSBY: I am pleased to
4 call to order the 121st meeting of the
5 Massachusetts Gaming Commission. We're back at
6 the Hynes Auditorium at 10:30 on May 15. We
7 will start out with the approval of minutes,
8 item number two on the agenda, Commissioner
9 McHugh.

10 COMMISSIONER MCHUGH: Yes, Mr.
11 Chairman. The minutes are in the book and as
12 we've done in the past there are several sets
13 of minutes there. So, I'd like to move them
14 seriatim. The first set is the minutes of May
15 1, 2014. And I would move their approval in
16 form they appear in the book with the usual
17 reservations for mechanical and typographical
18 corrections.

19 CHAIRMAN CROSBY: This is the May 2?

20 COMMISSIONER MCHUGH: No, May 1, May
21 1 is the first set of the minutes.

22 CHAIRMAN CROSBY: Got it. Okay.

23 Second?

24 COMMISSIONER ZUNIGA: I actually

1 have a comment on the minutes on those minutes.

2 CHAIRMAN CROSBY: Do you want to
3 second it first?

4 COMMISSIONER ZUNIGA: Yes, I can
5 second it but with a comment. At around 1:43
6 on page three of the minutes, there was
7 discussion relative to requesting public
8 comment on the topic of number of slots versus
9 gaming positions. And I would just like for
10 the minutes to reflect some of that discussion.

11 COMMISSIONER MCHUGH: For the
12 minutes to summarize the discussion on the
13 number of slots?

14 COMMISSIONER ZUNIGA: Just to
15 highlight that that discussion took place, a
16 brief summary highlight.

17 COMMISSIONER MCHUGH: So, if we
18 added something to the effect that the
19 discussion -- because nothing else is
20 summarized there, so let me just think out loud
21 with you. Something along the lines of the
22 discussion included the topic of how to deal
23 with the number of slot machines in an arena
24 where many seats can be hosted around a single

1 computer, something like that.

2 COMMISSIONER ZUNIGA: Something like
3 that right.

4 COMMISSIONER MCHUGH: All right.

5 COMMISSIONER ZUNIGA: And the
6 decision was to post that policy question for
7 public comments.

8 COMMISSIONER MCHUGH: All right.
9 Artem, do you have the substance of that? I'll
10 work with you later to make sure that gets into
11 the minutes.

12 CHAIRMAN CROSBY: Maybe make sure
13 Commissioner Zuniga sees the draft.

14 COMMISSIONER MCHUGH: Right.

15 CHAIRMAN CROSBY: Any other
16 discussion on the minutes of May 1? Do you
17 want to make a motion?

18 COMMISSIONER MCHUGH: The motion has
19 already been made and seconded.

20 CHAIRMAN CROSBY: Sorry. If there's
21 no further discussion, all in favor of the
22 motion signify by saying aye. Aye.

23 COMMISSIONER MCHUGH: Aye.

24 COMMISSIONER CAMERON: Aye.

1 COMMISSIONER ZUNIGA: Aye.

2 COMMISSIONER STEBBINS: Aye.

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

5 COMMISSIONER MCHUGH: The second set
6 of minutes is a set for May 2, 2014, the
7 following day. I'd make the same motion that
8 is to approve the minutes as they appear in the
9 meeting materials with mechanical and
10 typographical corrections reserved.

11 COMMISSIONER CAMERON: Second.

12 CHAIRMAN CROSBY: Any discussion?
13 No discussion, all in favor of the motion of
14 accepting minutes for May 2, aye.

15 COMMISSIONER MCHUGH: Aye.

16 COMMISSIONER CAMERON: Aye.

17 COMMISSIONER ZUNIGA: Aye.

18 COMMISSIONER STEBBINS: Aye.

19 CHAIRMAN CROSBY: The ayes have it
20 unanimously.

21 COMMISSIONER MCHUGH: Finally, then
22 Mr. Chairman are the minutes for May 8, 2014,
23 the minutes of the meeting we held last week.
24 They too appear in the meeting materials and I

1 would move their adoption with the reservation
2 for mechanical and typographical corrections.

3 COMMISSIONER STEBBINS: Second.

4 CHAIRMAN CROSBY: This falls within
5 that amendment, but at 2:57 on page three
6 Counselor O'Flaherty and Counselor Frongillo's
7 names misspelled.

8 COMMISSIONER MCHUGH: Oh, yes, they
9 are.

10 CHAIRMAN CROSBY: They're right
11 elsewhere.

12 COMMISSIONER MCHUGH: Let's make
13 sure that that is done correctly.

14 CHAIRMAN CROSBY: Any further
15 discussion? Then with that adjustment, all in
16 favor, aye.

17 COMMISSIONER MCHUGH: Aye.

18 COMMISSIONER CAMERON: Aye.

19 COMMISSIONER ZUNIGA: Aye.

20 COMMISSIONER STEBBINS: Aye.

21 CHAIRMAN CROSBY: The ayes have it
22 unanimously. We are then to item number three
23 Workforce Development and Diversity, Jill
24 Griffin, our Director of Workforce Development

1 and Diversity.

2 MS. GRIFFIN: Good morning,
3 Commissioners.

4 CHAIRMAN CROSBY: Good morning.

5 COMMISSIONER MCHUGH: Good morning.

6 MS. GRIFFIN: On page 15 of your
7 packet is the revised diversity plan from Penn
8 National regarding the Plainridge Park Casino.

9 You may remember that we were all
10 back here on April 3 and representatives from
11 both Penn National and Turner Construction were
12 here. And they also join me today. Maybe I
13 will let you guys introduce yourselves.

14 MS. BAILEY: Sure. Karen Bailey
15 with Penn National Gaming. Joining me today is
16 -- we've got Jack Rauen who is Vice President
17 of Construction Project Management with Penn
18 National Gaming, Emil Giordano with Turner
19 Construction who is also responsible for the
20 oversight of our diversity program from
21 Turner's perspective of construction management
22 firm.

23 We also have joining us for the
24 first time, I believe in front of you is Lance

1 George, our new General Manager who will be
2 assigned here at the Plainridge facility.
3 Joining us from that very warm and temperate
4 area of Iowa. I'm sure he is very pleased to
5 be back here in Massachusetts. Also, with me
6 is Jeff Morris who joins me in the public
7 affairs department at Penn National.

8 COMMISSIONER MCHUGH: Welcome to Mr.
9 George. We have a migration from the Midwest
10 as part of our group.

11 CHAIRMAN CROSBY: The migration
12 started with me in 1958. We also have Director
13 Vander Linden and now you.

14 COMMISSIONER MCHUGH: No, it didn't
15 start with you, Mr. Chairman. It started with
16 me in 1946.

17 CHAIRMAN CROSBY: From Iowa?

18 COMMISSIONER MCHUGH: No, from South
19 Dakota.

20 CHAIRMAN CROSBY: That's not the
21 Midwest.

22 COMMISSIONER MCHUGH: Well, it's the
23 upper Midwest.

24 CHAIRMAN CROSBY: Anyway, welcome.

1 We're glad to have you here.

2 MS. GRIFFIN: Commissioners, you'll
3 recall that we posted the original diversity
4 plan for public comment following the April 3
5 meeting. And we reviewed with you both verbal
6 and written responses to that plan at that
7 time.

8 We brought the diversity plan back
9 to you on April 17 where there was specific
10 feedback raised by the New England Area
11 Conference of the NAACP. You voted and
12 approved the plan, but asked us to come back
13 regarding some specific areas of the plan that
14 Mr. Cofield had raised.

15 Mr. Cofield commented on the
16 comprehensiveness of the outreach plan and
17 asked for some more detail on that plan. He
18 also requested information on the enforcement
19 mechanisms of the plan. And he had suggestions
20 regarding increased effort regarding
21 incorporating MBEs, minority
22 businessenterprises, WBEs and VBEs, veteran
23 business enterprises in the planning, legal or
24 audit work associated with the pre- and post-

1 construction work.

2 So, we are back here today to talk
3 about those topics. Before I highlight some of
4 the updates in this plan that respond to those
5 topics, I thought I would ask Mass. Gaming
6 Commission's General Counsel Blue to comment on
7 the enforcement penalties because she is
8 looking at that.

9 MS. BLUE: Thank you. I know the
10 Commission requested that we do some additional
11 research into enforcement and general practices
12 surrounding that. We have started that
13 research and we are reviewing it currently.
14 So, I expect that we will be able to share that
15 with the Commission shortly

16 MS. GRIFFIN: Penn National has made
17 changes to the diversity plan based on the
18 feedback from both the Commission and the Mass.
19 Gaming Commission's Vendor Advisory and the
20 NAACP. They've expanded their internal
21 diversity committee to include members of the
22 Vendor Advisory Group, Reggie Nunnally from the
23 state office of Supplier Diversity and Dr. Fred
24 McKinney from the Greater New England Minority

1 Supplier Development Council.

2 They have expanded information
3 aggressively outreaching to minority, women and
4 veteran owned business. They've added
5 information about their commitment to engaging
6 minority, women and veteran business
7 enterprises in the outside services in the
8 remaining design phase, as well as the post-
9 construction activity such as legal and audit
10 as per Juan Cofield's suggestion. That can be
11 found on page four.

12 At the Commission's request, Penn
13 has created sub-goals in addition to the
14 combined 11 percent minority, women business
15 enterprise goal. They've created a sub-goal of
16 four percent for minority business enterprise
17 and seven percent for women business
18 enterprise. And I'll have them talk more about
19 this in a few minutes.

20 But that's the highlight. Unless
21 you have more questions for me, I'm going to
22 turn the mic over to Karen Bailey who will talk
23 more about the details of the plan and the
24 update.

1 MS. BAILEY: Mr. Chairman and
2 members of the Commission, thank you again for
3 allowing us the time to provide you an update
4 to our construction diversity plan. Since we
5 last met, we've addressed the conditions the
6 Commission set on the approval of our plan.
7 Specifically, we've addressed the question of
8 an enforcement mechanism on the goals set forth
9 for our construction team, examined the
10 opportunities that we can provide in our post-
11 construction professional service needs, and
12 have separated out the 11 percent MBE, WBE
13 goals that we've set for construction
14 subcontracting program.

15 As outlined in our revised plan,
16 Penn has entered into an incentive-based
17 program with Turner Construction wherein it can
18 receive an additional fee on top of its base
19 fee for achieving certain deliverables, such as
20 constructing the project on time and on budget.
21 And importantly for their efforts in
22 implementing and helping to oversee our
23 diversity plan.

24 In addition, Penn has attached a

1 copy of our diversity plan to its contract with
2 Turner to reinforce the importance of their
3 role in this process. This plan includes
4 remedies for failure to comply among
5 subcontractors with their own mandatory
6 diversity plans. As a point of additional
7 follow-up, we have reviewed this incentive-
8 based program with Juan Cofield, as Jill had
9 mentioned, of the New England Area Conference
10 NAACP and has allowed us to convey his approval
11 of this incentive-based approach.

12 The specifics of that approach are
13 on page five. And we've also supplied a copy
14 of the specific language in our contract with
15 Turner, which we have not made public yet as we
16 are still waiting for the signatures between
17 our two parties for that full contract.

18 But to outline the contract language
19 for you today, it basically states in addition
20 -- I'm pulling this exact language. In
21 addition, we have a discretionary bonus payment
22 plan of up to one percent of the cost of work.
23 This is for Turner Construction. And this
24 particular bonus payment plan is at the owner's

1 sole discretion.

2 One of the five explicit criteria
3 listed in this incentive plan is that the
4 construction -- is considered the construction
5 manager's successful efforts with respect to
6 the equal employment program per the attached
7 exhibit, which is of course the diversity plan.

8 So, the plan language reflecting our
9 incentive program is on page five of the
10 diversity plan, which you have a copy of. And
11 then the more explicit language as one of the
12 five criteria for their bonus structure is
13 listed in our contracts and then will be
14 available obviously for your review when ready.

15 We've also identified the following
16 professional service areas where we think MBE,
17 WBE and VBES can successfully compete for post-
18 construction work. This is not operations
19 related. That's a separate plan which we will
20 be presenting to you in the next couple of
21 weeks. Those areas are specifically in the
22 legal and audit services as Jill had mentioned.
23 We've also discussed this with the NAACP and
24 they've indicated their interest in assisting

1 us in identifying the firms who can
2 successfully compete for these opportunities.
3 So, we look forward to working with him on that
4 function.

5 Finally, we've also set specific
6 goals within our 11 percent MBE, WBE
7 participation goal. These goals as Jill
8 mentioned, are seven percent WBE, four percent
9 MBE in addition to the aspirational goals that
10 we've already set for VBEs at three percent.

11 MBE awards have to date actually
12 outpaced our WBE goals at least in the awards
13 of our initial construction program. Of the
14 \$17 million that we have committed so far in
15 our overall construction program, 21 percent
16 has actually been committed to MBEs and three
17 percent of those dollars have been committed to
18 WBE's. We believe this is a good start. And
19 we'll hope to continue this trajectory as we
20 pursue the additional awards of our
21 construction program.

22 We thank you, Jill, all of the
23 advisors and everybody that has been further
24 input into the development of this program. We

1 believe it's a strong plan and look forward to
2 a successful outcome.

3 And we're available to answer any
4 questions along with all of the folks that have
5 some of the specifics that you may have
6 questions regarding.

7 CHAIRMAN CROSBY: Questions,
8 thoughts?

9 COMMISSIONER MCHUGH: I don't have
10 any questions. I think the incentive-based
11 approach and the process for carefully
12 monitoring achievement of the goals and then
13 the remedial plan really are major
14 accomplishments. And I for one think this is a
15 great step forward -- or a great step. I'm not
16 sure you weren't there already but that's why
17 I'm just qualifying it. But I think it's
18 representative of very thoughtful approach to
19 this.

20 COMMISSIONER CAMERON: I would
21 agree. Have you ever tried the incentive? Is
22 this a first for you, for the company to have
23 an incentive-based, just a way of really
24 bringing this to the forefront and making sure

1 people are paying attention?

2 MS. BAILEY: Sure. This is probably
3 the first time it's been explicit and sort of
4 factors, one, two, three, four and five.
5 However, it's always been a consideration
6 within our contract with our construction
7 management firms and the various programs that
8 we've had throughout the country and
9 specifically with Turner.

10 So, it's always been a category in
11 which we've considered. Thankfully, we've
12 always had a successful program with our
13 construction management firms and have been
14 able to award them their incentive plans as
15 such.

16 COMMISSIONER CAMERON: Thanks.

17 COMMISSIONER STEBBINS: I also
18 applaud the work that you've done, the follow-
19 up that you did with Mr. Cofield. And I
20 applaud you on setting a rather aggressive
21 goal.

22 As I think we'd all agree on the
23 veteran business participation, I've said it
24 before, it's kind of a new realm and a new

1 area. I think working with our licensing folks
2 though, I've had a chance to visit with
3 Director Acosta the other day. We are finding
4 ways to count those veteran businesses that may
5 not be registered through that one
6 certification source out there, but finding a
7 way that we can look at the principle of the
8 company, their DD 214 -- Thanks, Dave. I got
9 the thumbs up that I got that right. -- and
10 using that as a way to validate and give you
11 credit for Massachusetts veteran owned
12 business.

13 Keep up the good work. I know our
14 Vendor Advisory Team is going down to visit
15 your facility tomorrow and get a tour and begin
16 to work on other issues and brainstorming. So,
17 we greatly appreciate your partnership in this.

18 MS. BAILEY: Thank you. We are
19 excited to host the team down there tomorrow.
20 I know a lot of work has gone into preparing
21 for their visit.

22 COMMISSIONER ZUNIGA: I join my
23 colleagues in applauding your approach. I
24 wonder though, you also have goals of local

1 hiring, local and regional hiring as per your
2 host and surrounding community agreements. Do
3 you see any tension between the goals over
4 there and the goals over here?

5 MS. BAILEY: We actually with the
6 construction portion of our agreements, we
7 don't have those specific local preferences in
8 our agreements. Obviously, we always want to
9 hire -- we go in concentric circles, if you
10 will, as to how we'd like to award. But we
11 obviously understand the importance that our
12 license has attached to our minority goals
13 overall on the construction side.

14 You will see our thoughts on the
15 workforce portion or operational workforce as
16 well as our ongoing procurement plans that are
17 due to you in the next couple of weeks
18 reflecting those local priorities, specifically
19 in our workforce hiring. You'll see those
20 addressed in those plans.

21 COMMISSIONER ZUNIGA: Okay. I look
22 forward that too.

23 MS. BAILEY: As a preview to that we
24 have already talked to Mr. Cofield on the

1 workforce side and received some good direction
2 from him, particularly with our local
3 obligations. So, we've already started those
4 conversations.

5 MS. GRIFFIN: Could I just add, I
6 had the opportunity speak with Mr. Cofield
7 yesterday. And he shares the belief that a
8 carrot works better than a stick. So, he
9 supports the concept of the bonus for meeting
10 those goals.

11 He did want to urge that the bonus
12 should be based on achieving the goals rather
13 than best efforts. I just wanted to express
14 that. It sounds like the contract language may
15 take care of --

16 MS. BAILEY: We're comfortable in
17 the language that we have in our contract with
18 the verbiage of successful efforts as it
19 relates to our diversity plans.

20 CHAIRMAN CROSBY: I assume it's
21 implicit, Director Griffin in what you're
22 saying that your various advisory groups,
23 formal and informal have seen this. You said
24 Mr. Cofield had. And they feel like this is

1 getting to the standard that they were hoping
2 we would get to?

3 MS. GRIFFIN: Yes. I've had
4 specific feedback from several individuals.
5 Warren Bacon from the MBDA Boston Business
6 Center, the organization that focuses on
7 supplier diversity has offered to assist in
8 terms of helping to foster strategic alliances
9 and mentoring. I think they want to be a part
10 of this effort as well.

11 They're a member of our Vendor
12 Advisory. They did point out that they hope
13 that the MBE goal of four percent is exceeded.

14 CHAIRMAN CROSBY: That's one thing
15 that I wanted to speak to. The addition that
16 Commissioner Stebbins has really led the way on
17 is of adding veterans businesses is a really
18 constructive and important step. But it needs
19 to be additive to the total, not another way to
20 relieve the pressure on getting MBEs, which is
21 the hardest part of the job.

22 The increased focus on women
23 businesses has had the unintended consequence
24 to a certain extent of relieving the pressure

1 on trying to find and help develop qualified
2 MBEs because they are harder to come by. And
3 if the number doesn't change but the categories
4 that go into the number changes, if the
5 aggregate doesn't change then it becomes a
6 disincentive in effect, a perverse disincentive
7 to do the hard work that's required to find
8 qualified and to help develop qualified MBEs.

9 It's really important for this be
10 additive, not subtracting in effect. And that
11 it doesn't relieve the pressure. Everybody
12 acknowledges, all of the people we've talked to
13 in the advisory groups as well as on the
14 applicant side acknowledge that finding
15 qualified minority vendors to do a lot of this
16 work is not easy.

17 And we talked a lot about developing
18 partnerships where you don't rely on them
19 completely, but you bring them in for a piece
20 of the action. And in the process work in
21 mentoring roles and so forth. I agree with the
22 four percent. It would be nice to exceed that.
23 I just want to make sure that we don't
24 inadvertently let the VBE -- WBE have this

1 negative unintended consequence.

2 The other thing is when Mr. Cofield
3 was here last week, I thought he was talking
4 about expanding the qualified spend in the
5 construction project to include legal work and
6 post-audit work and so forth. Somebody, it
7 might have been you, somebody jumped right up I
8 thought from either Turner or Penn and said
9 that's a really good idea. Let's pursue that.
10 I don't see that reflected in the spend.

11 (A) I wonder if it is meant to be
12 added to the spend. (B) It's not a lot of
13 dollars, but it might be an area where
14 significant positive impact could be had.

15 MS. BAILEY: Are you referring to --
16 You mean the definitions?

17 CHAIRMAN CROSBY: Yes. The
18 qualified spend still talks about design and
19 construction of the gaming facility. And if I
20 remember the conversation right, he was saying
21 there's a lot of other money that is spent in
22 the construction phase in the service industry
23 i.e., lawyers and auditors. And couldn't that
24 be added.

1 MS. GRIFFIN: Chairman Crosby, in
2 the middle of page four there is a highlighted
3 paragraph. In addition to our goal of
4 providing participation opportunities in the
5 remaining design phase, we will also seek to
6 identify opportunities for MBEs, WBEs and VBEs
7 to participate in our post-construction, non-
8 operations activities.

9 CHAIRMAN CROSBY: That's good but
10 that's different. What I thought he was
11 talking about was during the construction phase
12 that there are still professional service roles
13 in the construction phase that could be added.

14 MS. BAILEY: He spoke to the pre-
15 and post-construction phases in which we
16 believe is encapsulated in the qualified spend
17 definition on page nine in which we have design
18 and construction as part of that.

19 So, the remaining, and then what
20 Director Griffin referred to is the specific
21 response to Mr. Cofield's request at the last
22 meeting with regards to things like post-
23 construction services and what we've been able
24 to identify in our conversations with him are

1 on the legal and auditing side.

2 So, we have the design and
3 construction which is encapsulated on page nine
4 in the definition of qualified spend plus the
5 specific post-construction services that we're
6 exploring with him as well.

7 COMMISSIONER ZUNIGA: Chairman, I
8 think I have two words that I think address
9 your concern, because you are talking about
10 construction phase on this or post-
11 construction. I would insert or suggest that
12 what we're talking about here is both direct
13 and indirect costs to the construction and
14 design phase, not just hard costs or direct
15 costs in terms of the subcontractors and
16 contractors.

17 So, to include the likes of
18 professional services firms. It's probably
19 already implicitly included in the way this
20 reads, but it's just a suggestion.

21 CHAIRMAN CROSBY: Now that I read
22 more closely that highlighted paragraph, I do
23 see what you're saying. You're talking about
24 post-construction non-operations. So, it is

1 getting to it.

2 But I agree with Commissioner Zuniga
3 just to sort of make the point even clearer
4 that direct and indirect costs to design and
5 construction. I think you guys get it. We've
6 said that all along that we appreciate that
7 this is something you seem to be taking
8 seriously and working hard on.

9 But every time you add a word or two
10 that emphasizes the point, it raises the
11 criticality of it and the sensitivity of it.
12 So, I think that might be a good addition. All
13 right. Anything else on this topic?

14 I mentioned just as sort of an FYI
15 and reminder, as I've said I think this
16 partnership idea is a really, really creative
17 idea. I don't know whether it's SOP already,
18 but the combination of finding a way to involve
19 these various kinds of businesses and in the
20 process to do some development work and
21 mentoring work with them.

22 A business's job is not to mentor
23 unto businesses. I understand that, but there
24 is a subset of these companies' obligations.

1 And I hope you'll take the lead and you guys
2 think about it too, this is really interesting
3 way to help develop and bring along and involve
4 companies that are struggling to figure out how
5 do you get to play in the big leagues. So, I
6 hope you'll pursue that.

7 MS. GRIFFIN: So, we'll be talking
8 more about that at the next Vendor Advisory
9 meeting down in Plainville tomorrow.

10 CHAIRMAN CROSBY: Okay. Just out of
11 curiosity, the status of the -- This is not
12 quite on target. -- but the status of the
13 Community College Institute. Can you just
14 quickly tell us where they are at? Are they in
15 the process of pipelining people by now for
16 Plainridge?

17 MS. GRIFFIN: They are in the
18 process of -- They've met with the vice
19 president of talent management Corey Whitaker
20 for Penn National, where they got more specific
21 information regarding the numbers of employees
22 and specifically the number of skilled
23 employees that would be necessary to inform
24 their training pipeline.

1 And this meeting also included
2 members of the career center, several career
3 centers down there who have experience in areas
4 like food and beverage and IT that was of
5 interest to Penn National.

6 CHAIRMAN CROSBY: Okay, great.
7 Thank you.

8 MS. BAILEY: Thank you.

9 COMMISSIONER MCHUGH: We need a
10 vote, do we not? Isn't that the idea here that
11 we would vote to approve the diversity plan
12 presented by Penn National?

13 CHAIRMAN CROSBY: Thank you. You're
14 right. I'm sorry. I apologize. Are you okay
15 with adding the words direct and indirect?

16 MS. BAILEY: Yes, that shouldn't be
17 a problem.

18 COMMISSIONER STEBBINS: Mr. Chair, I
19 would move that we give final approval to the
20 diversity plan for the design and construction
21 phase of Plainridge Park Casino as presented
22 with the recommended changes that came before
23 us today as well as the recommended additives
24 suggested by Commissioner Zuniga.

1 CHAIRMAN CROSBY: Second?

2 COMMISSIONER CAMERON: Second.

3 CHAIRMAN CROSBY: Any further
4 discussion? All in favor of accepting
5 Commissioner Stebbins' recommendation to adopt
6 this plan please say aye. Aye.

7 COMMISSIONER MCHUGH: Aye.

8 COMMISSIONER CAMERON: Aye.

9 COMMISSIONER ZUNIGA: Aye.

10 COMMISSIONER STEBBINS: Aye.

11 CHAIRMAN CROSBY: Nay for the
12 opposed? The ayes have it unanimously. Thank
13 you very much.

14 COMMISSIONER MCHUGH: Thank you very
15 much.

16 CHAIRMAN CROSBY: Again, Mr. George
17 welcome. I look forward to working with you.
18 Item 3b.

19 MS. GRIFFIN: Commissioners, I am
20 joined by my colleague, Deputy Counsel
21 Grossman. And we are introducing 205 CMR 137
22 with a goal of protecting the consumer and
23 ensuring the workforce is properly trained,
24 these regulations pertain to the certification

1 of gaming schools, specifically, regarding
2 training for dealers, slot machine technicians
3 or surveillance personnel.

4 And you may remember we brought the
5 first draft to you on April 17, I believe. And
6 we have had conversations, as we mentioned last
7 time, with both the Division of Professional
8 Licensure and the community college coalition
9 MCCTI. And we're here to present this version,
10 which has incorporated some changes based on
11 feedback from the Commission. So, I'm going to
12 ask my colleague Attorney Grossman to highlight
13 some of the changes.

14 MR. GROSSMAN: Thank you, good
15 morning.

16 COMMISSIONER MCHUGH: Good morning.

17 COMMISSIONER CAMERON: Good morning.

18 MR. GROSSMAN: There are just a
19 couple of points I'd like to make. Otherwise,
20 I would suggest that this is in good form for
21 purposes of moving it through the promulgation
22 process, opening it up to public comment and
23 ultimately holding a public hearing on these
24 regulations.

1 Since you've seen this last, we've
2 made a couple changes. Notably we included
3 language, this is on page three and four now,
4 shoring up the requirements for the curriculum
5 for slot machine repair and maintenance and for
6 surveillance personnel. The language there is
7 based in part on the Atlantic Coast College
8 curriculum. And we think in general it
9 captures what these programs should include.

10 The other major adjustment we made
11 here was that since you've seen this last that
12 we changed the nature of the curriculum from a
13 recommended curriculum to a mandatory
14 curriculum for any entity that wants to run one
15 of these schools. And that was done at the
16 recommendation of some of the entities that
17 Jill just mentioned that it would be helpful to
18 them and to us ultimately to have more of a set
19 curriculum. So, those are the two main changes
20 we've made.

21 There are two other things that
22 aren't in your draft that I'd like to bring to
23 your attention just before we move forward.
24 The first is in the surveillance section, we

1 inadvertently used the term security in a
2 couple of instances. And I would just suggest
3 the word security should be changed to
4 surveillance, because we are not targeting this
5 at security personnel. It's being targeted at
6 surveillance personnel.

7 The second is that it was brought to
8 my attention that we didn't have any provisions
9 in here for any renewal of this certification.
10 So, on page two, I would recommend in paragraph
11 five where we say that the certification issued
12 by the Commission shall be coterminous with the
13 underlying licensure issued by DPL or Higher
14 Education, we just add in a line that says that
15 in order to maintain the certification upon the
16 expiration of the underlying licensure or
17 approval, that the applicant has to come back
18 to the Commission with proof of renewal of
19 their license and advise the Commission as to
20 any changes to the materials since they were
21 initially submitted.

22 Those are the only two changes I
23 would recommend we add that you don't have in
24 the materials before you. Otherwise, this is

1 pretty much the same draft you saw before.

2 COMMISSIONER ZUNIGA: What do we
3 anticipate the Department of Licensure term of
4 those certifications would be? Do they have a
5 standard?

6 MR. GROSSMAN: Yes. There is a set
7 term. I can't remember what it is. I assume
8 it's two or three years.

9 MS. GRIFFIN: I'm not certain.

10 COMMISSIONER ZUNIGA: We can come
11 back to that later.

12 COMMISSIONER STEBBINS: Am I
13 mistaken, was the training relative to
14 responsible gaming was that in the last form?

15 MR. GROSSMAN: That's another good
16 point, actually. That's another addition we
17 added with the input of our Director of Problem
18 Gambling, some more specific provisions
19 relative to problem gambling. Those fall under
20 the table games curriculum. So, it's on
21 page --

22 COMMISSIONER STEBBINS: It starts on
23 four, bottom of four.

24 MR. GROSSMAN: It's actually on page

1 five at the top. It's paragraph five, although
2 it relates only to the table game curriculum.
3 It just sets out the particulars of what that
4 training would involve.

5 CHAIRMAN CROSBY: Are you in the
6 middle of something? Excuse me. I just had a
7 question. Explain 3E, it looks to me like
8 basically our Division of Licensing is
9 basically the party that does the certification
10 here. But there is a proof of licensure by
11 DPL. What does that step consist of?

12 MR. GROSSMAN: The whole plan here
13 essentially is that we are in essence deferring
14 to other entities that have primary
15 jurisdiction over these types of schools. The
16 difficulty is that they fit into two basic
17 categories. There are private schools that
18 could offer this type of training. And then
19 there are like the community colleges, the
20 public institutions that may offer this type of
21 training. And each are overseen by different
22 bodies.

23 So, what we have set out to do is to
24 recognize those approvals or certifications.

1 So, in the context of a private training
2 school, the Division of Professional Licensure
3 has a program, statutory authorization and a
4 set of regulations under which they license all
5 training schools not just gaming schools.

6 And what we are saying here is that
7 before a private school can get certified as a
8 gaming school, it first has to go through the
9 licensure process at DPL in which they check
10 the curriculum to make sure it comports with,
11 in this case, what our standards are. They
12 check the instructors to make sure they are
13 qualified. Here in our regulations we set a
14 minimum standard for the instructors. And they
15 have whole other litany of other requirements
16 that they insure are in place prior to
17 licensing a trade school that would be helpful
18 in our case.

19 So, we are in many respects
20 deferring to them to oversee the school. What
21 these regulations do is that it sets out a very
22 clear curriculum for them to ensure is in place
23 because they don't have the specific expertise
24 relative to gaming issues to know what the

1 curriculum should be. So, they have asked us
2 to tell them what the curriculum should be.

3 And the companion to that is that
4 they ask that we set out some minimum standards
5 that should be applied to the instructors. In
6 here I think we said that each instructor shall
7 have at least five years practical experience
8 in the field that they want to instruct for.

9 But aside from that, we are largely
10 deferring to their program. If they were to
11 take action against a school, we would then
12 look to take action against that school based
13 upon that. And the same can be said for the
14 community college side of things. They have an
15 infrastructure in place by which they approve
16 courses and programs. And we are not
17 interfering, if you will, with that. We are
18 saying you go and do that. Once you are
19 approved to run the school as they've outlined
20 for the Commission on a number of occasions,
21 then come to us and we will go ahead and offer
22 you a certification.

23 And we've actually been in
24 communication with them on these regulations.

1 Obviously, we will look forward to their more
2 public comment but in general I think that this
3 comports with the program that they would be
4 comfortable with.

5 So, everything else included in here
6 is really just an infrastructure to make sure
7 that we can on an administrative level certify
8 the schools and decertify them if the need
9 arises. But the heart of this is in setting
10 the curriculum and the standard for
11 instructors.

12 CHAIRMAN CROSBY: So, is it accurate
13 to say that we will, the Commission will
14 license a school if it has been licensed by
15 DPL?

16 MR. GROSSMAN: Basically. There are
17 a few other things here but that is the heart
18 of it.

19 CHAIRMAN CROSBY: So, if you're
20 licensed by DPL and you come to us, it's
21 basically a rubberstamp process? All we're
22 doing here -- I mean these regs. could be DPL
23 regs., right? It's a little strange to have
24 them be our regs.

1 MR. GROSSMAN: DPL regs are far more
2 comprehensive than these.

3 MS. GRIFFIN: So, additionally,
4 we're collecting lists of gaming equipment as
5 required by federal law. We need to keep track
6 of where slot machines are and things like
7 that. So, there are additional requirements.

8 COMMISSIONER ZUNIGA: Yes. So, the
9 certification by DPL is a prerequisite to our
10 licensing. We are building on what DPL has for
11 the certification.

12 CHAIRMAN CROSBY: Do we have any
13 knowledge of how long their process takes,
14 where they are, what kind of a backlog they
15 have in terms of licensing such things?

16 COMMISSIONER ZUNIGA: Well, they
17 already have a lot of people that they've
18 licensed, a lot of schools.

19 MS. GRIFFIN: We've had several
20 conversations with them. And that hasn't come
21 up as an issue in terms of the backlog. I
22 think DPL expressed and requested that there be
23 clarity regarding the curriculum so that they
24 were -- and the instructor requirements so that

1 it wouldn't slow them down. But that hasn't
2 come up as an issue at all.

3 COMMISSIONER ZUNIGA: That's only
4 one side. Then there's the community colleges
5 that are then certified by -- What body
6 approves their curriculum? Is it the Board of
7 Higher Education?

8 MS. GRIFFIN: This is a little
9 tricky because the side of the house that the
10 community colleges most likely would be running
11 these trainings is their vocational. But in
12 order to receive federal funding, the community
13 colleges need to be certified by the Department
14 of Labor. So, we are using that.

15 COMMISSIONER ZUNIGA: Okay. Thank
16 you.

17 COMMISSIONER CAMERON: I had a
18 question about the in-house training done by
19 licensees and how these regs. would affect that
20 training.

21 COMMISSIONER STEBBINS: They're not
22 constrained by it.

23 MS. GRIFFIN: But that's really a
24 good question. We did clarify that that

1 training for licensee's employees is exempt
2 from these requirements.

3 MR. GROSSMAN: In fact, I think we
4 would expect that even once someone goes
5 through a program like this and they get hired
6 that there will of course be some training put
7 on by the gaming licensee. And that is not
8 something we are attempting to capture here.

9 COMMISSIONER CAMERON: Have we had
10 the conversation? I know that there was a real
11 switch, and this is in New Jersey, from
12 basically the community college doing most of
13 the training to the licensees wanting to do the
14 training, wanting to train their way. So,
15 there was less of a need, frankly, and less of
16 a demand because they were hiring people
17 without training without certifications and
18 training themselves.

19 I guess I'm concerned that someone
20 spends the money, gets the certification and
21 thinks okay, I'm all set. And then others who
22 have had no training are able to get that same
23 job very readily.

24 MS. GRIFFIN: There of course is no

1 guarantee when you get trained that you will
2 get a job. However, I think the strong
3 partnerships that the community colleges
4 especially are developing with our first
5 licensee and the applicants now is strong. I
6 would say that this also addresses the concern
7 that in Massachusetts this is an entirely new
8 industry and we don't have the same number of
9 folks who are trained in various professions
10 related to gaming that New Jersey did at one
11 time.

12 So, I would say this protects
13 Massachusetts residents who want to get
14 involved in this industry as well.

15 COMMISSIONER MCHUGH: And 137.03 of
16 these regulations which appears on page five of
17 the regulations in the middle of the page also
18 says, does it not -- also sets out, does it
19 not, a number of consumer protection devices
20 including a requirement that each of these
21 schools explain to the perspective enrollee in
22 explicit terms what the Commission's licensing
23 requirements are and that completion of a
24 course does not mean any guarantee of

1 employment, and requires disclosure of a number
2 of other kinds of things.

3 And that is consistent, is it not,
4 with what the Division of Professional
5 Licensure requires in other context and has the
6 mechanism to enforce and check on to make sure
7 that those things are in fact happening.

8 MR. GROSSMAN: I think that's right.
9 In fact, to take it even a step further, there
10 are regulations that are promulgated by the
11 Attorney General relative to consumer
12 protection in the arena of trade schools that
13 we also reference here and say are applicable
14 to these schools.

15 COMMISSIONER STEBBINS: I appreciate
16 certainly all of the work that Todd and you
17 Jill have done on this. This was laid out to
18 us in the statute as an optional, we may choose
19 to issue regulations related to training
20 schools.

21 But when I think back to our early
22 conversations with the community college who
23 wanted that exclusivity in terms of agreement
24 in terms of offering training, we weren't

1 predisposed to let them have that kind of
2 monopoly on the training system. And I
3 completely understand if you're somebody who
4 wants to get into this field that you don't
5 live near a community college what would your
6 other options be?

7 But for us to be able to take these,
8 overlay these with the things that DPL and the
9 other agencies already do already I think
10 speaks to the other provision in section five
11 of the statute which says we need to make sure
12 that we are providing a properly trained
13 workforce.

14 But I think the consumer protection
15 piece is well highlighted. DPL certainly would
16 have been on a longer road to try to undertake
17 this work if we hadn't laid out this prescribed
18 curriculum for a training school. So, it helps
19 them out in being able to, I think to the
20 Chairman's point, that they don't run up
21 against some time delays or a backlog. They
22 now have kind of a roadmap for us to follow
23 once these regulations are in place.

24 CHAIRMAN CROSBY: Just to finish up

1 my train of thought, we want to make this
2 process be as expeditious as possible. Be
3 appropriate, do the job but be expeditious.
4 And it feels to me a little bit like we've got
5 -- these folks are going to have to get
6 licensed twice. All of this stuff that they
7 have to put on their application to us they
8 will already have had to put on their
9 application to DPL.

10 It might be worth seeing what DPL's
11 process and regs. will be if they just lift
12 this. So, that the applicant just has to Xerox
13 what they send to DPL, now they can send it to
14 us once DPL approves them. It can keep the
15 bureaucracy to a minimum.

16 But I hate the idea of taking five
17 months to get a license/certified or more. And
18 that's worth talking about with DPL too. How
19 long does it take for this happen?

20 COMMISSIONER ZUNIGA: Are you
21 thinking of individuals or schools, Mr.
22 Chairman?

23 CHAIRMAN CROSBY: Schools. Maybe
24 there's only going to be three. I don't have

1 any idea what it's going to be. All along
2 we've been trying to figure out, working with
3 our Ombudsman to try to facilitate the
4 relationship for bidders and for municipalities
5 and for everybody else who's involved in the
6 process. That's all.

7 It just feels to me like you've got
8 to state agencies here that have thumbs in the
9 application process. It would've been nice if
10 there was only one. If there has to be two,
11 let's just make sure that we keep the
12 duplication to the barest possible minimum and
13 keep an eye on the timeframe and make sure that
14 we know that it's happening expeditiously.

15 There's one totally minor typo I
16 think on page two, paragraph four. The
17 sentence starts licensing deems an application
18 to be it says complete, I think it means
19 incomplete.

20 MR. GROSSMAN: That's right.

21 CHAIRMAN CROSBY: Other comments,
22 questions about this?

23 COMMISSIONER ZUNIGA: This starts
24 the formal promulgation process? What is the

1 next step after this?

2 MR. GROSSMAN: If you were to
3 approve it today, we'd file notice with the
4 Local Government Advisory Committee. Given the
5 fact that this does potentially impact small
6 businesses, we'll come back to you with a draft
7 small business impact statement to take a look
8 at for filing in two weeks with the Secretary
9 of State's office. And then schedule a public
10 hearing for approximately five or so weeks from
11 now.

12 CHAIRMAN CROSBY: Let me just ask
13 one more thing. When the application comes to
14 our Division of Licensing, and they show that
15 they have been licensed, I guess, by DPL, that
16 creates a tremendous presumption, right?
17 Basically then we've just got to add on a few
18 things but they're done.

19 MR. GROSSMAN: Yes. We address that
20 at least we tried to maybe not as clear as we
21 should on page two at the top. It's paragraph
22 four, the second sentence that the Division of
23 Licensing shall issue a certification to the
24 applicant upon a finding that the application

1 contains all of the elements described.

2 CHAIRMAN CROSBY: In the previous
3 paragraph, right.

4 MR. GROSSMAN: So, there's no
5 analysis or substantive review. If everything
6 is there and they're properly licensed then
7 presumptively they will be certified.

8 CHAIRMAN CROSBY: Okay, great. Do
9 we have a motion, Commissioner Stebbins?

10 COMMISSIONER STEBBINS: Mr. Chair, I
11 move that staff begin the regulatory approval
12 process for 205 CMR 137 gaming schools with a
13 small business impact statement to be presented
14 before the Commission in two weeks; is that
15 correct?

16 MR. GROSSMAN: Correct.

17 CHAIRMAN CROSBY: Is that right?

18 MR. GROSSMAN: Yes.

19 CHAIRMAN CROSBY: Second?

20 COMMISSIONER CAMERON: Second.

21 CHAIRMAN CROSBY: Any further
22 discussion on this motion? All in favor say
23 aye. Aye.

24 COMMISSIONER MCHUGH: Aye.

1 COMMISSIONER CAMERON: Aye.

2 COMMISSIONER ZUNIGA: Aye.

3 COMMISSIONER STEBBINS: Aye.

4 CHAIRMAN CROSBY: All opposed? The
5 ayes have it unanimously.

6 COMMISSIONER MCHUGH: When we next
7 take up this topic though, I would be
8 interested in following up on whether the
9 contents of paragraph three, 137.01(3) could be
10 employed by the DPL in their application so
11 that we simply have one application and it
12 moves through two stages. Maybe that's
13 possible, maybe it's not, but that's a good
14 suggestion and speeds up the process.

15 CHAIRMAN CROSBY: That's exactly
16 compatible with what I was trying to get at.

17 MS. GRIFFIN: We will look into
18 that.

19 CHAIRMAN CRSOBY: That's good.
20 Great. Okay. I think that's it Director
21 Griffin, anything else?

22 MS. GRIFFIN: I'm all set.

23 COMMISSIONER MCHUGH: Thank you.

24 CHAIRMAN CROSBY: Then we'll move to

1 item number four, research and problem
2 gambling, Director Mark Vander Linden.

3 MR. VANDER LINDEN: Good morning,
4 Mr. Chairman, Commissioners. I'm bringing back
5 before you today a discussion on and an update
6 to the responsible gaming framework.

7 I presented this initially to you
8 back in March. After that we opened it up to
9 public comment. We received comments from a
10 number of stakeholders within the gaming
11 industry including all of our applicants and
12 our one licensee, from the American Gaming
13 Association, from the National Center for
14 Responsible Gaming as well as some comments
15 from concerned citizens.

16 I would say that by and large there
17 was agreement and support of the general
18 concept of having a responsible gaming
19 framework in Massachusetts. And that would
20 include both the intent of it as well as the
21 general strategies of it.

22 For example, some of the -- I leafed
23 through the comments where we found consensus
24 in the document. Strategy one pertaining to

1 measures and commitments to corporate
2 responsibility, strategy two measures to make
3 information available through a variety of
4 practices and methods as well as self-
5 exclusion. Strategy three measures to restrict
6 access to underage persons and prohibit
7 unattended children. Strategy four there was
8 broad agreement to ensure responsible marketing
9 practices.

10 Strategy five prohibiting credit
11 card and debit card acceptors on gaming machine
12 platforms and banning ATMs from the gaming
13 floor. Strategy six engagement, generally
14 engaging the community. And finally, looking
15 at the requirement of licensees to develop a
16 responsible gaming plan.

17 However, from there, there was also
18 a fair amount of debate that ensued not
19 necessarily on the general overall strategies
20 but on the tactics or measures to move this
21 responsible gaming framework forward.

22 I appreciated all of the feedback
23 that we got from these stakeholders. I think
24 that there were several very good points that

1 were made. I would therefore recommend to the
2 Commission that there are several changes to
3 the tactics and I will just briefly outline
4 those right now.

5 Those would include measures to
6 limit the daily amount of points that a player
7 may receive on a reward card.

8 CHAIRMAN CROSBY: These are things
9 you're recommending amended from your original
10 draft?

11 MR. VANDER LINDEN: Correct. They
12 would be amendments that I would see would not
13 compromise the overall responsible gaming
14 framework, but still and ensure that a
15 responsible gaming strategy is in place for the
16 Commission and for our licensees.

17 So, it would include measures to
18 limit the daily amount of points that a player
19 may receive on reward cards. Removing the
20 requirement for a mandatory player card or
21 reward card. And then there were certain
22 aspects to the casino employee training that I
23 would recommend that we would change as well,
24 mostly in language and content of how that

1 training moves forward.

2 As an alternative to what I had
3 presented within the framework, I am in
4 conversation with a couple of different
5 entities including the Division on Addiction as
6 well as the National Center for Responsible
7 Gaming to explore what they are doing and what
8 they would recommend in terms of casino
9 employee trainings.

10 There were also other areas that I
11 think are much more ambiguous and that I think
12 would warrant a further discussion and debate.
13 So, I would propose to the Commission that we
14 engage a further discussion on the following
15 areas. Within strategy two of the draft
16 framework right now, there is a discussion of
17 responsible gaming features on gaming
18 platforms. And it includes a number of
19 different tactics that would fall kind of in
20 the informative messaging and player feedback
21 including behavior analytics theme.

22 I think that we need to have a
23 debate on both what is feasible in terms of
24 technology as well as what would be generally

1 accepted within Massachusetts. This is
2 basically the feedback that we got from the
3 applicants. And I would support that we would
4 have a further discussion on that.

5 Another area that I think requires
6 further discussion would be the availability
7 and use of pre-commitment tools. I think that
8 the research on this is somewhat ambiguous and
9 at certain points contradictory. It seems to
10 me like a reasonable strategy or tactic within
11 the responsible gaming framework, but I do
12 agree that before we proceed on this that we
13 would have further debate on that.

14 And the final one would be strategy
15 five. And there are several points within
16 strategy five which is containing high risk
17 financial transactions. And the areas that I
18 think we need to have further discussion on
19 would be house credit, restrictions or how
20 credit cards are used within a gaming
21 establishment and some of the check cashing
22 restrictions.

23 How we go about the debate or
24 discussion of those on these issues and which

1 issues we bring back up, I would more than
2 welcome any feedback and look to the advice of
3 the Commission.

4 Before we launch into that part of
5 the discussion, I would like to just kind of
6 highlight areas where I think where we found
7 sort of universal agreement and where perhaps
8 when we diverged what that was about.

9 So, theoretically I think that we
10 are all in agreement, and this came through
11 loud and clear through the feedback we received
12 that we need to move -- the best approach is an
13 evidence-based approach. One in which there is
14 peer-reviewed research that exists. That it's
15 been in practice and is proven. I absolutely
16 wholeheartedly agree with that.

17 I think that there are other areas
18 where the evidence is ambiguous or simply
19 doesn't exist. And that that does not
20 necessarily mean that we don't move forward or
21 that we do nothing and we allow it to just
22 proceed. This is where, as I discussed in
23 Appendix A within the memo that I'm presenting
24 before you, that we utilize a precautionary

1 approach.

2 One that says that if there is risk
3 that is there but there isn't evidence about
4 how to appropriately mitigate that risk that we
5 look at what options are available. And we
6 employ those options but we certainly take into
7 consideration the feedback from our licensees,
8 from our operator, from entities that perhaps
9 have a fair amount of knowledge on these
10 issues.

11 And once they are implemented, we
12 thoroughly evaluate the effectiveness of these
13 measures that we don't close the door on it.
14 That we evaluate it. We determine whether or
15 not it's something we want to keep as a
16 requirement.

17 So, with that I welcome any
18 feedback.

19 CHAIRMAN CROSBY: I think the
20 construct that you've laid out data based
21 evidence-based where possible with a
22 precautionary approach is helpful, because it
23 kind of creates a set of presumptions and it
24 gives us a framework in which to look at

1 issues. But as you're saying precautionary
2 approach is a word without meaning really.

3 It's got meaning but it's the
4 devil's in the details totally. And it's a
5 constant weighing. And you put this into your
6 memo, it's a constant weighing of the public
7 good on the majority experience versus the
8 potential risk versus the minority experience.
9 So, it's something that -- It's great. I like
10 the construct. It's just something we're going
11 to have to be very, very careful to think
12 through. It raises a lot of, which we do all
13 of the time weighing equities here with sort of
14 unknown values on both sides.

15 COMMISSIONER MCHUGH: But there's
16 also a middle ground, isn't there in some
17 areas, it may not be adaptable to all areas.
18 If there is peer-reviewed data that shows that
19 a measure is successful that's one thing. If
20 there is no data, one can do the precautionary
21 approach, put something in place and then see
22 what happens.

23 One can also invite participation by
24 the operator in a study in which in real

1 conditions data is collected in a
2 scientifically valid manner. That is a pilot
3 program goes into effect. And one looks after
4 a period of time at the results. And it seems
5 to me that is another way to proceed in areas
6 that would admit of a hard database solution.
7 They'll be some that won't. But in those areas
8 it seems to me worthwhile.

9 What we constantly encounter it
10 seems to me, is a belief that we ought to take
11 measure (A) a precaution and a resistance
12 that's based on we don't need this kind of
13 thing because it's not going to work or it's
14 not going to be effective. And the only way to
15 get by that is to get some agreed-upon matrix,
16 perhaps measured and overseen and judged by
17 some neutral third party in which you take a
18 look at what in fact happens.

19 So, I think that option, and I'm not
20 talking about implementation. I'm not talking
21 about specifics where it could work. I'm just
22 saying that that option ought to be kept in
23 mind.

24 CHAIRMAN CROSBY: Other folks?

1 COMMISSIONER ZUNIGA: Yes. I agree
2 with everything that's been said. And I also
3 understand and agree with your approach moving
4 forward. I think where the framework got a
5 little too prescriptive is where we're getting
6 some of this feedback in terms of how is it
7 going to work or that's not going to work, or
8 etc., etc.

9 So, I think the approach as you've
10 laid out I think is great. The next step
11 obviously is regulation, but I think we're
12 already getting a lot of good information on
13 how we move forward with that step.

14 But let's continue to think about
15 these strategies with everything that has been
16 said here.

17 COMMISSIONER MCHUGH: If I could
18 just jump in there, I think the last part of
19 Commissioner's -- all of Commissioner Zuniga's
20 thoughts were important but the last part
21 highlights a couple of the comments that I read
22 here in which the commentator said this ought
23 to be done by regulation and not through some
24 kind of a framework like this.

1 I think it should be explicit that
2 the framework is a policy judgment for
3 promulgation of regulations that will be
4 promulgated in the normal course and will
5 receive comments and the like. It is designed
6 to let everybody know, sort of an overarching
7 narrative the ends we're trying to achieve and
8 perhaps in some cases the tactics to get there.
9 But the formalistic process will be followed
10 with respect to each and every one of these
11 things that the Commission intends an applicant
12 to be bound by.

13 CHAIRMAN CROSBY: This was always
14 the intention. People misunderstood that, I
15 think. Clearly, we're planning on doing that.

16 COMMISSIONER MCHUGH: Well, it
17 wasn't clear to some of the applicant.

18 CHAIRMAN CROSBY: I understand that.
19 It was clear to us. This was meant to lay out
20 sort of theoretical and structural framework
21 which we would then follow. So, I totally
22 agree with you. And I think people now get
23 that. You've repeatedly said that in your
24 responses.

1 Others? There was a suggestion made
2 by at least one of the comments, and I don't
3 know where we are on this, that having a public
4 hearing on some of these issues where
5 proponents and opponents have a chance to
6 really hash these out in some detail.

7 That may ebb a little bit. That
8 interest may ebb a little bit because you've
9 already changed some of the recommendations
10 you're making on some of the more controversial
11 issues. But I think presumptively at least
12 that that would make sense.

13 These are very important issues. By
14 having a hearing, it raises the importance to
15 the public and to the press and everybody else.
16 And some of these issues are genuinely either
17 contentious or intellectually challenging
18 trying to figure out what's the right way to
19 go. So, where are you on that idea?

20 MR. VANDER LINDEN: I see three
21 options here. The top option is I think is
22 this sort of like let's hash it out in sort of
23 a public debate in order to try to find out --
24 to kind of filter out what the facts are, where

1 the data is and what may be agreeable to
2 Massachusetts. So, I think that that is
3 certainly one option.

4 Another option would be to have me
5 present to the Commission just kind of a range
6 of options on any specific issue from sort of
7 least restrictive to most restrictive.

8 The final option that I would see is
9 to send this back and utilize some type of
10 forum where the Commission, myself and anybody
11 else from the Commission would like to
12 participate would engage with the stakeholders,
13 most certainly the applicants and the one
14 licensee that we have but others as well. A
15 natural place for something that to happen
16 would be through the Mass. Partnership on
17 Responsible Gaming that is convened by the
18 Mass. Council on Compulsive Gambling.

19 All three of those I think seem like
20 very good options to me. I think that perhaps
21 it's a combination of those. There's certain
22 issues that I think lend itself very well to
23 that sort of public forum.

24 I think that discussion of pre-

1 commitment lends itself very well to the public
2 forum. I think a discussion of what types of
3 mechanisms or responsible gaming features do we
4 have on the gaming platforms on slot machine
5 platforms would be another great discussion to
6 bring to a forum.

7 I think where I'm less certain of
8 how it would play out in a public forum would
9 be something like where we talk about
10 containing high risk financial transactions.
11 The data is a little less clear. It falls more
12 to a policy sort of approach and ideally a
13 policy approach that would be agreeable to all
14 parties that would be doing business in
15 Massachusetts.

16 So, perhaps that would be something
17 that would be better suited to go to someplace
18 like the Mass. Partnership on Responsible
19 Gaming. I would say all of it could go in one
20 direction or another. I would open that up to
21 see where you all would like it to go.

22 CHAIRMAN CROSBY: Thoughts?

23 COMMISSIONER MCHUGH: There are
24 certainly a variety of approaches. First of

1 all, there are some comments that you have
2 received that you agree with and are going to
3 pose or make changes in the responsible gaming
4 framework on the basis of, right?

5 MR. VANDER LINDEN: That's correct.

6 COMMISSIONER MCHUGH: So, that's one
7 category that at the moment we don't need to
8 debate. You're convinced, you'll present it to
9 us and we'll in all likelihood approve it.

10 Then there are a variety that you
11 are undecided about. Then a set that you think
12 are not worth adopting. Did I get that right?

13 MR. VANDER LINDEN: That's correct.

14 COMMISSIONER MCHUGH: The variety
15 that you are undecided about surely would
16 benefit from a discussion of some kind so that
17 we all could have a conversation with all of
18 the stakeholders.

19 What about the ones that you are --
20 the suggestions that you think are unwarranted,
21 how would you deal with those?

22 MR. VANDER LINDEN: As I look
23 through the ones that I don't recommend that we
24 would move forward with, very few of those

1 actually have to do with very specific tactics
2 and more sort of general approaches to items.
3 There are recommendations that are in there
4 that I don't see where we would move forward
5 with it that we need to adopt a framework.
6 We've committed to adopting a framework. We've
7 committed to strategies, to identifying
8 strategies and it's the tactics where we would
9 need to find some consensus on.

10 So, wherever there is disagreement
11 on tactics, I would say that we would move
12 forward with that. But where I wasn't
13 recommending any changes didn't really
14 necessarily have to do with tactics.

15 CHAIRMAN CROSBY: So, is that by way
16 of saying that your sense is we probably ought
17 to have a public hearing on which ever the
18 issues are that remain open?

19 MR. VANDER LINDEN: A public hearing
20 or some type of further discussion with, as
21 discussed with Commissioner McHugh, we need to
22 have an endpoint. We need to come to a point
23 where we make a decision on these.

24 So, whether that be through a public

1 hearing relatively soon or some type of meeting
2 of all of the stakeholders that have bearing
3 opinions on these to try to come up with a
4 position that would meet the intent of the
5 responsible gaming framework as well as the
6 interests of other parties. It could be an
7 interesting discussion.

8 COMMISSIONER ZUNIGA: It occurs to
9 me, and this tries to dovetail into
10 Commissioner McHugh's point, but it occurs to
11 me there is a natural next one -- next step
12 that you mentioned that could be very useful
13 for whatever can be addressed there and that's
14 the partnership. If it's not a public hearing
15 but a better understanding among the parties as
16 to what we are talking about strategy versus
17 tactics, there could be a lot of good feedback
18 there.

19 MR. VANDER LINDEN: May I make a
20 recommendation that we utilize the Mass.
21 Partnership for Responsible Gaming? The entire
22 framework comes back before the Mass.
23 Partnership on Responsible Gaming and all of
24 the stakeholders there. We identify the areas

1 in which it makes -- that we would need to have
2 that sort of level of further discussion on.
3 Or we decide where we may be able to have a
4 discussion within the context of that group to
5 come to a recommendation that can then be
6 presented as an option to the Commission. It
7 goes back at that level sort of line by line.

8 CHAIRMAN CROSBY: You all would try
9 to work out an agreement at that level and that
10 might take care of everything. Then you can
11 come back either with a recommendation with
12 everything dealt with or if there was still
13 open issues, we could decide whether we wanted
14 a public hearing on those.

15 MR. VANDER LINDEN: Correct. I am
16 confident that there are certain issues that we
17 can find some level of agreement on or that
18 there already is agreement on. And I'm
19 confident that there are going to be issues
20 that we are going to want to have a debate on.

21 CHAIRMAN CROSBY: Right. That
22 sounds reasonable to me.

23 COMMISSIONER MCHUGH: That group
24 represents all of the stakeholders. I mean it

1 includes all of the stakeholders, right?

2 MR. VANDER LINDEN: Correct.

3 COMMISSIONER STEBBINS: Makes sense.

4 COMMISSIONER MCHUGH: I agree that's
5 the next logical step.

6 COMMISSIONER ZUNIGA: Let's do that.

7 CHAIRMAN CROSBY: Great.

8 COMMISSIONER CAMERON: Makes sense.

9 CHAIRMAN CROSBY: I had a few other
10 questions. We got a letter, an email and
11 Counselor Blue got this also about whether the
12 law precludes ATMs in the casinos anyway
13 somewhere else. Remember this document from a
14 Mr. Paul Stein in Westport? Have you had a
15 chance to look into that?

16 MS. BLUE: We've started to look
17 into it. We haven't completed our review yet,
18 but we will.

19 CHAIRMAN CROSBY: It was a very
20 interesting observation from this guy and it
21 needs to be checked out.

22 COMMISSIONER MCHUGH: The thrust of
23 that is that the banking rules prohibit ATMs in
24 places where gambling is.

1 CHAIRMAN CROSBY: Right. The law
2 was passed way back, back at the beginning of
3 the lottery where it said that you can't have
4 ATMs -- Essentially, it said you can't have
5 ATMs in any facility where there is legalized
6 gambling except the lottery. And we aren't
7 sure whether that is still on the books or
8 whether that's been amended somehow or other.
9 But that would be helpful.

10 Actually, we'll be sending up -- I
11 don't know if we'll have a chance to do this,
12 but we'll be sending up our legislative
13 proposal next week. It'd be nice if we could
14 include it but not essential. Okay, thanks.

15 I had a bunch of questions about
16 where you are coming down on a lot of the
17 issues that were raised here. But maybe that's
18 not worth going into at this point. Given the
19 two steps that we're going to be taking, maybe
20 I'll just sit tight on that and hold it until
21 we see where you end up after you've had your
22 partnership meeting.

23 MR. VANDER LINDEN: Great. If I
24 may --

1 COMMISSIONER MCHUGH: Let's just
2 follow up on that point. This matrix that you
3 presented would be also a matrix in essence
4 that the responsible gaming group would look
5 at, right? That would be sort of the agenda
6 for the discussion.

7 MR. VANDER LINDEN: That's correct,
8 yes. If I may, there's two entities that were
9 not -- I guess Marlene would be able to speak
10 more directly to this. -- but that are not
11 members of the Mass. Partnership on Responsible
12 Gaming, which would be the American Gaming
13 Association and the National Center for
14 Responsible Gaming, both of whom provided
15 feedback to this. And I would make sure that
16 it's an open -- I would recommend that we make
17 an open forum for this discussion but still
18 convened by them.

19 Other stakeholders as well who may
20 want to come to the table on this. I don't
21 want to exclude anybody that feels that they
22 have an interest in seeing this through.

23 CHAIRMAN CROSBY: Absolutely.

24 COMMISSIONER MCHUGH: Right.

1 CHAIRMAN CROSBY: Anybody else need
2 a break? We are going to try to complete item
3 number five before our lunch break. So, maybe
4 a little bit of a late lunch break. But before
5 we go to item number five, let's just take a
6 brief break. We will be right back.

7

8 (A recess was taken)

9

10 CHAIRMAN CROSBY: I think we are
11 ready to reconvene the 121st meeting at about
12 noon on May 15. And we will go directly to
13 item number five, administration, Executive
14 Director Day.

15 MR. DAY: Thank you, Mr. Chairman
16 and good afternoon. Just a couple of little
17 notes relative to a general update. Human
18 Resource office and horse racing now have
19 filled 31 positions. We have filled our
20 desktop support and gaming agent assistant
21 director pending backgrounds. So, we are
22 excited. It looks like we're going to have
23 some people on board to fill those positions.

24 CHAIRMAN CROSBY: Did you say

1 assistant director?

2 MR. DAY: Assistant director for
3 gaming agents.

4 CHAIRMAN CROSBY: For gaming agents,
5 right.

6 MR. DAY: And we've identified a
7 good pool of applicants for financial
8 investigators. So, I think we're going to be
9 able to find the resources we need to get
10 started on that more aggressively.

11 CHAIRMAN CROSBY: These are
12 financial investigators for IEB?

13 MR. DAY: That's correct. Also, our
14 independent review on financial policy and
15 comparison of travel policy and our project to
16 develop a new policy structure and
17 accountability system, all three of those are
18 well underway. And we are going to be looking
19 forward to those results. And also our
20 contractor and staff team are continuing with
21 development of our licensing management system.
22 And we expect to begin demonstration and
23 testing next week.

24 COMMISSIONER MCHUGH: Next week,

1 that's great.

2 MR. DAY: Closing in here. And then
3 if I might, if the Commission would refer to
4 tab five, just to add a couple of introductory
5 comments. You might recall that on April 17 we
6 had a discussion -- 5b, excuse me, April 17 we
7 had a discussion monitoring process scheduled.
8 But due to time constraints, Jennifer Pinck
9 only had a few minutes to do a quick summary.
10 And we were out the door.

11 So, we invited Jennifer back here
12 today to provide an update, because now we're
13 about four weeks into that part of the project.
14 So, we thought an update might be a good idea
15 as well to take a few minutes with the
16 Commission to touch on monthly report.
17 Jennifer.

18 MS. PINCK: Good afternoon,
19 Commissioners. I will spend a few moments
20 giving you an update on where we are and what
21 we are working on both with Executive Director
22 Day and the Commission staff and Penn, all
23 which is closely related.

24 We did have on April 22 an initial

1 meeting with Penn. It was Penn staff, the OPM
2 team and Turner Construction to talk about the
3 way going forward. And you'll see in the notes
4 that we talked about really what was our role
5 going to be, the purpose and intent of the
6 oversight project management role. How they
7 break down organizationally and what their
8 approach would be to the design and
9 construction.

10 We talked with them about reporting,
11 who was reporting and when are we reporting and
12 the content of reporting, some of which you'll
13 see is pretty well established. And just to
14 summarize, we are reporting monthly to Mr. Day.
15 The licensee will report quarterly to you. We
16 will review those in advance.

17 We talked about the information that
18 we are going to require to really do our
19 monitoring, because that's really what the role
20 is. It's monitoring. And it has to do a lot
21 with hiring, contracting, permitting, schedule
22 and etc. And we also had a discussion about
23 where are they on their design the construction
24 progress.

1 They were just about to authorize
2 some contracts to be awarded or Turner to award
3 contracts. They explained their reproach to
4 what we call the construction delivery method.
5 They call it design build. We in Massachusetts
6 often call it fast-track, which means that as I
7 think we discussed in earlier meetings that
8 they will be starting the foundation before
9 they finished designing the interior lighting.
10 And that makes perfect sense if you are -- have
11 a very aggressive schedule which they do.

12 The alternative is what's known as
13 design, bid, build. You finish your design.
14 You put it out to bid and then you start. But
15 under the circumstances, they have a lot of
16 incentive to finish soon. And we would like
17 them to. So, they have an aggressive schedule.
18 So, they are taking that design build approach
19 as they call it and we would call it fast-
20 track.

21 We discussed schedule, which is a
22 big topic. And they committed to have by May
23 15 a preliminary schedule for our review. It
24 will be detailed, but preliminary. And I spoke

1 with the Penn staff earlier. We will have it
2 today. They said at the end of the day. So,
3 we will really dig into it because the intent
4 is for them -- for us I should say to present
5 to you the schedule at the May 29th meeting
6 where they will present -- we will have not
7 probably bring probably a two to 300-page
8 schedule, but we will bring what's known as a
9 high-level schedule, which has all of the key
10 tasks, all of the major milestones and all of
11 the deliverables so that you can see what their
12 approach is.

13 The schedule we are asking them to
14 deliver is a little bit different than they've
15 been accustomed to, because we're asking them
16 to not just include design and construction
17 activities, but other kinds of activities that
18 are required, for example, to open the
19 facility. The surrounding community
20 agreements, for example, require them to do
21 baseline traffic studies prior to opening the
22 facility.

23 So, we want to have that in this
24 master schedule. We want to have it on the

1 critical path. We don't want them and they
2 don't want, I'm pretty sure, to go, oops, a
3 week before they're supposed to open and we
4 didn't do this baseline traffic study.

5 So, there are other things that one
6 might not normally see in a construction
7 schedule that we have indicated and they have
8 agreed should be in there, so that you'll have
9 the comfort and we'll have the comfort that
10 they understand what it takes to build, design
11 -- design, build and open the facility.

12 Again, we are expecting the draft
13 schedule for our review. We're going to really
14 dig into it as soon as we get it tonight. We
15 also since then, we are working on the program
16 management plan which I really, really raced
17 through at that last meeting that Mr. Day
18 referred to. We should have a good draft of
19 that for Mr. Day to look at early next week.

20 Part of our challenge in that or the
21 task in that was to describe, for example, a
22 few things that were policy level. One of them
23 was a variance process. We expect that there
24 may be times when a variance is going to be

1 sought by the licensee. And keep in mind that
2 we're looking at this PMP to apply not just to
3 Penn but also to the Region A, Region B and
4 Region C.

5 So, the complications that may --
6 the permutations that a licensee may go through
7 on some of the other developments may be a lot
8 more, for example, than Plainville or Penn.

9 But the various process that we've
10 submitted to the staff to look at requests that
11 if the licensee wants a variance that they
12 really need to describe what the change or the
13 relief is, the reason for it. What condition,
14 commitment or document references the basis for
15 the variance. What other elements of the
16 gaming facility might be impacted if the relief
17 is or is not granted. State if the relief will
18 impact the critical path schedule. And if so,
19 they have to provide us with the detail so we
20 can understand if there is a schedule
21 implication.

22 We want to know if the relief
23 requested will affect workforce or supplier
24 diversity. And we want to know if this relief

1 would impact the cost or cause the value of the
2 work to fall below the minimum investment. So,
3 we're asking for them to really lay out this in
4 some detail.

5 We've anticipated the situations
6 which may require a variance. And those might
7 be an alteration in design, which would impact
8 safety, security of the gaming operations, or
9 are non-compliant with the statute, regulation,
10 RFA-2, their application or other commitments.
11 Significant alterations in design, unless they
12 are necessitated by approvals from other
13 regulators.

14 We still want to know about them,
15 but we might expect that a MEPA certificate or
16 a local planning board may require some
17 adjustments. So, we're suggesting that those
18 would not require a variance but we will
19 require them to report on them in their
20 quarterly report. And we'll be keeping the
21 staff apprised of them on a more month-to-month
22 basis.

23 Schedule changes which would extend
24 the opening by more than one month. And

1 changes in construction not otherwise regulated
2 by law or permit, which would impact the
3 community or violate a portion of a host or
4 surrounding community agreement.

5 COMMISSIONER ZUNIGA: Jennifer could
6 you repeat those? Is that anywhere in the
7 packet, by the way, any of your remarks?

8 MS. PINCK: No, it hasn't made it to
9 the packet yet. It's in draft.

10 COMMISSIONER ZUNIGA: Can you
11 highlight the variances again, the instances
12 where you see a variance.

13 MS. PINCK: This is sort of the
14 realm that we see might happen. I do think it
15 is going to require some judgment. We may not
16 anticipate them. But the thinking is the
17 alterations in design, which might impact
18 safety or security of the gaming operations,
19 and are non-compliant with the statute,
20 regulations RFA-2, their application or other
21 commitments. It's a pretty broad category
22 there. Alterations in design unless
23 necessitated by approvals from other
24 regulators.

1 COMMISSIONER ZUNIGA: What level of
2 design do we have currently?

3 MS. PINCK: We have schematic, I
4 would say somewhere between concept and
5 schematic is what came with RFA-2.

6 COMMISSIONER ZUNIGA: How will we
7 judge an alteration in design?

8 MS. PINCK: That I think is sort of
9 the \$64,000 question. What constitutes a
10 change? Clearly, a different height is an
11 alteration. And I'll use Plainville as an
12 example.

13 Right now they said there will be a
14 direct connection from the garage to the gaming
15 establishment. What if they said we don't want
16 to do that anymore? To me that would
17 constitute a significant change.

18 I am not weighing in on the merits
19 of it, but I'll just go through that. What if
20 they said that they, for example, their
21 approach to renewable energy was significantly
22 different within what they had submitted with
23 RFA-2 and it would have an impact on the
24 design. That might warrant a variance.

1 COMMISSIONER ZUNIGA: Yes. The easy
2 examples are the tail ends are very easy to
3 kind of get our minds around. It's the
4 continuum that starts to be more of a judgment
5 call.

6 MS. PINCK: Exactly. I think that's
7 been the issue that I've been struggling to
8 define well enough so that we'll know it when
9 it happens.

10 COMMISSIONER ZUNIGA: Have we asked
11 or can we take steps towards having a document
12 like a basis for the design, you know, a
13 narrative of things like the garage as
14 represented in the drawings will connect
15 directly to the gaming floor?

16 MS. PINCK: We actually have a
17 checklist that we are working from. I would
18 not call it the basis of design, but I would
19 call it a checklist where they said they will
20 use locally sourced materials, where they will
21 park -- they'll have four charging stations for
22 electric vehicles close to the front door and
23 those kinds of things. So, we have that
24 checklist.

1 We've developed it. We culled it
2 from the RFA-2 application.

3 COMMISSIONER ZUNIGA: Great, I'd
4 love to see that at some point.

5 MS. PINCK: Again, some of this will
6 rise I think to the level of variance and some
7 may not.

8 COMMISSIONER MCHUGH: So, what do
9 you anticipate will be the variance approval
10 process?

11 MS. PINCK: We expect that the
12 variance approval process will be them
13 submitting to us a request for a variance which
14 outlined the things that I previously
15 mentioned.

16 And what we will do is we are going
17 to perform an initial review for completeness
18 and for the justification. And we're going to
19 review it and forward it to the MGC for
20 approval. We're suggesting within five
21 business days or we will promptly notify the
22 licensee if we need more time or information,
23 because we don't want to be the cog in the
24 wheel. We think these things need to get

1 moving along quickly.

2 We are going to submit them to the
3 Executive Director or his designee with an
4 assessment and an initial recommendation. We
5 are suggesting that a copy of this request will
6 also be forwarded to the General Counsel
7 simultaneously. And that the Executive
8 Director will approve or reject each request
9 and notify the licensee in writing within -- we
10 haven't settled on exact number of days, but
11 promptly or if additional information is
12 needed.

13 And that the General Counsel will
14 determine if an approved variance will
15 necessitate an amendment to the license
16 conditions, and if so prepare the same for
17 licensee review and execution.

18 We also anticipate that the
19 Executive Director will with our consultation
20 consider whether this variance request should
21 rise to the level of Commission review and
22 approval. So, that's the frame for it.

23 COMMISSIONER MCHUGH: This is all
24 going to be in writing.

1 MS. PINCK: Yes.

2 COMMISSIONER MCHUGH: That answers
3 my question. I was just wondering what happens
4 if the building height goes from 400 feet to
5 560 and who gets to have the final say on that.
6 All right.

7 MS. PINCK: So, we've done that.
8 Also, we've met over the last few weeks with
9 staff and with Penn to discuss Gaming
10 Commission on-site office space requirements
11 whether it's IEB, Licensing, Racing and other.
12 And we have another meeting scheduled for next
13 Monday with Penn and the Executive Director to
14 talk about that.

15 Very quickly, talking about what's
16 really going on-site. Construction has
17 commenced with earth-moving activities. They
18 are moving dirt out there. And or monthly
19 report that we will be submitting to the staff
20 will include a few pictures just so people can
21 see what's actually going on we expect to have
22 shortly.

23 One of the things that we have been
24 doing with Penn is trying to coordinate the

1 timing of the information they will receive
2 from Turner with the reports that we're going
3 to submit. So, we're trying to blend that
4 seamlessly so we're not making people jump
5 through extreme hoops on getting data to us
6 which they have to get to other individuals
7 anyway. So, mid-month is our targeted date for
8 the monthly report.

9 In terms of the monthly report,
10 you'll see the template that we have in here,
11 which I think is a good beta test for the
12 ongoing OPM responsibilities that we will have
13 in Plainville and in other regions.

14 The idea really is to give you and
15 the Executive Director a high-level summary of
16 what's going on, an assessment of the schedule.
17 Highlight what approvals are needed by the
18 Gaming Commission staff because there are a lot
19 of items that Gaming Commission staff do need
20 to approve.

21 High-level summary on permits and
22 approvals, an update with surrounding community
23 and host community issues which we expect and
24 hope to be very minimal. And then supplier

1 diversity and workforce participation.

2 The final pages in this have a
3 project cost update, which I think we are
4 expecting we will only report on quarterly. We
5 don't expect that there will be that many
6 changes from quarter to quarter on the value of
7 the minimum investment and any procurement
8 they're doing or design changes that would
9 really significantly alter that.

10 And then at the end, if there are
11 any variances, report on those and any requests
12 for information which are outstanding so that
13 we can see what they are. We do propose to
14 implement a request for information process
15 between the staff and Penn having to do with
16 design and construction.

17 We were going to put the door and
18 the Mass. State Police next to X, Y and Z. We
19 need to move it to the other side of the wall.
20 Is that okay? And we'll monitor this
21 information going back and forth. That's a
22 very pedestrian one but there's security
23 surveillance so that they don't fall through
24 the cracks in terms of Penn getting the

1 information it needs on a timely basis and you
2 getting the information you may need from them.

3 COMMISSIONER ZUNIGA: So the RFI
4 here, you're going to be tracking RFIs between
5 us and Penn not between say Penn and Turner or
6 their architect?

7 MS. PINCK: No. We'll see them.
8 We'll be monitoring them because they're going
9 to give us everything that they're producing
10 out there. I don't propose that we would be
11 submitting that to you. That could be hundreds
12 of pages.

13 And we are going to be trying this
14 report template out and we'll see how it works.
15 I think so far Penn has been very corporate.
16 We have been asking them for more information
17 they have said than any other jurisdiction.
18 So, they are getting acclimated or getting
19 adjusted to being able to give us the stuff we
20 need on a timely basis so we in turn can report
21 on it to the staff.

22 CHAIRMAN CROSBY: Do you know what
23 we are asking for that others don't?

24 MS. PINCK: What I have understood

1 is that a lot of what they have said is
2 occasionally is schedule and cost.

3 CHAIRMAN CROSBY: Is what people
4 typically ask for.

5 MS. PINCK: What they were saying
6 was cost but this is a little bit anecdotal
7 conversation we had in a meeting.

8 CHAIRMAN CROSBY: Comments,
9 questions?

10 COMMISSIONER ZUNIGA: So, you'll be
11 getting, I guess, at close of business today
12 the preliminary schedule?

13 MS. PINCK: Yes.

14 COMMISSIONER ZUNIGA: Do you know
15 if they've issued already the notice to proceed
16 formally?

17 MS. PINCK: What they've authorized
18 as they said earlier today we heard about \$18
19 million or \$17 million worth of work to
20 commence.

21 CHAIRMAN CROSBY: Great. Other
22 comments? I thought the template looked really
23 good. If you can really winnow the information
24 down to these bullet points, like we were

1 talking about on the licensing of schools, if
2 you can try to do it with a minimum of
3 bureaucratic imposition on these folks.

4 A lot of it has to do with starting
5 out right so that their systems are easily tied
6 to what we're trying to get so it isn't real
7 terrible pain for them. But I liked the
8 template. I thought really it's a dashboard
9 type device which I thought on the face of it
10 really good.

11 MS. PINCK: Thank you.

12 CHAIRMAN CROSBY: Just on your
13 project your May 12 update, just a couple of
14 minor things. We do also have a mandate under
15 the legislation that the license holder must
16 provide space for various kinds of services
17 having to do with problem gaming. We haven't
18 figured out yet what if anything we want to do
19 with that space, but they do have to offer it.
20 So, it's something just to keep on the
21 checklist.

22 Also, under license deliverables
23 develop plan to market to unemployed residents
24 90 days from award. Isn't that 90 days from

1 award the entire affirmative action plan that's
2 due? Why did you single out?

3 MS. PINCK: This is in the license
4 condition. I think it comes from the
5 regulations. It's within 90 days and I believe
6 it has to do with this is focused on operations
7 not employment.

8 CHAIRMAN CROSBY: Right. It is.
9 But I just I thought it was broader. Do you
10 know this, Commissioner Stebbins? I thought it
11 was the broader plan for all kinds of staffing
12 obligations.

13 COMMISSIONER STEBBINS: No. What
14 Penn did, what we required in the license was
15 within 30 days of the award of the license the
16 affirmative marketing plan for design and
17 construction, they added in I think employment
18 in that and then we gave them 90 days to do the
19 full operational viewpoint.

20 CHAIRMAN CROSBY: It's not just the
21 plan for unemployed residents, it's the whole
22 requiring outreach plan.

23 COMMISSIONER STEBBINS: Right.

24 CHAIRMAN CROSBY: Anything else for

1 Ms. Pinck?

2 COMMISSIONER MCHUGH: I too think
3 this is a comprehensible and succinct template.
4 Just for information purposes, it would be
5 helpful -- Is this going to be posted on the
6 website? I was thinking that I would like to
7 just for information purposes see some of these
8 things, see actually this template on a monthly
9 basis. I don't anticipate an action item.

10 MS. PINCK: I think as our reports
11 on the project coordination, twice a month we
12 submit a report to the Executive Director who I
13 think distributes this internally. And I
14 believe the intent is to do the same for this.

15 CHAIRMAN CROSBY: We would certainly
16 want to see this every time it comes out. And
17 I think we would want to coordinate with our
18 Director of Communications, because this is
19 information the public is going to be
20 interested too.

21 MS. PINCK: Then the public report
22 is the quarterly reporting which Penn will do
23 and we'll be at the table with them.

24 COMMISSIONER CAMERON: Question,

1 have we had anyone take a look at their
2 schematic what they intend as far as best
3 practices in security, surveillance? Meaning I
4 know there's real level in New Jersey anyway of
5 detail with money rooms, locations, movement of
6 money, armored cars beneath the facility. So,
7 there really are best practices. And I just
8 didn't know if we had had anyone take a look.

9 MS. PINCK: We are starting the
10 discussion. And we plan to facilitate that
11 conversation but we have talked for example
12 just about armored cars, we had a meeting with
13 the State Police.

14 COMMISSIONER CAMERON: Right. But
15 I'm thinking we probably here in the
16 Commonwealth do not have that knowledge. And
17 someone like Michael and Carroll may be able to
18 be helpful where they've overseen build of
19 projects.

20 MS. PINCK: And we also as a
21 resource on our team is HLT who have been
22 engaged on the financial analysis, but they
23 really are gaming operations specialists from
24 the finance and the physical building. So, we

1 do have the resources and it's on our radar
2 screen.

3 CHAIRMAN CROSBY: Okay.

4 COMMISSIONER ZUNIGA: Our
5 regulations call for them, if I remember
6 correctly, to submit architectural plans as
7 early as they have them available, which is why
8 I was asking relative to where they may be in
9 the schematic design phase. So, when we are
10 able to get those drawings, we'll be able to
11 forward them to some of our experts as well and
12 start to have those discussions.

13 MS. PINCK: And that's why we are
14 anxious to get the schedule so we can see when
15 do these pieces of the puzzle come to us,
16 making sure there is enough time for review.
17 Because to the extent that they need approval,
18 we want to have the thorough time to review
19 them and return with comments or return them
20 approved. So, that's a big part of the
21 schedule concerns that we have.

22 MR. DAY: We're also pretty
23 confident that as our new assistant director
24 comes on, he has specific experience in opening

1 facilities, has been involved in all phases of
2 surveillance and security. So, I think it will
3 be very helpful as well.

4 COMMISSIONER MCHUGH: Good.

5 MS. PINCK: I have one more, if I
6 might add. I'd like to introduce you. Some of
7 you may not have met my staff Dane Wigfall
8 right here whose responsibility is the
9 Plainville site. He'll be down there a good
10 bit of the time. I think he has met a couple
11 of you informally but he comes to me -- He is
12 also a Massachusetts transplant. He came from
13 the West Coast. He's been here about 12 years.
14 You'll be hearing from him in the coming 15
15 months.

16 CHAIRMAN CROSBY: He's not from Iowa
17 though.

18 MS. PINCK: No, California.

19 CHAIRMAN CROSBY: Thank you.

20 COMMISSIONER MCHUGH: Thank you very
21 much.

22 CHAIRMAN CROSBY: Next up?

23 MR. DAY: That should get us to tab
24 5c. What we're here with the Commission this

1 afternoon is to request approval and authority
2 to file with Secretary of State the assessment
3 arbitration which is the amendments that were
4 made to that regulation for the fundamentally
5 inconsistent process and as well the self-
6 exclusion regulations.

7 I might add that there was no
8 comment at the hearing for these regulations.
9 And we did have one written comment, which is
10 included in your packet from Penn, which I'll
11 briefly refer to and do my best - I believe
12 we've addressed every point that Penn raised.
13 And that will only take a few minutes.

14 Also within your packet would be the
15 amended small business information sheet that
16 legal has also provided.

17 I might have you go ahead and take a
18 look at the packet, in particular the
19 regulation. And I'm not going over the
20 assessment and the arbitration regulation, but
21 I'll touch real quickly on the voluntary self-
22 exclusion.

23 COMMISSIONER MCHUGH: Could I just
24 ask about the assessment? That's 205 CMR 121.

1 MS. BLUE: And 118 as well. The two
2 amendments are together.

3 COMMISSIONER MCHUGH: That's right.
4 But I forgot now, those are in effect on an
5 emergency basis now?

6 MS. BLUE: Yes, they are.

7 COMMISSIONER MCHUGH: And the
8 fundamentally inconsistent 205 CMR 125.01(6)(c)
9 is also -- that's part of it. That's in effect
10 as an emergency regulation as well.

11 MS. BLUE: That's correct.

12 COMMISSIONER MCHUGH: We've been
13 through those. Okay. Thanks, I'm up to speed
14 now.

15 CHAIRMAN CROSBY: Before you go on,
16 I had two quick things and forgive me because I
17 know we've been through this lot. At the
18 beginning of the fees 121.01 paragraph three.
19 The following fees are due and payable to the
20 Commission for each gaming establishment. This
21 is really minor, but it seemed odd to me to
22 refer to the gaming establishment as opposed to
23 the licensee. The payments aren't from the
24 gaming establishment, it's from the licensee.

1 Is there a reason why you wrote it that way?

2 MS. BLUE: We wrote it that way
3 because there's a distinction in some of the
4 fees as between positions -- some of them are
5 based on different calculations. So, the way
6 to capture all of that was to refer to it as a
7 gaming establishment as opposed to the
8 licensee.

9 It's to reflect how they're
10 calculated. So, certain fees, the slots fees
11 are based on positions. The assessment is
12 based upon positions per gaming establishment
13 per licensee. It was simpler to use that as a
14 catchall.

15 CHAIRMAN CROSBY: Okay. Then I
16 wondered whether on 121.04 the Commission
17 annual budget. We have discussed and I think
18 agreed that the idea of submitting the budget
19 in some way to our licensees so that they have
20 an opportunity to review it and interact with
21 us on it would be constructive.

22 Would it make sense to add some such
23 reference? I'm asking everybody. Would it
24 make sense to add some such reference to that

1 just to sort of formalize it?

2 COMMISSIONER ZUNIGA: I would
3 dissuade us from trying to do that in
4 regulation. I think we have lot of discretion
5 to set up these processes by normal course of
6 administration. But the format and venue and
7 composition of these kinds of things could very
8 well vary from year to year. And I would hate
9 for us to have to amend regulations just to
10 comply with that approach.

11 So, I would be in favor -- I think
12 it's a great idea, but I would be in favor of
13 not including that in regulation.

14 MS. BLUE: And I believe when CFO
15 Lennon came before you, he talked about a
16 policy that was in place to support these
17 regulations. And one of those things would be
18 in the policy which would be how he shares it
19 with the licensees.

20 COMMISSIONER MCHUGH: I agree that
21 at least at the outset the kind of flexibility
22 inherent in Commissioner Zuniga's approach and
23 the current regulation is preferable. This is
24 a staff developed thing that comes to us after

1 the staff has approved it.

2 Where the proper place for that
3 licensee input is, what form it takes, how one
4 deals with the open meeting law with respect to
5 that, all of those are complicated. And it
6 seems to me we ought to go step by step here,
7 think them through and then make an amendment
8 to regulations if we need to, but at least
9 start off this way.

10 CHAIRMAN CROSBY: Fine. Okay that
11 was it for me.

12 MR. DAY: Shall we move to self-
13 exclusion or any other questions?

14 CHAIRMAN CROSBY: I think so, yes.

15 MR. DAY: One thing I would like to
16 note, we'll see there's red in the document,
17 but one of the changes has been to basically
18 add the pari-mutuel simulcasting wagers
19 language all of the way through the policy so
20 that it is clear that it applies as well to our
21 racing side.

22 Then if you go, actually I think
23 it's the last document right behind the red is
24 a letter from Penn National.

1 COMMISSIONER MCHUGH: Can I just
2 stop you there for a minute? That means, and
3 maybe we already discussed this and I apologize
4 if I wasn't mentally present during that
5 discussion. That means if somebody requests
6 exclusion from a casino, they are excluded from
7 the racetrack. And vice versa, if somebody is
8 excluded from the racetrack, they're excluded
9 from the casino; is that right?

10 MR. VANDER LINDEN: They would be
11 excluded from placing a wager at the horse
12 track, not from the actual establishment
13 itself.

14 COMMISSIONER MCHUGH: If they're on
15 the casino exclusion list, they can't go in the
16 casino.

17 MR. VANDER LINDEN: They can't go
18 onto the gaming area of the gaming
19 establishment.

20 COMMISSIONER MCHUGH: Gaming area,
21 okay. So, if they ask for exclusion from the
22 casino, the gaming area, then what are they
23 excluded from at the track?

24 MR. VANDER LINDEN: It would be

1 excluded from basically placing a wager at the
2 racetrack.

3 COMMISSIONER MCHUGH: They could go
4 watch the race, sit at the restaurant, look at
5 the simulcast screen but not place any wagers.

6 MR. VANDER LINDEN: That's correct.

7 COMMISSIONER MCHUGH: So, it's not
8 possible for -- Just a final question. It's
9 not possible for a person to say I want to be
10 excluded from the casino, but I want to be able
11 to place a bet on a horse?

12 MR. VANDER LINDEN: It would be a
13 regulation that would apply to both.

14 COMMISSIONER MCHUGH: Okay. Got it.

15 COMMISSIONER CAMERON: Is that
16 common practice in other jurisdictions where
17 racing and gaming are part of the state's
18 gaming activities?

19 MR. VANDER LINDEN: That's a good
20 question and I'm not sure I can answer that.
21 The rationale is that since we regulate both of
22 these areas that we wanted to have a regulation
23 that applied to both areas. We did not want to
24 separate, it was not the intention to separate

1 specific types of wagering that one could do.

2 That was not the intent of it.

3 CHAIRMAN CROSBY: Is there anything
4 to suggest that the issues having to do with
5 problem gambling for horse racing gambling are
6 any different from the problems having to do
7 with casino gambling?

8 MR. VANDER LINDEN: I think it comes
9 down to gaming type and a discussion of gaming
10 type, and whether that be placing bets on a
11 horse, a slot machine, table games, the
12 lottery, whatever it may be. And that
13 certainly you have situations that run the full
14 spectrum.

15 You have individuals that gambling,
16 placing bets in general is not something that
17 they feel like they would be able -- they
18 should have access to. That's why the self-
19 exclusion regulation would be there.

20 There are individuals that would say
21 I would like to maintain that I could have
22 access to continuing to play the lottery but I
23 can't step foot into a casino that that's where
24 my trouble is. And probably racing would be in

1 that as well.

2 This regulation does not necessarily
3 have the flexibility to identify that it's just
4 racing where I've had problems with my gambling
5 behavior or just a slot machine or just a table
6 game. It's a regulation that would apply to
7 all areas of gaming that is regulated by the
8 Commission.

9 COMMISSIONER MCHUGH: I understand
10 and appreciate that. And this is only being
11 put out now for public comment?

12 MS. BLUE: No. This would be final
13 today. We did hold the hearing on this.

14 COMMISSIONER MCHUGH: Got it. I
15 just wonder, I can see the unitary casino
16 thing. I have trouble with blackjack but I
17 don't have any trouble with poker is too fine a
18 line. I can see at least intellectually
19 without any basis of knowledge somebody saying
20 I've got a problem with a casino, but I've been
21 playing the horses for 20 years and I really
22 enjoy that. And I've never had a problem with
23 that.

24 And I know that if I self-exclude

1 from the casino I can't do that anymore. So,
2 I'm not going to self-exclude from the casino
3 where I really do have a problem.

4 In other words, is there by linking
5 the two, do we create a disincentive for self-
6 exclusion? I don't know the answer to that.

7 MR. VANDER LINDEN: I think it's a
8 great question. Does this create yet another
9 barrier for somebody to sign up for self-
10 exclusion? They don't want to limit their
11 access to placing a bet at a racetrack but they
12 do want to exclude from casino games.

13 CHAIRMAN CROSBY: What do they do in
14 Iowa?

15 MR. VANDER LINDEN: It was across.

16 COMMISSIONER MCHUGH: It was unitary
17 in Iowa?

18 MR. VANDER LINDEN: Yes.

19 COMMISSIONER ZUNIGA: There is also
20 a parallel here relative to minors, right?
21 Individuals under 21 can be in the racetrack
22 area, but cannot be in the gaming area; is that
23 correct?

24 MR. VANDER LINDEN: I'm not sure. I

1 know that they can't be in the gaming area but
2 I'm not sure where the lines are drawn on the
3 racetrack.

4 COMMISSIONER MCHUGH: If it's done
5 elsewhere, it sounds like to me it may be
6 standard practice.

7 CHAIRMAN CROSBY: It's certainly
8 something we can look into. And we can always
9 change this if we feel like we need to.

10 But given that we brought you in
11 because you know a fair amount about this and
12 your jurisdiction did it this way and there's
13 at least a logic to it, it seems like let's go
14 with this. But it's worth doing some checking
15 around and thinking it through.

16 We're doing one of our precautionary
17 steps here. Let's try it this way, but think
18 through and do a little more research and make
19 sure that we're not having the opposite effect
20 that we really intended.

21 COMMISSIONER CAMERON: And there
22 were no comments?

23 MR. VANDER LINDEN: No, we did not
24 receive any comments on that aspect.

1 COMMISSIONER MCHUGH: And that part
2 was out for public comment as well?

3 MS. BLUE: The only comments we
4 received on this regulation was the set we
5 received from Penn National. So, we have had
6 this out for comment. There was no other
7 comment.

8 COMMISSIONER MCHUGH: No. I mean
9 was the pari-mutuel exclusion part of the
10 public comment package?

11 MS. BLUE: No, I believe that is a
12 Penn National comment, is it not?

13 MR. VANDER LINDEN: Actually, I'm
14 sorry. That's a really great point. That that
15 feedback came from within the Commission from
16 Director Durenberger. So, we had comments from
17 you, Commissioner McHugh, as well Director
18 Durenberger and Penn National. But this
19 version of it with pari-mutuel wagering
20 included in it has not seen that level of
21 public comment.

22 CHAIRMAN CROSBY: Does that mean we
23 want to put it out again or should we just go
24 ahead and adopt it and then see what happens

1 and deal with it? That always happens, right?

2 COMMISSIONER MCHUGH: The public
3 comments come in. You don't put them out for
4 public comment again. Right.

5 CHAIRMAN CROSBY: Right. It seems
6 to me we still ought to go ahead and adopt
7 this.

8 COMMISSIONER MCHUGH: I think we
9 should.

10 CHAIRMAN CROSBY: But keep an open
11 mind, be attendant to it. Unless I missed it,
12 the third-party addition, third-party ability
13 to put somebody on the self-exclusion list is
14 not here, am I right or did I miss it?

15 MR. VANDER LINDEN: That's correct.
16 That would come in another regulation.

17 CHAIRMAN CROSBY: So, we're still
18 thinking about that part of the self-exclusion
19 issue?

20 MR. VANDER LINDEN: It would be the
21 exclusion not the self-exclusion.

22 CHAIRMAN CROSBY: Oh, yes. Good
23 point.

24 MR. VANDER LINDEN: So, that

1 regulation would be the logical next step.

2 CHAIRMAN CROSBY: Okay, got it. It
3 looks to me like we did accommodate, I think we
4 accommodated all four of the Penn National
5 concerns. Were there any of them that we did
6 not?

7 MR. VANDER LINDEN: There were three
8 of the four that are resolved, either just by
9 the way that our self-exclusion database will
10 be set up or just accepting them as it seems
11 like it was a reasonable request by Penn. So,
12 we were able to accommodate that.

13 The one that I wanted to bring back
14 to the Commission that I think does warrant a
15 discussion about how we want to proceed with it
16 is it's their third comment, top of the second
17 page. In original draft version that went out
18 for public comment, it's 133.06(7) a gaming
19 licensee shall not keep losses derived from
20 gaming to an individual who is prohibited from
21 gaming in a gaming establishment under 205 CMR
22 133. Where possible the gaming licensee shall
23 determine the amount wagered and lost by an
24 individual who is prohibited from gaming. The

1 monetary value of the losses shall be paid to
2 the Commission for deposit into the Gaming
3 Revenue Fund within 45 days.

4 We heard the feedback from Penn.
5 And as you can see on page seven, we kept
6 spirit of that though, changed the wording of
7 it slightly. So, as it reads now in
8 cooperation with the Commission, the gaming
9 licensee shall attempt to determine the amount
10 wagered and lost by an individual who is
11 prohibited from gaming. The monetary value of
12 the losses shall be paid to the Commission for
13 deposit into the Gaming Revenue Fund within 45
14 days.

15 This specific piece came as a
16 recommendation from a couple of consultants,
17 Dr. Lia Nower from Rutgers University and the
18 Center for Gambling Studies, Dr. Jeff Marotta
19 of Problem Gambling Solutions. This is not a
20 regulation that I drew from another
21 jurisdiction or that I was able to find in
22 another jurisdiction. It may indeed exist, but
23 I wasn't able to find it.

24 The rationale for it is that the

1 individual who is on the self-exclusion list
2 forfeits their winnings should they be detected
3 within the gaming establishment, but there is
4 not a forfeiture of the losses of an individual
5 should it be possible to determine if that
6 person is identified and a determination of
7 what those losses are. So, this attempts to
8 address both sides of that.

9 I hear the arguments being made by
10 Penn on this issue. I followed up personally
11 with Jim Baldacci from Penn. I think that
12 their argument is true that this is really
13 difficult to try to determine. And that it can
14 be an arduous process to do that and costly.

15 I think that that is true, but I
16 also think that there are ways to determine
17 that. And I think there is leeway within the
18 regulation that says where possible and we
19 further expanded it, and in cooperation with
20 the Commission.

21 COMMISSIONER MCHUGH: Is there any
22 merit to defining what we mean by possible?
23 You could take somebody down in the basement
24 and give them the third degree. Or you could

1 get someone to burglar his house. Clearly, I'm
2 using outrageous examples. Where does
3 possibility end and -- Where is the
4 intersection between reasonably possible and
5 possible?

6 CHAIRMAN CROSBY: Rather than trying
7 to defined that, which is impossible, why don't
8 we just add your word reasonable in there like
9 we have in other such things. That gives us
10 the standard to work this. I think we probably
11 will know it when see it. And as long as --
12 We're not going to go nuts trying to figure out
13 how to do it. By putting the word reasonable
14 in there, gives the applicant -- gives the
15 licensee protection that we're not going to be
16 unreasonable.

17 COMMISSIONER MCHUGH: I would
18 certainly be happy with that. I was just
19 wondering if there were some other standard
20 someplace. I guess this doesn't exist anyplace
21 else so there is no other standard. But I
22 would like to see reasonably in there.

23 MR. DAY: Excuse me, I just want to
24 make sure. Commissioner McHugh, where did you

1 want that added?

2 COMMISSIONER MCHUGH: Where
3 reasonably possible, the gaming licensee shall
4 confiscate.

5 MR. DAY: We had deleted that entire
6 first sentence on eight. And then reworded the
7 rest of the paragraph.

8 COMMISSIONER MCHUGH: I'm sorry.

9 CHAIRMAN CROSBY: Which section is
10 it now?

11 MR. DAY: Section eight, paragraph
12 eight.

13 COMMISSIONER MCHUGH: I'm sorry.
14 I'm looking at the wrong one.

15 COMMISSIONER MCHUGH: No, seven is
16 the winnings. Eight is the recovery. What if
17 we said in cooperation with the Commission and
18 where reasonably possible, the gaming licensee
19 shall determine the amount wagered. In
20 cooperation with the Commission and where
21 reasonably possible, the gaming licensee shall
22 determine.

23 MR. DAY: We will get rid of attempt
24 to.

1 COMMISSIONER MCHUGH: Well, the
2 reasonably possible puts a reasonableness
3 standard on the efforts we're going to require.

4 MR. DAY: Right. So, in cooperation
5 with the Commission where reasonably possible,
6 the gaming licensee shall determine the amount
7 wagered and so forth.

8 COMMISSIONER MCHUGH: Right.

9 COMMISSIONER ZUNIGA: I had seen
10 this in the prior draft of the responsible
11 gaming framework. And I didn't think about
12 bringing it up. I now see it in here. But
13 there was a prior thought and discussion
14 relative to the fees that get originated from
15 here from these kinds of things to flow to the
16 Gaming Control Fund not the Gaming Revenue
17 Fund.

18 That would be my preference because
19 we would have a lot more discretion as to how
20 to earmark those monies if we wanted to say do
21 additional funding of certain problem gambling
22 prevention programs, etc.

23 MR. VANDER LINDEN: I recall that
24 discussion. I believe that it's required in

1 statute that it be directed to the Gaming
2 Revenue Fund.

3 COMMISSIONER ZUNIGA: That statute
4 always gets in the way, doesn't it?

5 CHAIRMAN CROSBY: Details, details.

6 COMMISSIONER ZUNIGA: Thank you.

7 CHAIRMAN CROSBY: Do we need a vote
8 on this?

9 MS. BLUE: We do. We would ask the
10 Commission to vote to approve the regulations,
11 the small business impact statement and to
12 authorize the staff to go ahead and file this
13 with the Secretary of the Commonwealth and take
14 it through the final process.

15 MR. DAY: And with Commissioner
16 McHugh's changes.

17 MS. BLUE: Yes, that's right, with
18 the changes suggested.

19 CHAIRMAN CROSBY: Do we have a
20 motion so moved?

21 COMMISSIONER MCHUGH: So moved.

22 CHAIRMAN CROSBY: Second?

23 COMMISSIONER CAMERON: Second.

24 CHAIRMAN CROSBY: Any further

1 discussion? All in favor of the motion as
2 modified, presented and modified please signify
3 by saying aye. Aye.

4 COMMISSIONER MCHUGH: Aye.

5 COMMISSIONER CAMERON: Aye.

6 COMMISSIONER ZUNIGA: Aye.

7 COMMISSIONER STEBBINS: Aye.

8 CHAIRMAN CROSBY: Opposed? The ayes
9 have it unanimously. Thank you. We've got one
10 more item?

11 MR. DAY: Just one more item. It's
12 really a report behind tab 5d. You'll find
13 requests and approvals to cancel live racing
14 days on May 20 and 27th due to the current
15 horse population. Then also there is a change
16 in post-times on May 17 and June 7 to better
17 coordinate the Preakness Stakes and Belmont
18 Day. And of course the live racing days must
19 be rescheduled later in the season.

20 So, Director Durenberger has
21 approved those requested but wanted to make
22 sure the Commission was aware.

23 CHAIRMAN CROSBY: We had delegated
24 to her the ability to do that.

1 MR. DAY: Yes, you had.

2 CHAIRMAN CROSBY: Right. Anything
3 else on your agenda?

4 MR. DAY: That's the last item I
5 have.

6 CHAIRMAN CROSBY: All right. It is
7 about five minutes of one. We will adjourn for
8 45 minutes until 1:45.

9 COMMISSIONER MCHUGH: Yes, 1:45.

10 CHAIRMAN CROSBY: We will adjourn
11 until 1:45 for a lunch break and pick up
12 thereafter.

13

14 (A recess was taken)

15

16 COMMISSIONER MCHUGH: I said that we
17 would start at 1:45. So, I would like to
18 resume the 121st meeting of the Massachusetts
19 Gaming Commission. We are dealing with Region
20 A matters, so, Chairman Crosby has recused
21 himself and we will proceed to deal with the
22 rest of the agenda.

23 The first item of which is a review
24 and ratification of the decision in principle

1 regarding the premises of the gaming
2 establishment for Mohegan Sun and Wynn
3 applications. We decided in principle this
4 issue last week. Said last week that we would
5 ask staff to prepare for our consideration a
6 memorandum dealing with the issues in somewhat
7 more detail. And we are prepared to proceed
8 with that right now General Counsel Blue or
9 Assistant General Counsel Grossman.

10
11 MS. BLUE: It will be the two of
12 us. Commissioners, in your packet today you
13 have a memorandum prepared by the legal
14 department. We base that on the public meeting
15 that we had last week.

16 We are happy to answer any questions
17 that you have about it, but we've essentially
18 included both the questions that were
19 considered into one memorandum. We have done a
20 brief presentation as to what the arguments
21 were by all of the parties. And then a
22 discussion and conclusion based upon your
23 decision in principle.

24 COMMISSIONER MCHUGH: All right. I
think we've all had a chance to read it. Are

1 there questions or comments from any of the
2 Commissioners?

3 COMMISSIONER ZUNIGA: Mine is a very
4 minor one, but one that I have already
5 discussed with our legal staff. Sometimes we
6 refer to the city in capital -- capitalized for
7 the city of Boston. But there is also
8 references to the city of Revere. We just want
9 to make sure that there is no ambiguity there.
10 I know none is intended.

11 MS. BLUE: We will clean up those
12 references and make sure they are all
13 consistent.

14 COMMISSIONER MCHUGH: That's a
15 mechanical detail that we can handle after
16 this. Commissioner Stebbins, any thoughts with
17 respect to the content?

18 COMMISSIONER STEBBINS: No. I also
19 had a chance to obviously review this. I know
20 at our last meeting I discussed the relevance
21 of things like the boat dock, which are
22 referred to here. As I reviewed it, do relate
23 back to I guess the four-part test that you
24 referenced earlier in the document. So, having

1 a chance over the last week to meet with the
2 legal staff and walk through my concerns on
3 that, I'm comfortable with the way the decision
4 has been written out.

5 COMMISSIONER MCHUGH: Commissioner
6 Cameron any thoughts, questions, comments?

7 COMMISSIONER CAMERON: I thought it
8 was well summarized from the conclusions that
9 we reached and well prepared. I don't have any
10 thoughts on how to make this document better.

11 COMMISSIONER MCHUGH: I too think
12 that the decision like all decisions goes into
13 far more detail than you can do in a public
14 meeting as you're making a decision of this
15 type in outlining in greater detail both the
16 result that we reached last week and the
17 rationale for that result. And both of course
18 are important. So, I too am happy with the
19 draft and am prepared to seek a vote approving
20 it. Is there a motion to that effect?

21 COMMISSIONER ZUNIGA: Yes, Mr.
22 Chairman, or Commissioner, I would move that
23 this Commission approves the decision as
24 drafted and presented here today relative to

1 the determination of the premises of the gaming
2 establishment for Mohegan Sun and for Wynn.

3 COMMISSIONER MCHUGH: All right. Is
4 there a second to that?

5 COMMISSIONER CAMERON: Second.

6 COMMISSIONER MCHUGH: That is
7 subject to the mechanical correction that we
8 just talked about to ensure that there is
9 consistency in the nomenclature for the city of
10 Boston and the city of Revere so there is no
11 confusion. Any discussion with respect to that
12 motion? Hearing none, all in favor, aye.

13 COMMISSIONER CAMERON: Aye.

14 COMMISSIONER ZUNIGA: Aye.

15 COMMISSIONER STEBBINS: Aye.

16 COMMISSIONER MCHUGH: All opposed?

17 The ayes have it unanimously.

18 That decision basically lays out the
19 underlying rationale and the result that we
20 reached last week, which deals with the
21 location of the gaming establishment for both
22 the Wynn and the Mohegan Sun applicant. There
23 is one more formality that goes along with
24 that. And that is the classification of -- or

1 the next step really I guess is what we are
2 talking about. The surrounding community
3 decisions -- I should say that follow from
4 that. That doesn't go along with that. That's
5 a self-contained document. Let's for the next
6 steps and considerations turn to Ombudsman
7 Ziemba.

8 MR. ZIEMBA: Commissioners, the next
9 step regarding surrounding community status as
10 has been our precedent is the issuance of a
11 written designation of surrounding community
12 status.

13 In this current situation, the city
14 of Boston petitioned the Commission to be
15 designated as a surrounding community but
16 reserved its right to contest host community
17 status. Now that the Commission has made its
18 determination regarding host community status,
19 the Commission can issue its written
20 determination.

21 Both of the applicants assented to
22 Boston's petition. And there is a notation
23 that the host community proceedings could
24 occur, but again that has been concluded.

1 COMMISSIONER ZUNIGA: I'm sorry, you
2 said host community proceedings or surrounding
3 community?

4 MR. ZIEMBA: Host community
5 proceedings were concluded just a couple of
6 minutes ago.

7 COMMISSIONER ZUNIGA: Right.

8 COMMISSIONER MCHUGH: So, the next
9 step really is the formal designation of Boston
10 as a surrounding community.

11 MR. ZIEMBA: That is correct.

12 COMMISSIONER MCHUGH: That follows
13 organically, I think, is the word we've used
14 from the decision that Boston is not a host
15 community. But we do need a vote for that.
16 And the significance of that is -- why don't
17 you just mention that Ombudsman Ziemba.

18 MR. ZIEMBA: So, what flows from the
19 determination of surrounding community status
20 is that the parties have to enter a 30-day
21 statutory negotiation period. After which that
22 30-day negotiation period, if the parties
23 cannot reach an agreement on a surrounding
24 community agreement, then arbitration

1 procedures kick in.

2 We have over the course of the last
3 month or so, we have added some additional
4 flexibility to communities. We have added what
5 is called the Flex 14 program whereby
6 communities if they want to negotiate further
7 or if they find an unanticipated bump in the
8 road in arbitration, they have an additional 14
9 days that they can utilize to further negotiate
10 or to overcome that arbitration obstacle.

11 So, with the designation of Boston
12 as a surrounding community that would start the
13 30-day negotiation period, which could be
14 extended through the Flex 14 to 44 days before
15 the onset of arbitration proceedings.

16 COMMISSIONER MCHUGH: Those are the
17 consequences. And we're not deciding on any of
18 that now. We are simply deciding the formal
19 designation by a vote of Boston's surrounding
20 community status with respect to both
21 applicants.

22 So, do I hear a motion to that
23 effect?

24 COMMISSIONER CAMERON: Yes. I move

1 that we officially formally deem the city of
2 Boston as a surrounding community to both the
3 Wynn and Mohegan applications.

4 COMMISSIONER MCHUGH: Period.

5 COMMISSIONER CAMERON: Period.

6 COMMISSIONER MCHUGH: Is there a
7 second to that?

8 COMMISSIONER STEBBINS: Second.

9 COMMISSIONER MCHUGH: Any discussion
10 on that motion? All in favor then signify by
11 saying aye. Aye.

12 COMMISSIONER CAMERON: Aye.

13 COMMISSIONER ZUNIGA: Aye.

14 COMMISSIONER STEBBINS: Aye,

15 COMMISSIONER MCHUGH: All opposed?

16 The ayes have it unanimously. Let me come back
17 to you for a minute, if I might, Mr. Ziemba.

18 I'm going to ask for you to outline in a second
19 the remaining elements of the schedule at least
20 in a large format. We don't have to decide on
21 the details today but in a large format would
22 be helpful I think to all.

23 Before we do that I had raised the
24 possibility of extending some time before the

1 clock really started ticking. And we had
2 discussed at a prior meeting that subject. Are
3 there any thoughts on that from any of my
4 colleagues today? I had raised the issue
5 because of the nature of the proceedings.

6 I'm not going to pursue that today
7 because it seems to me that the Commission has
8 demonstrated a willingness in the past for good
9 and substantial reasons to consider variances
10 from the schedule otherwise called for. And
11 since that discussion began, we have adopted
12 that Flex 14 process that you just discussed,
13 Ombudsman Ziemba.

14 So, I am not prepared to pursue any
15 further discussions today. But I'm not
16 prepared to and I think none of us is prepared
17 to foreclose a discussion if it's necessary at
18 some subsequent time.

19 With that then do you have some
20 thoughts for us, some information for us,
21 description for us is probably the best word on
22 the schedule?

23 MR. ZIEMBA: Commissioners, in your
24 packets there's an outline of what could be

1 expected in regard to the negotiation or
2 arbitration regarding these potential
3 surrounding community agreements.

4 And what we've outlined here is a
5 schedule that anticipates at least one of the
6 negotiations could go through the entire
7 arbitration process to the full extent allowed
8 under our regulations utilizing every day. We
9 obviously hope that that doesn't occur.

10 We obviously hope that the parties
11 can negotiate a mutually acceptable result.
12 But what we've outlined here in the schedule
13 are some dates that are predicated on the fact
14 of arbitrations going to basically the last
15 day.

16 So, you will see on this schedule if
17 we issue the written designation of Boston as a
18 surrounding community today, tomorrow is that
19 beginning of that 30-day statutory negotiation
20 period, which would conclude on Monday, June
21 16.

22 After that date, there are a number
23 of different steps. I won't go into each
24 individual steps on our regulations on how

1 arbitration proceeds. What we could have is
2 that arbitration could be concluded after being
3 fully reviewed by the Commission by
4 approximately July 24.

5 After which once arbitrations are
6 concluded and agreement is either reached by
7 the parties or de facto reached under our
8 regulations, we can then move to conclude host
9 community hearings, because we cannot close our
10 hearings until all surrounding community
11 agreements have been reached by all of the
12 communities pursuant to each one of the
13 applications.

14 What we have is we have estimated
15 dates of July 29 and July 30 for the conclusion
16 of those hearings after which we could make an
17 award no earlier than 30 days after the
18 conclusion of those host community hearings by
19 the Gaming Act.

20 So, what we have here is potentially
21 we could make a decision on the license by
22 Friday, August 29. If the parties utilize
23 those 14 days that I described, the issuance of
24 the license could be issued by September 12 at

1 the earliest.

2 Again, these are estimated dates.
3 There's a potential that we would be able to
4 have a hearing. We are required under one of
5 our regulations to have a hearing within three
6 days. We've previously waived that requirement
7 based on what our schedules looked like. We
8 could potentially move certain dates around.

9 But I think that this is a good
10 estimate of the dates that would be necessary
11 for the city of Boston and the two applicants.

12 COMMISSIONER MCHUGH: So, in a big
13 picture sense about the end of August, the
14 beginning of September assuming that
15 negotiations do not yield an agreement and the
16 full arbitration process needs to go forward,
17 with both of those assumptions, the end of
18 August, the beginning of September is the
19 timeframe for making a decision both with
20 respect to Region A. That's the bottom line.

21 MR. ZIEMBA: That's the bottom line.

22 COMMISSIONER MCHUGH: There's a
23 number of moving parts in this schedule. And
24 of course that can change. Those moving parts

1 could change, the dates for them can change.
2 And if there is an agreement on a surrounding
3 community -- if there is a surrounding
4 community agreement for both applicants, then
5 we can move the schedule up. But as it stands
6 now and given the unknowns that's what it looks
7 like. That's my take away from your
8 presentation.

9 MR. ZIEMBA: That's correct. One
10 other item that I'll mention is I just
11 mentioned the close of the host community
12 hearings, which as I mentioned could not be
13 concluded until after all agreements have been
14 reached, but we can begin the host community
15 hearings within 30 days of the written
16 designation today.

17 We have contemplated a couple of
18 dates that we could potentially use. We would
19 need to confirm location, confirm them with all
20 of the appropriate parties. And if the
21 Commission would like, I could give those
22 dates, but otherwise we could talk about those
23 at a later time.

24 COMMISSIONER MCHUGH: Those are the

1 statutorily required hearings so that we can
2 learn from the applicant and from people in the
3 host, the surrounding communities their
4 thoughts on various aspects of it. Any
5 thoughts on whether we should set dates now or
6 wait?

7 COMMISSIONER ZUNIGA: I don't know
8 that there would be much success in setting
9 dates at this point. Our experience has been
10 that they tend to move for a number of reasons,
11 all of them usually very valid.

12 I think the way you've outlined
13 these target dates is as good as we can have
14 now. And many of these dates are going to
15 depend on availability of certain people. Like
16 we've heard in other instances the schedules of
17 arbitrators, the designations of one or three
18 arbitrators or whatever the case may be if they
19 get to arbitration. And then that could change
20 because maybe they get to an agreement before
21 that. So, the way you've outlined here is in
22 my opinion as good of a target as we can get.

23 MR. ZIEMBA: We can certainly
24 confirm availability with all of the parties,

1 and availability of room. I think it's our
2 supposition that we would have the host
3 community hearing, the beginning of the host
4 community hearings very soon after the
5 expiration of the 30-day notice period. So, we
6 can confirm those dates in the very near
7 future.

8 COMMISSIONER ZUNIGA: Right, right.
9 At least through here, we are going to go
10 through months in the summer and that kind of
11 cuts both ways. In some instances people can
12 make it to public hearings and in other
13 instances they are out on vacation. So, we're
14 going to have to take a lot of that in
15 consideration as time moves on.

16 COMMISSIONER CAMERON: I
17 wholeheartedly agree that it would be difficult
18 if not impossible to set dates and hold to
19 them.

20 COMMISSIONER MCHUGH: These are the
21 internal dates. The end dates are clear and we
22 can hold to that. Absent something totally
23 unforeseen, we're not going to slip past those
24 dates. But we are talking now, and it's

1 important to remember we're talking about some
2 internal dates that is dates between now and
3 then for a number of events that have to take
4 place before then.

5 I too agree and think that we have
6 gone as far as we can with respect to
7 scheduling. Is this schedule up on our website
8 so that people know, can it be?

9 MR. ZIEMBA: It is posted in our
10 packet. After today's meeting, we can post it
11 as our estimated schedule.

12 COMMISSIONER MCHUGH: So, it'll be
13 available for everybody to take a look at. And
14 that has both the end dates and the internal
15 dates and a listing of the events that will
16 occur between now and the end date. All right,
17 anything further on that topic?

18 Let's then proceed to the next item
19 on the agenda, which is labeled decision-making
20 process. Let me begin this by saying that
21 there are four of us and we realize that there
22 are four of us who are thinking about and
23 considering the issues with respect to Region
24 A.

1 We have been a group that has now
2 had 121 meetings. This is the 121st meeting.
3 We have had during those meetings a number of
4 votes. If we average two votes a meeting, we
5 have had 240 some votes in the almost two and a
6 half years since we've been together, a little
7 over two years I guess it is. And I think one
8 can count on the fingers of both hands the
9 number of times it's been less than unanimous.
10 This is a remarkably cohesive group.

11 We've also been operating with a
12 group of four with respect to the land aspect
13 of the Everett proposal since the fall and have
14 made our way successfully through a number of
15 difficult decisions there.

16 But there is concern and we are
17 aware of the concern about what happens if
18 there is a deadlock. And I think we need to
19 address that. And I think we need to address
20 that promptly, and I think we need to address
21 that carefully. And I propose therefore that
22 we do so. And that we do so in a manner that
23 is careful and considered and prompt.

24 And would like therefore to take the

1 time to do that, to it carefully, do it
2 considerately and do it with reasonable
3 promptness. We don't have a meeting scheduled
4 for two weeks. There's no vote that can take
5 place before the meeting occurs, but I'd like
6 to find a way at the outside have some thought
7 concluded and a proposal on the table by then
8 if we can't do it any sooner.

9 I'm not sure what more to say about
10 this, but I welcome your thoughts.

11 COMMISSIONER CAMERON: I agree with
12 you I am very confident that we have the
13 ability as a group of four to make these
14 decisions and do it well.

15 I have personal experience as a
16 member of another commission in which there
17 were at times an even number and we worked very
18 effectively. I know there are a myriad of
19 options available to us. And it would be -- I
20 think two weeks is the appropriate amount of
21 time to do a little bit of research and make
22 sure we're clear on a proposal that makes sense
23 for us. But I'm very confident that we'll be
24 able to work effectively.

1 COMMISSIONER STEBBINS: I would echo
2 that. Obviously, we've just reviewed the
3 timetable. And we do have somewhat time on our
4 side to be thoughtful about this and come back
5 with some ideas as to how other boards,
6 commissions, jurisdictions confront this issue
7 as well as hopefully taking a look at our own
8 statute and regulations to see what are the
9 things that we can do to make sure that we
10 don't end up at that deadlock situation.

11 COMMISSIONER ZUNIGA: Yes. I agree
12 with all of that. I personally believe that a
13 lot after some good thought and research, there
14 is a number examples that I can think of in
15 this state that may be relevant and give a lot
16 of clear direction. I am familiar with several
17 of the boards and commissions that have been
18 created statutorily by many other general laws.
19 And I think there's a lot of precedent for
20 instances like this. And I know we will be
21 finding great examples.

22 I think personally that this
23 possibility of a deadlock is very small but
24 it's important to think about it. And as all

1 of my colleagues say, have that topic carefully
2 examined. I think we're going to end up in our
3 regulations and our statute and the flexibility
4 that is inherent in there. But I look forward
5 to some of the examples from other
6 jurisdictions, not just the Commonwealth that
7 we can look at.

8 COMMISSIONER MCHUGH: So, let's
9 engage staff to assist us. And let's think
10 through carefully the series of options that's
11 available to us. Let's come back no later than
12 two weeks with proposals for the four of us to
13 discuss, and come up with a protocol for
14 dealing with that highly likely eventuality.

15 Okay. Let me raise one other thing
16 that is not on the agenda, not for a vote, but
17 just for an agenda setting matter or a
18 discussion as to whether we put it on the
19 agenda. That is we reached out to the public
20 for commentary on design standards or
21 excellence and the like. And I got a call the
22 other day from a representative American
23 Institute of Architects who is intrigued by the
24 possibility of providing some of that

1 commentary and wanted to appear at a meeting in
2 two weeks to discuss that.

3 I thought that I would invite him to
4 do so, but I don't -- and invite him to do so
5 without involving the Commission necessarily in
6 endorsing the proposal, but simply to hear what
7 it is. And to understand what it is, and to
8 determine the extent to which we think it would
9 be helpful and the extent to which we would or
10 would not participate in it.

11 It's a public comment. It has some
12 value, a lot of value independent of whatever
13 we do. But it is something that I thought
14 would be helpful to hear him explain. John
15 Nunnari is the representative. He was helpful
16 in arranging a forum that we held early on in
17 this process. And he's prepared to outline
18 what he had in mind in any event.

19 Does that make sense?

20 COMMISSIONER STEBBINS: It makes
21 sense to me. The AIA I think and Boston
22 Society of Architects have been very helpful to
23 us from the early days of this Commission.
24 They hosted a forum. They produced a white

1 paper. They certainly have given us helpful
2 thoughts and suggestions.

3 Do you get the sense that he is
4 providing comment -- I'm trying to think of how
5 we phrased the question, whether it was about
6 the projects in Region A and Region B or is it
7 simply with respect to Region A?

8 COMMISSIONER MCHUGH: I'm not sure
9 of the dimensions of what he proposes to do.
10 But he outlined in broad form what he proposes
11 to do. And I thought I'd bring it up so that
12 we could decide whether we wanted to hear from
13 him.

14 With equal importance design -- hear
15 from him -- I think they can go ahead and do
16 whatever they want to do. It's not up to us to
17 tell them to do or not do. They're members of
18 the public. But get clear the extent to which
19 we are or are not involved in the process.
20 Ordinarily, public comment is just public
21 comment and we take that comment, and have
22 since the beginning, from everybody.

23 But if there is some kind of a
24 process that he contemplates, it seems to me

1 it's worthwhile to know what the process is and
2 to be able to make appropriate endorsements or
3 disclaimers with respect to how it goes
4 forward.

5 COMMISSIONER STEBBINS: I for one
6 would welcome his comments and certainly
7 suggest we put him on the agenda for a future
8 meeting.

9 COMMISSIONER CAMERON: I would
10 agree. Information from experts is very
11 valuable. So, I would welcome listening to
12 this expert.

13 COMMISSIONER ZUNIGA: Same here. I
14 would be interested however -- I have a
15 question. I wonder if the comments, any
16 comments that somebody like this individual may
17 have or individuals, if they become very
18 specific to a particular applicant, we need to
19 emphasize your point Commissioner that this is
20 simply a comment we could create as part of the
21 many, several opportunities that we are
22 providing to the public for public input.

23 But I would be a lot more interested
24 at this point anyway to hear about standards

1 which the American Society -- the American
2 Institute of Architects the Boston chapter
3 already has provided us a lot of great feedback
4 under the realm of standards, how to analyze,
5 how to view elements, design elements,
6 attributes rather than just looking at a
7 building and saying I like it because it's
8 pretty.

9 COMMISSIONER MCHUGH: Right.

10 COMMISSIONER ZUNIGA: Any
11 conversation relative to the process, the
12 evaluation I would really welcome. Again, I
13 would just be cautious relative to anything
14 that was specific to any one of our applicants.

15 COMMISSIONER MCHUGH: That's why I
16 thought it would be helpful to get him in so
17 that not only we could hear it, but the
18 applicants, the involved communities and
19 everybody could hear the same thing at the same
20 time. And we could make the appropriate
21 disclaimers or endorsements.

22 So, let's have him join us at the
23 next meeting and we'll hear what he has to say,
24 and see the extent to which we think it can be

1 helpful and give others perhaps an opportunity
2 to be heard on that subject as well.

3 MS. BLUE: Commissioner McHugh, I
4 believe we have inadvertently skipped item 6c
5 if we could consider that before the Commission
6 adjourns.

7 COMMISSIONER ZUNIGA: That's
8 correct.

9 COMMISSIONER MCHUGH: Oh, I did skip
10 that. Yes, we need to.

11 MS. BLUE: It will be brief for the
12 Commission to consider. You have in your
13 package a memo from me. As you will recall
14 last fall as part of the Suffolk suitability
15 proceeding and determination we requested, the
16 Commission requested that they divest
17 themselves of any Caesars' interest in Sterling
18 Suffolk.

19 They intend to take that interest
20 and place it in a divestiture trust. They have
21 provided us with the trust agreement. It is
22 the same in form as was provided for the
23 Vornado trust.

24 They have also appointed a trustee.

1 His name is Stephen Oleskey. He is of counsel
2 to the firm of Hiscock and Barclay. So, I
3 would ask the Commission to approve the
4 divesture trust and the appointment of Mr.
5 Oleskey subject of course to his going through
6 the standard suitability review and process.

7 COMMISSIONER CAMERON: Should we
8 approve before we've had time to take a look at
9 this individual? On paper, he certainly looks
10 very well qualified and accomplished. Is it
11 appropriate to approve before we do little due
12 diligence here?

13 MS. BLUE: I believe we did approve
14 the Vornado trustee before we had finished the
15 process, but it is subject obviously to him
16 completing that process successfully.

17 COMMISSIONER MCHUGH: I should say I
18 know Stephen Oleskey. In the time that I was
19 in practice, which is now some time ago, I had
20 a number of cases with him on the opposite
21 side. I don't think we were ever joint
22 representatives. And that ended in 1985. But
23 he is one of the fine leaders of the
24 Massachusetts Trial Bar.

1 So, I don't have any hesitation in
2 suggesting that we proceed with the approval of
3 this subject to his passing the background
4 investigation. He'll get the same background
5 investigation by the same staff that's done it
6 before and does it for everybody else.

7 But we do need to move that process
8 along. The sooner we can get that process
9 done, the better it is. So, I'd be inclined to
10 accept that approach, General Counsel Blue, and
11 move the process forward.

12 COMMISSIONER STEBBINS: I would
13 agree with that. The one question I have, and
14 this is demonstrating my non-legalese
15 background, I remember when we reviewed the
16 trustee for Vornado, there was significant
17 experience at least in the resume from that
18 individual showing that they had managed a
19 similar type of the divestiture trust.

20 This is obviously a different
21 situation, probably not as sizable financially
22 an effort, but help me understand his legal
23 background. It's impressive, but help me
24 understand his legal background and that he has

1 the capable experience to do this.

2 MS. BLUE: He is an accomplished
3 commercial and trial lawyer. He has a real
4 property tax background as well. This
5 particular trust is much simpler than the
6 Vornado situation based upon my review of it.

7 So, I don't think the trustee will
8 necessarily be called on to do a good deal
9 other than monitor the process as it goes
10 forward. So, I think he will be perfectly
11 capable of doing that.

12 COMMISSIONER STEBBINS: I am
13 comfortable with giving approval, and allowing
14 him to go through the background. He's a
15 member of the Massachusetts Bar, I'm assuming
16 we're not going to find anything.

17 COMMISSIONER MCHUGH: Would somebody
18 care to make a motion to approve the trust
19 subject to successful completion of a
20 background investigation, the appointment of
21 Stephen Oleskey as the trustee?

22 COMMISSIONER ZUNIGA: So moved.

23 COMMISSIONER CAMERON: Second.

24 COMMISSIONER MCHUGH: Discussion?

1 All in favor, aye.

2 COMMISSIONER CAMERON: Aye.

3 COMMISSIONER ZUNIGA: Aye.

4 COMMISSIONER STEBBINS: Aye.

5 COMMISSIONER MCHUGH: All opposed?

6 The ayes have it unanimously.

7 That then does I think complete the
8 agenda. Have I missed anything at this point?

9 Then I'll entertain a motion to adjourn.

10 COMMISSIONER STEBBINS: So moved.

11 COMMISSIONER CAMERON: Second.

12 COMMISSIONER MCHUGH: All in favor?

13 COMMISSIONER CAMERON: Aye.

14 COMMISSIONER ZUNIGA: Aye.

15 COMMISSIONER STEBBINS: Aye.

16 COMMISSIONER MCHUGH: Aye. The ayes
17 have it unanimously and we are adjourned.

18 Thank you all.

19

20 (Meeting adjourned at 2:25 p.m.)

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- 1 ATTACHMENTS:
- 2 1. Massachusetts Gaming Commission May 15,
 - 3 2014 Notice of Meeting and Agenda
 - 4 2. Massachusetts Gaming Commission
 - 5 May 1, 2014 Meeting Minutes
 - 6 3. Massachusetts Gaming Commission
 - 7 May 2, 2014 Meeting Minutes
 - 8 4. Massachusetts Gaming Commission
 - 9 May 8, 2014 Meeting Minutes
 - 10 5. Diversity Plan for the Design and
 - 11 Construction Phase of Plainridge Park
 - 12 Casino
 - 13 6. DRAFT 205 CMR 137
 - 14 7. Massachusetts Gaming Commission May 15,
 - 15 2014 Memorandum Regarding Response to
 - 16 Commentary on the Draft Responsible
 - 17 Gambling Framework and Attachments
 - 18 8. Massachusetts Gaming Commission Oversight
 - 19 Project Manager Update - May 12, 2014
 - 20 9. OPM Report Template
 - 21 10. Amended Small Business Impact Statement
 - 22 (amended 205 CMR 118.06, 121 and 125.01)
 - 23 and (205 CMR 133)
 - 24 11. DRAFT 205 CMR 133 with Penn Comments

1 ATTACHMENTS:

- 2 12. Suffolk Downs May 9, 2014 Request
- 3 13. Massachusetts Gaming Commission May 20,
4 2014 Memorandum Regarding Request to
5 Cancel Live Racing on May 20 and May 27,
6 2014
- 7 14. Massachusetts Gaming Commission May 13,
8 2014 Memorandum Regarding Post-time
9 Changes at Suffolk Downs
- 10 15. Massachusetts Gaming Commission Decision
11 Regarding the Determination of Premises of
12 the Gaming Establishment for Mohegan Sun
13 MA, LLC and Wynn MA, LLC
- 14 16. Massachusetts Gaming Commission May 15,
15 2014 Memorandum Regarding Sterling Suffolk
16 Racecourse, LLC-Caesars Divestiture Trust

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1 GUEST SPEAKERS:

2 Jennifer Pinck, Pinck and Company

3 Karen Bailey, Penn National

4

5

6 MASSACHUSETTS GAMING COMMISSION STAFF:

7 Catherine Blue, General Counsel

8 Richard Day, Executive Director

9 Jill Griffin, Director Workforce, Supplier and

10 Diversity Development

11 Todd Grossman, Deputy General Counsel

12 Mark Vander Linden, Director of Research and

13 Problem Gambling

14 John Ziemba, Ombudsman

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C E R T I F I C A T E

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

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

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

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

WITNESS MY HAND this 17th day of May, 2014.

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