

THE COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION
126th PUBLIC HEARING

CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

James F. McHugh

Bruce W. Stebbins

Enrique Zuniga

Gayle Cameron

June 26, 2014
10:30 a.m. to 4:43p.m.
Boston Convention Center
415 Summer Street, Room 102
Boston, Massachusetts

1 PROCEEDINGS

2
3 CHAIRMAN CROSBY: Good morning,
4 ladies and gentlemen. I'm pleased to call
5 to order the 126th meeting of the
6 Massachusetts Gaming Commission, 10:30 June
7 26th, as usual, at the Boston Convention
8 Center.

9 We will start with approval of
10 minutes. Commissioner McHugh.

11 COMMISSIONER MCHUGH: Thank you,
12 Mr. Chairman. The first set of minutes for
13 approval is a set for June 10 through 13.
14 It's actually four days worth of minutes
15 and that is the presentations and
16 deliberations with respect to the award of
17 the -- a tender of the -- a prospective
18 award of the license to MGM in Springfield.

19 So I would approve -- move that
20 those minutes be approved in the form which
21 they appear in the book with the
22 reservation for correction of typographical
23 and mechanical errors.

24 COMMISSIONER CAMERON: Second.

1 CHAIRMAN CROSBY: Is this -- this
2 is June 10 through 13.

3 COMMISSIONER MCHUGH: Yes. So it's
4 unusual. We usually have each one for a
5 single day.

6 CHAIRMAN CROSBY: Right.

7 COMMISSIONER MCHUGH: But these are
8 all related and integrated, so that's why
9 we did that.

10 CHAIRMAN CROSBY: Any comments on
11 those minutes?

12 All in favor of the motion. Aye.

13 COMMISSIONER CAMERON: Aye.

14 COMMISSIONER MCHUGH: Aye.

15 COMMISSIONER ZUNIGA: Aye.

16 COMMISSIONER STEBBINS: Aye.

17 CHAIRMAN CROSBY: Opposed?

18 The ayes have it unanimously.

19 COMMISSIONER MCHUGH: And then the
20 second set of minutes is for June 12. On
21 June 12, which was in the middle of that
22 June 10 to 13 period obviously, we had a
23 regular business meeting that we
24 interrupted on a couple of occasions to

1 deal with the license award meeting. But
2 the June 12 minutes are the minutes of our
3 regular business meeting that took place on
4 that day.

5 So I would move that those minutes
6 be approved in the form in which they
7 appear in the packet with, again, the usual
8 reservation for correction of typographical
9 and mechanical errors.

10 CHAIRMAN CROSBY: Second?

11 COMMISSIONER STEBBINS: Second.

12 CHAIRMAN CROSBY: I have one
13 question. On the one on page 2 at 1:46
14 p.m., it says, we agreed to cap the total
15 number of electronic table games at 2
16 percent.

17 COMMISSIONER MCHUGH: Yes, 2
18 percent.

19 CHAIRMAN CROSBY: We did that?

20 COMMISSIONER MCHUGH: Subject to
21 comment. But that was -- we talked about
22 the fact that the request was for -- I've
23 forgotten the exact number, but 2 percent
24 of the 1,250 would be 25 games. And that

1 seemed like a reasonable number that would
2 not adversely affect the casino interests.
3 Subject, of course, to their comments and
4 would satisfy what the panel was asking for
5 and what is a reasonable number.

6 CHAIRMAN CROSBY: Do you remember
7 that, too?

8 COMMISSIONER ZUNIGA: Yes. I
9 forget the 2 percent, but I recall the
10 discussion about having a cap.

11 CHAIRMAN CROSBY: Okay.

12 COMMISSIONER CAMERON: Yes.

13 COMMISSIONER MCHUGH: The 2 percent
14 was working backwards from 25.

15 COMMISSIONER ZUNIGA: Right.

16 COMMISSIONER MCHUGH: Three percent
17 was what was in the --

18 CHAIRMAN CROSBY: Right.

19 COMMISSIONER CAMERON: Another
20 agency had 3 percent.

21 COMMISSIONER MCHUGH: Correct.

22 COMMISSIONER ZUNIGA: Now, there's
23 other alternatives, but I think we
24 discussed that, and as a matter of course,

1 we're speaking still at proposing comment
2 as a regulation. So we can amend it if we
3 needed to.

4 CHAIRMAN CROSBY: Right.

5 COMMISSIONER MCHUGH: Right. That
6 was basically the conversation starter.

7 CHAIRMAN CROSBY: Okay. Any other
8 discussion on that? All in favor?

9 COMMISSIONER CAMERON: Aye.

10 COMMISSIONER MCHUGH: Aye.

11 COMMISSIONER ZUNIGA: Aye.

12 COMMISSIONER STEBBINS: Aye.

13 CHAIRMAN CROSBY: Aye.

14 Opposed? The ayes have it
15 unanimately.

16 And we will move on to workforce
17 development and supplier diversity.
18 Director Griffin.

19 DIRECTOR GRIFFIN: Good morning,
20 Commissioners.

21 CHAIRMAN CROSBY: Good morning.

22 DIRECTOR GRIFFIN: We have with us
23 today our community college partners. You
24 may remember that in order to ensure that

1 Massachusetts has a workforce that is
2 trained and ready for the new employment
3 opportunities that each casino will offer
4 in Massachusetts, the more than 3,000 jobs
5 at each category 1 casino and the 500 to
6 600 at the slot parlor, we have partnered
7 with the Massachusetts career --
8 Massachusetts Casino Careers Training
9 Institute, MCCTI.

10 The MCCTI is the statewide
11 community college collaborative training
12 initiative that's focused on ensuring our
13 workforce that's trained. All 15 of the
14 state's community colleges are involved
15 with a lead partner designated in each
16 region. We've invited representatives to
17 update the Commission and the public about
18 their process.

19 So I'd like to welcome William
20 Messner, president of Holyoke Community
21 College; president of North Shore Community
22 College, Patricia Gentile; Jeff Hayden and
23 Bob Lepage, who are from the Training and
24 Workforce Option, a joint effort of Holyoke

1 Community College and Springfield Community
2 College, which is the lead for MCCTI. We
3 will also have Maryellen Brett from
4 Massasoit; John Caressimo and Theresa
5 Romanovitch from Bristol Community College.
6 Bristol has campuses in Fall River, New
7 Bedford, and Attleboro and is working with
8 our category 2 licensee, Penn National,
9 regarding training for Plainridge Park
10 Casino.

11 From region A, we have Alfonsina
12 Andreottola from Roxbury Community College;
13 Marybeth Barton from Bunker Hill Community
14 College. And I hope I didn't miss anyone.
15 But we have the crew here for you today,
16 and I'm going to ask President Messner to
17 lead us off.

18 MR. MESSNER: Thank you very much,
19 and it's good to be here with the
20 Commission. Let me start off by thanking
21 you. In your wisdom, you now have
22 developed and approved school certification
23 regs by helping us ensure qualified
24 training and qualified applicants for the

1 gaming industry, and we're most
2 appreciative of that. We are particularly
3 appreciative of the partnership with Jill
4 Griffin and her colleague David Acosta.
5 They've been terrific to work with. And if
6 I can embarrass Commissioner Stebbins a
7 little bit here, he's been absolutely
8 wonderful in taking the lead of workforce
9 issues for the Commission.

10 As Jill indicated, we want to give
11 you a sense this morning of what's going on
12 statewide, that MCCTI is a statewide
13 collaboration, not just of community
14 colleges, but an array of workforce
15 providers, regional employment boards, one
16 stop career centers and the like, and so
17 we'd like to give you a flavor of that.

18 First, just to tell you what you
19 already know, but we're going to say it
20 again. This is about jobs, lots of jobs.
21 And these are jobs for individuals in the
22 gaming industry focused on those who need
23 jobs the most.

24 We project that 7 to 8,000 people

1 in just the slot casino and the two resort
2 casinos in the west and in Boston will be
3 able to take advantage of this opportunity.
4 In order to generate that number of
5 individuals, we will probably interact with
6 at least 25,000 people who will attempt to
7 take advantage and apply for these
8 positions.

9 It's important to note that when
10 the governor signed this legislation, he
11 used the term "middle skills, middle skills
12 jobs." And what the governor was talking
13 about were jobs that required more than a
14 high school education, less than a
15 four-year bachelorette degree, jobs that
16 will involve training, training that the
17 community colleges and that the workforce
18 providers are ready, willing, and, God
19 willing, able to provide.

20 The other thing about these jobs
21 that we've learned is that the gaming
22 industry has be particularly focused on
23 advancement, advancement of its own. And
24 so you talk to individuals at the higher

1 levels of many of these gaming
2 establishments, and what you find is that
3 many of them have worked their way up from
4 middle skilled jobs.

5 So this is a unique opportunity, it
6 seems to me to provide training and to
7 provide access to jobs, particularly in our
8 center cities like Springfield and Holyoke
9 in the west, for individuals who aspire not
10 just to a beginning job, but to a career.
11 And we believe it's a unique opportunity
12 and we're very enthusiastic about being
13 involved.

14 Three training sites, one for each
15 gaming area, and we're collaborating.
16 Today we have with us Patricia Gentile, who
17 is the new president at North Shore, who
18 just serendipitously comes to us from
19 Atlantic Cape Community College where, as
20 we've told you several times, we're going
21 to be exploiting their curriculum in gaming
22 rather than reinventing the wheel. So
23 we're blessed to have Patricia coming on
24 board in a leadership position.

1 We've been busy. We've been busy
2 across an array of categories. You'll hear
3 more about that as we bring folks up here
4 to tell you what's been going on in the
5 various regions. I do want to stress,
6 though, two items on this last slide in
7 terms of recent highlights. Recent
8 highlights, Bob. The next one. There you
9 go.

10 Okay. One is that I think folks
11 who haven't immersed themselves in the
12 gaming industry and workforce needs tend to
13 view the jobs that are available there as
14 what you might see on television or as you
15 walk through a casino, individuals involved
16 in gaming itself. And while there are
17 certainly an array of jobs in the gaming
18 area, in fact, the majority of jobs, as
19 we've talked about before, are not in
20 gaming per se. The largest array of jobs,
21 in fact, are in the culinary and
22 hospitality area. That area tends to be
23 from many areas of the state, certainly for
24 the western part of the state where I come

1 from, an area of great growth and great
2 potential.

3 And so what we are finding is that
4 as we go about talking, in our case, to MGM
5 and their needs in this area where they're
6 going to have to hire literally hundreds of
7 individuals in the culinary and hospitality
8 area, we're finding that we are able to
9 leverage that interest with the interests
10 of others in that industry and begin to
11 develop training programs that we can scale
12 up to meet an array of needs, needs both
13 for MGM, but more broadly, for the
14 hospitality and culinary industry as a
15 whole, and, quiet frankly, leveraging the
16 resources of MGM for that purpose, which
17 will benefit the region as a whole.

18 CHAIRMAN CROSBY: Excuse me, could
19 I ask --

20 MR. MESSNER: The other thing that
21 I want to stress, adult basic education --

22 CHAIRMAN CROSBY: Excuse me. I
23 just want to ask a question about the
24 culinary and hospitality. UNITE HERE has a

1 training facility here in the Boston area
2 somewhere that I don't know whether it's
3 culinary or hospitality or both. How does
4 that relate to what will be going on in
5 Eastern Mass. and with your whole culinary
6 and hospitality training?

7 MR. LEPAGE: We've been sharing
8 information with them and they're part of
9 the collaborative. We will be looking to
10 replicate in Western Mass. and have already
11 started to replicate some very similar
12 programs.

13 CHAIRMAN CROSBY: So will the UNITE
14 HERE facility in Eastern Mass. be the focal
15 point? You're not going to create another?

16 MR. LEPAGE: I think here in
17 Eastern Mass. --

18 CHAIRMAN CROSBY: I'm sorry,
19 Eastern Mass., yes.

20 MR. LEPAGE: Here in Eastern Mass.,
21 part of the next step in the dial-up is
22 inventorying the total training capacity.
23 We met recently with a number of
24 organizations including UNITE HERE to get a

1 sense on is there enough little physical
2 space to do this scale up that's needed for
3 the industry here as well as the growth
4 issue of where the convention center being
5 an example for hospitality. Their initial
6 reaction from the session that Director
7 Griffin was -- posted was that there really
8 is a need for partnering or physical space.

9 UNITE HERE has some space
10 currently. But other organizations in the
11 region will have an opportunity to provide
12 culinary services, too. So there'll be
13 likely local providers in the region. So
14 those dial-ups are underway. You have to
15 get further along, but yeah.

16 CHAIRMAN CROSBY: Okay. So you're
17 pretty closely coordinated with those folks
18 in their planning in their capacity. Okay.

19 MR. MESSNER: And one of the
20 benefits of this initiative is the fact
21 that those sorts of conversations are
22 occurring now which, quiet frankly, hadn't
23 occurred with the frequency and the depth
24 that they had in the past. And that's all

1 for the good not just in terms of this
2 initiative, but for the broader array of
3 initiatives around which hospitality can
4 grow.

5 COMMISSIONER MCHUGH: So those
6 conversations are not limited to any one
7 particular organization, they're going on
8 with a multiplicity of organizations.

9 MR. LEPAGE: Multiple organizations
10 in each region.

11 COMMISSIONER MCHUGH: Right.

12 MR. LEPAGE: Yes, sir.

13 MR. MESSNER: And then finally,
14 adult basic education. What we're finding
15 certainly in the west, and my suspicion is
16 in the other two regions as well, that
17 simply providing training in specific areas
18 for the casinos is not going to be
19 sufficient if we want to reach those
20 individuals who are most in need of jobs.
21 Adult basic education, education that
22 provides a GED, education that provides
23 English language skills, education that
24 provides the basic soft and even hard

1 skills that individuals are going to need
2 to be successful in a training program, be
3 it in the gaming or non-gaming areas, is
4 going to be absolutely critical.

5 And again, over in the west in our
6 discussions with MGM, they certainly
7 understand that adult basic education is
8 going to be critical to any effort at
9 meeting a workforce need of 2,500 to 3,000
10 individuals, particularly with a focus on
11 populations in Springfield, Holyoke, and
12 Chicopee.

13 So with that, I want to turn it
14 over to our regional partners and John
15 Caressimo.

16 MR. CARESSIMO: Caressimo, like you
17 do it.

18 MR. MESSNER: Caressimo from
19 Bristol will lead off in terms of the
20 effort over with Penn National Gaming.

21 MR. CARESSIMO: Good morning,
22 Commissioners. Again, I would like to
23 thank you for this opportunity to inform
24 you what Bristol Community College is doing

1 to meet this challenge.

2 Bristol Community College is taking
3 a two-pronged approach to this situation.
4 We are working both with the noncredit side
5 of the house in our workforce development,
6 and our associate vice president, Theresa
7 Romanovitch, will fill you in on what we're
8 doing there. And we're also working on the
9 credit side with an associate degree
10 program.

11 We created in response to the
12 passing of the Gaming Act through our
13 president Jack Sbrega, the CATCH Institute
14 which stands for culinary arts, tourism,
15 casino, and hospitality. The culinary arts
16 program had existed at the college for the
17 past 29 years. It's going into its 30th
18 year in September. And I had the good
19 fortune to begin that initiative and still
20 am actively involved in the culinary arts
21 program.

22 The other programs, the hospitality
23 programs, travel and tourism, casino, were
24 started in the past eight to ten years with

1 varying degrees of success. Culinary arts
2 was in division two, the other programs
3 were in division three. When we created
4 the CATCH --

5 CHAIRMAN CROSBY: What does that
6 mean, division two and three?

7 MR. CARESSIMO: It's just the
8 different divisions, the academic divisions
9 within the college. So one is a business
10 division, one is liberal arts, and so on
11 and so on.

12 When we created the CATCH
13 institute, we brought culinary arts over
14 into division three, the business division,
15 and combined all of those programs.

16 The first thing that we -- You have
17 the paperwork in front of you. The first
18 thing that we did was combine all of the
19 courses, get rid of all of the courses that
20 existed, get rid of the degrees that
21 existed, and propose a new degree. We
22 proposed the associate of applied science
23 in hospitality management with four
24 concentrations, concentrations being

1 tourism management, casino management,
2 hotel management, and food service
3 management.

4 And what we did within that degree
5 program is the first two semesters,
6 semesters one and semester two, regardless
7 of the concentrations that you were going
8 to take, going to be taking, we made them
9 common. In other words, all the students,
10 regardless of what concentrations you want,
11 will be taking the identical courses in
12 their first two semesters. The thought
13 behind this is you would give all of the
14 students a basic understanding of the
15 hospitality industry in food service, in
16 travel and tourism, and in casino. And
17 then when they made their decision as to
18 which area they were going to go into, they
19 would bring with them a broader background
20 of knowledge in the hospitality industry.

21 So we're going to be and we're
22 currently accepting our first class for
23 this -- in September of this year. So
24 it'll -- my -- I imagine -- my assumption

1 is that within a year, we should be pretty
2 much up to speed with that degree program.

3 The culinary program is the
4 exact -- pretty much exactly the same
5 degree that's been in existence at the
6 school since its inception. There have
7 been a number of changes, of course, but we
8 didn't do any changes with regard to the
9 CATCH institute.

10 All of these students within this
11 program will be working in a cohort model.
12 So in other words, they know exactly when
13 their classes will be, they know exactly
14 what they're going to be doing one semester
15 from now, two semesters from now. The hope
16 is, is that the success of the hospitality
17 and tourism program will come about as soon
18 as all of the jobs are available out there.
19 They sort of languished on the vine because
20 there really was no big push in the
21 Commonwealth for hospitality and for
22 tourism.

23 So with the initiative of the
24 casino, with the initiative of the

1 additional hotels, the thought is, is that
2 students go where the jobs are. Students
3 do not want to take training for jobs that
4 do not currently exist in their particular
5 area. So that's why we in the Southeast
6 Massachusetts area are certainly waiting
7 for the day when the announcement comes as
8 to whose going to be getting a license in
9 that particular area.

10 Additionally, we are working with
11 Massasoit Community College and we're
12 working with Penn Gaming to develop
13 training courses that would meet their
14 needs. The thought is -- again, my thought
15 is that we will need two groups of people
16 to populate these industries.

17 We're going to need one group of
18 people immediately. The first group coming
19 online is going to be Penn Gaming, and
20 they're going to be early to mid spring, so
21 they're going to be the first group.
22 They're going to be our training ground, if
23 you will.

24 The people who are going to be

1 going into that will be needing the
2 short-term training. When all of the
3 casinos are up and operating, there's the
4 need for replacement people. The feeling
5 is that these replacements will be taking
6 place with the people with the associate
7 degrees.

8 So we have two distinct groups, the
9 group that is going to be going for
10 training and the other that is going to be
11 going for an education. Our firm thought
12 is that we will prepare an educated
13 workforce.

14 I'd like to bring -- Oh. Terry's
15 right up here. Terry, if you'd like to
16 talk for a moment about the workforce.

17 MS. ROMANOVITCH: Sure. Good
18 morning, everyone. We've been pretty
19 proactive in Southeastern Mass. working in
20 collaboration with Massasoit, but also very
21 strategically working with our workforce
22 investment boards and our career centers
23 because, as our colleague said from Western
24 Mass., we've really got to take individuals

1 from where they are, build an
2 infrastructure to get them to where they
3 need to be to be able to support this
4 industry.

5 So we've kind of taken a jump start
6 at that and worked out a training program
7 in collaboration with two of our local
8 work -- career centers, the Bristol and the
9 New Bedford. So one in Fall River, one in
10 New Bedford to start to look at who's our
11 population and how do we want to address
12 them. And because we already have in place
13 the academic pathway, we needed to start
14 with a workforce pathway that builds into
15 and is portable into that career -- to the
16 degree program so people can see an actual
17 career pathway and not feel like they're
18 getting into a dead-end job but feel like,
19 okay, we're supporting them and we are
20 looking at this strategically to sort of
21 get them on this career pathway to a real
22 sustainable, employable job.

23 So we've actually worked with the
24 career center and looked at what are the

1 funding streams that typically come into a
2 career center. Many of them are workforce
3 training funds, which require a
4 20-hour-a-week training program.

5 How do we design that so that
6 they're getting 20 hours a week for as long
7 as we can while they're collecting
8 unemployment, shore up as many of their
9 skills, and, as our colleague said in
10 Western Mass., give them the adult basic
11 ed. If they don't have the high school
12 diploma, build that into the curriculum so
13 that at the end of the day, we're giving
14 them enough of a strength that they can
15 take on these entry level jobs which we
16 know are going to come first out of the
17 ballpark, but then working in collaboration
18 with the academic side saying can you
19 validate this training on your end and give
20 some college credit to it so we can say,
21 okay, come here. We understand you don't
22 have a high school diploma, we understand
23 you don't have training. We're going to
24 give you the high school diploma, we're

1 going to give you this baseline training,
2 but it's going to be portable, and we're
3 going to try to give you up to six to nine
4 credits in the academic area and encourage
5 them through validating academic credit
6 sort of credit where credit is due and get
7 them onto that career pathway.

8 So we can serve the immediate needs
9 of what we see are coming down with these
10 jobs, and the more that we spend time with
11 Penn, find out that they are basically
12 entry level for the first round, but
13 there's a potential for growth, and how do
14 we build that strategically bringing in our
15 partners from the workforce system.

16 So we've kind of taken that model
17 to do that with them and looked at the
18 funding streams so when someone pulls the
19 lever and says go do this, we've already
20 got the thing in place, we've already
21 started some recruitment for this, and we
22 know that we can train them for all of
23 these industries.

24 So we've built one set that builds

1 right into the CATCH Institute which Chef
2 Caressimo just gave you an overview on, but
3 we also, when we were looking at the jobs,
4 realized there were plenty in security
5 coming up and a lot in surveillance. So
6 we're also working with the criminal
7 justice program and with the chief of
8 police from the campus to sort of say how
9 do we influence that as well and how do we
10 get people so that they can jump into these
11 jobs that are going to be available within
12 those two industries.

13 Security and surveillance in
14 particular seem to come out as big
15 industries. And so our chief of police
16 said, wow, we can also give them some work
17 experience because we have surveillance
18 campus, obviously, throughout the campus.

19 And so we're building that
20 infrastructure that gives them the hands-on
21 applied, so we're trying to build
22 internships within all of these as well so
23 they getting some work experience, they get
24 the basic skills, and they get all those

1 work readiness things.

2 So taking the population that we
3 all want to serve, that unemployed,
4 underemployed individual, and shoring them
5 up. We've got some time now, so we're
6 starting now. We've built the
7 infrastructure. And really working with
8 the workforce development system.

9 So we feel like we've got a really
10 good infrastructure that takes in the
11 associate vice president for workforce
12 development. So I've been able to
13 influence what goes on, on that side of the
14 house.

15 We've worked collaboratively with
16 the academic side to say, okay, will you
17 give me three credits for this, will you
18 give me one credit if we do this. And then
19 working also with those that are doing the
20 cooperative education part. Can we also
21 get one credit and get them some work
22 experience.

23 So at the end of the day when
24 someone calls and says what have you got

1 for employees, we have some employees that
2 have had some work experience, that have
3 got the best skills set, and that are
4 either working on or have their high school
5 diplomas so they can move into academic, so
6 that kind of dual enrollment career pathway
7 vision.

8 So we've strategically, from a
9 workforce development plan, feel like we're
10 doing that well and we're doing it in line
11 with what are the available funds for
12 individuals in these categories. And
13 they're looking for, like I said, this
14 20-hour a week program. And I think I sent
15 that to you. And I'm certainly happy to
16 send you the draft.

17 CHAIRMAN CROSBY: Thank you.

18 MR. HAYDEN: Good morning,
19 Commissioners. Jeff Hayden from Holyoke
20 Community College and representing two in
21 our efforts in the Western region.

22 CHAIRMAN CROSBY: Excuse me. If
23 you're going to switch regions, I just
24 wanted to follow up in Eastern. I thought

1 we were going to hear from Massasoit, too,
2 in the -- No. Okay. Well, that's all
3 right.

4 I just -- Do you have a clear
5 understanding of how many jobs in what
6 categories with what needs the Plainridge
7 folks have?

8 MS. ROMANOVITCH: So they were
9 pretty clear in giving us an overview and
10 that's when we really started realizing the
11 security and the surveillance were pretty
12 high. So they said -- I don't remember the
13 percentages, but they certainly were clear
14 in saying we're going to have this
15 percentage of people who are going to need
16 the culinary. We're going to have this
17 percentage of people who might -- the other
18 area we're looking at is the whole grounds
19 keeping, because they're also saying this
20 whole idea of the grounds is going to be a
21 big deal.

22 CHAIRMAN CROSBY: All the
23 facilities, right.

24 MS. ROMANOVITCH: Exactly. So

1 we're working with -- we have an organic
2 farming program, we have a non-credit
3 gardening program. We're trying to look
4 at, okay, do we have landscaping as part of
5 this.

6 So they told us how many jobs are
7 going to be available in that. And they
8 actually gave us percentages at our last
9 meeting with them. So we have a really
10 clear understanding of that. So when we
11 submitted this, I was sort of saying, okay,
12 so these are the jobs we're trying to help
13 people understand.

14 CHAIRMAN CROSBY: Right. Could you
15 send us that outline.

16 MS. ROMANOVITCH: Sure.

17 CHAIRMAN CROSBY: I'd be really
18 interested in seeing it. Do we have it
19 already?

20 MS. ROMANOVITCH: I was just going
21 to say, you've got it.

22 CHAIRMAN CROSBY: Okay. Great.
23 The one category of jobs that I don't hear
24 referred to as yet is the real gaming

1 specific, you know, whether they're the
2 slots techs or the money room managers, or
3 whatever all else. And we're not going to
4 have card games, table games.

5 MS. ROMANOVITCH: Yes. So that's
6 built into the gaming --

7 MR. CARESSIMO: Can I respond to
8 that, Commissioner?

9 CHAIRMAN CROSBY: Yes.

10 MR. CARESSIMO: Yes. Within the
11 associate of applied science in hospitality
12 management in the casino option, there are
13 the casino games. Bristol Community
14 College is currently in the process of
15 putting together a gaming lab that will
16 have blackjack tables, poker tables,
17 roulette wheel, and craps table. So
18 we will --

19 CHAIRMAN CROSBY: None of that is
20 ready to go, and Plainridge is going to be
21 starting to hire people, I assume, soon
22 into the beginning of next year for these.

23 MR. CARESSIMO: But those courses
24 are not going to be relevant to Plainridge.

1 They are not --

2 CHAIRMAN CROSBY: I'm talking about
3 Plainridge, right. I know there's time on
4 the casino. It's Plainridge that I'm
5 concerned about.

6 MR. LEPAGE: We have the curriculum
7 ready to go on that. We've been working
8 with the Gaming Commission to get through
9 the finals, the regulation approvals for
10 gaming schools before we get any further
11 recruitment in that process. We have met
12 with Penn National to get a timeline that
13 they would expect to onboard people. You
14 might hear from their team today. Most of
15 those programs are intensive 20-hour-a-week
16 programs that would be -- the maximum, I
17 think, is 200 hours. So it would be around
18 a ten-week program.

19 So we do have sufficient time. We
20 have met with them relative to the
21 quantities. And the quantities are very
22 reasonable to recruit in that region. We
23 are not in a situation as we are with MGM
24 where that's a thousand people. I believe

1 it's closer to the 100 -- 50 to 100 in the
2 pure gaming jobs, Commissioner.

3 CHAIRMAN CROSBY: Right.

4 MR. LEPAGE: That is in the works,
5 but we did want to wait and not get the
6 cart before the horse, for lack of a term,
7 until the Commission had gone through the
8 gaming school regs.

9 CHAIRMAN CROSBY: All right. But
10 don't let us get in your way. If that's a
11 veiled way of saying that we're holding you
12 back, let us know.

13 MR. LEPAGE: It's not. We wanted
14 to make sure that we didn't announce our
15 schools before we knew exactly what needs
16 to be qualified for the school, but we have
17 gotten the curriculum, we do have head
18 counts, we do have some ideas from our
19 partners how we would improve those.

20 CHAIRMAN CROSBY: Okay. Good. And
21 did you say that we are going to be hearing
22 from Penn National today as part of this
23 conversation?

24 MR. LEPAGE: I believe they're on

1 the agenda.

2 DIRECTOR GRIFFIN: They're on the
3 agenda to discuss the diversity plan and
4 their workforce plan as well.

5 CHAIRMAN CROSBY: Okay. All right.
6 Great. Thank you.

7 MR. HAYDEN: Hello again. You
8 know, you had mentioned earlier about the
9 makeup of the partnerships in the various
10 regions, and I just wanted to highlight a
11 few things in terms of Western
12 Massachusetts.

13 We have over 30 partners who are
14 part of this workforce collaborative, this
15 workforce consortium. It includes the
16 hotel training school here in Boston as a
17 partner in Western Mass. with us, because
18 we knew the importance of having their
19 expertise in terms of transitioning folks
20 who are at basic education and language
21 levels into jobs, and we wanted to make
22 sure that we were able to work with them to
23 replicate and expand their model. So
24 they're partners with us in the west as

1 well as being statewide partners with us.

2 We have been working -- in addition
3 to working with those 30 partners, we've
4 been holding community meetings and
5 briefings, especially industry sector
6 meetings for those who are concerned about,
7 you know, where are all the people going to
8 come for all these jobs, and how are we
9 going to deal with folks who are
10 transitioning from one industry to another.
11 And so we've been working very closely with
12 the financial service sector, we've also
13 been working very closely with the
14 hospitality sectors, as you can imagine,
15 with other industry sectors in Western
16 Massachusetts to start to define not only
17 what are the issues, but what is the
18 process going to be to provide quality
19 talent for all businesses.

20 I think in our partnership with
21 MGM, one of the things that became clear
22 very early on that although they're
23 concerned about how they're going to fill
24 their ranks, they also recognize that the

1 workforce issues that they're going to be
2 grappling with are workforce issues that
3 are met every single day by other
4 businesses in Western Massachusetts.

5 So when we talked about hospitality
6 and culinary issues, they mentioned to us,
7 this has to be a regional solution, not an
8 MGM solution, but a regional solution. And
9 so they were very clear to us that going
10 out of the gate, they're going to need 300
11 line cooks, and they defined that for us.
12 They defined other numbers --

13 CHAIRMAN CROSBY: Going to need 300
14 what?

15 MR. HAYDEN: Line cooks. And they
16 defined many of those numbers. Some of it
17 was in confidence that they shared with us
18 initially, but they are defining the level
19 of need, the level of demand that they have
20 for particular positions.

21 And so for example, in that line
22 cook area in Western Massachusetts, there's
23 already a demand of over 200 folks in the
24 region's hospitality area. So you add a

1 demand for 300 more, and it's a significant
2 demand.

3 In Western Massachusetts, the
4 culinary training network are the five
5 vocational high schools, Holyoke Community
6 College, and UMass's hospitality program.
7 And that's it. We go out to -- or down to
8 Hartford, you go out to Albany, you come to
9 Boston, you go up to Montpelier, you have
10 other schools. So in the Western New
11 England region, we have to build an
12 infrastructure with those partners, our
13 vocational schools, and with UMass. in
14 order to successfully handle this pressing
15 demand for culinary and hospitality workers
16 in the region.

17 And so we talked very specifically
18 with MGM about how to do that, how to
19 create feeders from vocational schools into
20 the college, the community college, and
21 then how to transition folks from the
22 community college into jobs or into further
23 education, depending on their own goals and
24 the needs of the business.

1 being made available, that number will
2 increase.

3 And so in terms of the gaming jobs,
4 they were very clear that they will provide
5 expertise to us and work with us in order
6 to make sure that they have the right
7 people on the ground.

8 The -- One of the responses that we
9 did in terms of the potential need for
10 hospitality, you know, hotel and front of
11 the house and also culinary, we, through a
12 grant program that we were able to get in
13 the month of June, we did a hospitality and
14 culinary program. It was a free program to
15 folks. And what we were trying to test was
16 the ability to give people short-term,
17 quick training that would move them up one
18 level, one skill, one certification at a
19 time.

20 So in other words, someone who
21 might start at an entry level position, if
22 they have a ServSafe credential, does that
23 get them an extra dollar an hour, or those
24 types of concerns so that we can start to

1 define for folks what are the stackable
2 skills that they will need.

3 So we know that a person who's
4 entering into the hospitality and is going
5 to need to have a career readiness
6 certificate, we know they're going to have
7 to have a customer service certificate. We
8 know they're going to have to have ServSafe
9 or TIPS or those types of things. And so
10 how can we stack those in short increments
11 to add to their skills and to show them how
12 they can turn a job into an opportunity and
13 eventually into a career. As our partners
14 from Bristol mentioned, creating those
15 pathways; and as I mentioned, going up to
16 UMass. for graduate degrees in hospitality
17 are even a possibility. So those are the
18 two focuses that MGM has shared with us.

19 The other thing that's become very
20 clear with both MGM and other developers
21 that we've worked with over time is that in
22 Western Massachusetts, we do not have a
23 strong culture of customer service and we
24 do not have the supervisory leadership in

1 customer service that the Boston region has
2 or the Cape Cod region has in
3 Massachusetts. And primarily that's
4 because of the types of industry and
5 businesses that have been in Western Mass.

6 It's always been a hospitality
7 industry, but it hasn't been with that high
8 level of customer service or tourism focus
9 that it has been in the rest of the state.
10 Even in the Berkshires, it's much more
11 important than it has been in Springfield,
12 Holyoke, and Chicopee and in the core of
13 Western Mass.

14 And so getting customer service
15 training and customer service programming
16 that goes across the types of training that
17 were created, we recognize that that's an
18 imperative for us to do, and so we're
19 working on that as well.

20 My boss mentioned the importance of
21 ABE. If we're going to scale the
22 workforce, we need to bring more people
23 into the workforce. Western Massachusetts,
24 flat population, very limited immigration,

1 therefore, what can we do. We need to take
2 the folks who are there who need more
3 skills, need more education, need more
4 language skills, and we need to help them
5 get into the workforce or advance in the
6 workforce. And so that's very important.

7 And a couple of the things that
8 we've done this past year, we -- at Holyoke
9 Community College, we have an ABE base of
10 about \$2 million in terms of funds that we
11 use to do adult basic education and English
12 for speakers of other languages. In
13 collaboration with STCC, we applied for
14 additional funds that added another 2
15 million, 2 and a half million to that
16 effort.

17 And so now we have centers in
18 Holyoke, in Ludlow, in Springfield. We
19 have satellite efforts in Westfield and
20 Northampton, and we're going to also try to
21 grow it within the urban core of the region
22 as well. But between STCC and HCC, we
23 have -- we are the largest ABE, ESL
24 provider, and by scaling that up, we're

1 hoping that that becomes a funnel directly
2 into work for skills training programs for
3 the casino industry as well as for all of
4 the industries in Western Massachusetts.

5 We've applied for the pay for
6 success grant, which many of you might have
7 heard about. It's a new ABE model that
8 Governor Patrick has put forward through
9 the administration and finance part of the
10 executive office. We've applied for \$6
11 million, and it's essentially to take
12 people from ABE combined workplace skills,
13 training with that ABE in order to get them
14 placed into jobs and other educational
15 opportunities.

16 We're working also with the state
17 on the career readiness certificate, which
18 is to try to provide the free assessment to
19 individuals so that they can take that
20 assessment, and then define what their
21 skills are, match them to jobs that are
22 posted, and therefore show that they have a
23 credential to get those jobs or to identify
24 the skilled training gaps that they have in

1 order to get training to fill those gaps.

2 And I wouldn't be a good workforce
3 development professional if I didn't end
4 with a commercial, and that is that you
5 need to go to www.mccti.org where you'll
6 see a lot of information that we've put
7 together on workforce training and
8 workforce opportunities. We've done it in
9 concert with Jill and her office, and it's
10 a strong resource of information.

11 We are hoping to advance it to a
12 higher level fairly soon where we will
13 actually be able to say what career are you
14 interested in, have someone click on
15 specific categories, and then be able to
16 find what are the job opportunities, what
17 are the training opportunities, how do I
18 get to that job, and to do it all online
19 with information that brings them in so
20 they can do the type of career planning
21 that's necessary for them to get the job or
22 get the career that they want.

23 CHAIRMAN CROSBY: Jill, do we link
24 to that site?

1 DIRECTOR GRIFFIN: Yes.

2 MR. CARESSIMO: Yes, we do.

3 MR. HAYDEN: So that's what's going
4 on in the wild west.

5 CHAIRMAN CROSBY: Great. Exciting.

6 COMMISSIONER MCHUGH: It is. I had
7 a question. Obviously, there's going to be
8 a high demand for the initial staffing.
9 And you talk about 300 jobs and the 300
10 line cook jobs for example, plus the 200
11 that are already there. But after that
12 initial 300 are filled, there's going to be
13 a tailing off in the demand. The annual
14 demand or the periodic demand, is going to
15 be much lower. How do you deal with the
16 initial demand and then deal with the
17 residual demand that's going to be over
18 time? Because once people get in there,
19 the turnover rate is going to be hopefully
20 low.

21 MR. HAYDEN: Traditionally, in
22 hospitality areas, the turnover is a little
23 bit higher. So for example, if you've
24 heard from the casino operators that they

1 have a 20 percent turnover or 15 percent
2 turnover, in hospitality related jobs,
3 usually that's significantly higher, 25 to
4 30 percent.

5 However your point is well taken.
6 Our approach is to try to create a variety
7 of training options. As John mentioned
8 from Bristol, we need workforce skills
9 training classes, which are short term,
10 intensive, and quick turnaround. And then
11 we also need career tracts and pathways so
12 that for those who are incumbent workers,
13 so for example, someone gets that initial
14 job, what's the training, what are the
15 educational opportunities for them to go to
16 the next step and to the next level. So we
17 have to create that system.

18 Obviously at some time, there will
19 be a right sizing in terms of the amount of
20 training we have to do. But in Western
21 Mass., we're pretty confident that this
22 hospitality/culinary related need is not
23 going to be satisfied quickly.

24 MR. LEPAGE: Commissioner, one of

1 the things that we've worked on and were
2 talking about in each of the reviews goes
3 back to that passing. So I'll just give a
4 quick example. We know for 300 to 400
5 people at an average class size of 15 how
6 many classes we need to run. And then as
7 we take that against our instructional
8 capacity, the facility capacity, that's
9 where we worked with the City of
10 Springfield who has Putnam Vocational
11 available to us to use that in the
12 afternoon or the evening. Chicopee
13 Comprehensive, looking at Westfield
14 Vocational as a strategy rather than create
15 facilities that we won't need long term to
16 have availability. We're talking about
17 similar strategies here in the Boston
18 region.

19 COMMISSIONER MCHUGH: Fair enough.
20 Thank you.

21 CHAIRMAN CROSBY: That's really
22 good to hear. That was a good question. I
23 did have another question about Eastern
24 Mass. If I remember correctly, the host

1 community agreement requires 90 percent of
2 the hires to come from the host and
3 surrounding communities. Do I remember
4 that right?

5 COMMISSIONER ZUNIGA: For Penn.

6 CHAIRMAN CROSBY: For Penn
7 National. Yes. Sorry.

8 That's a small area with a really
9 targeted objective. I think in
10 Springfield, it's more like 50 percent or
11 something, it's 90 percent. What kind of
12 special efforts have you either got in
13 place or anticipate? You almost need to go
14 door to door to find unemployed people and
15 pull them out of their buildings in order
16 to have enough to meet that 90 percent
17 number in those, whatever, five little
18 towns.

19 MR. LEPAGE: I'm going to let Penn
20 talk about that. For specifics, I can talk
21 relative to the meeting that Director
22 Griffin hosted where we were able to start
23 to talk about the ability to look within
24 the state's database of those who were

1 unemployed and start to get a sense of what
2 are the quantities in each of the
3 communities and having communications with
4 those individuals about the career
5 opportunities. It's not unlike what we do
6 on a regular basis. The community colleges
7 have what are called navigators that work
8 in conjunction with the career one stops
9 where we can provide information on how to
10 convey this.

11 So there is a way to map the
12 unemployed population and the current
13 population for the host as well as the
14 surrounding communities and then look into,
15 I guess I would call them, neighboring
16 surrounding communities. It might be the
17 Fall River community. And say, after we've
18 exhausted our efforts in this region, how
19 do we inform people in other regions. So
20 we have started that mapping the
21 population.

22 CHAIRMAN CROSBY: Okay.

23 MR. LEPAGE: And the Penn region,
24 the numbers aren't as great because the

1 challenge isn't as wide as the Springfield
2 region.

3 COMMISSIONER ZUNIGA: Not only
4 that, but in the case of Penn, there were
5 already a lot of existing employees. To
6 the point that Mr. Hayden was making,
7 stacking additional skills, et cetera,
8 might be really helpful.

9 DIRECTOR GRIFFIN: So we have
10 Bunker Hill Community College and North
11 Shore.

12 CHAIRMAN CROSBY: For Eastern Mass.
13 Okay.

14 MS. WOJCIECHOWSKA: Thank you. I'm
15 Bogusia Wojciechowska. I'm the dean of
16 professional studies at Bunker Hill
17 Community College and the point person for
18 the colleges in Region A.

19 So what we have -- we've been very
20 busy for the past few years. Some of what
21 we're doing has been presented already as
22 occurring in other regions. We've been
23 working closely in terms of the community
24 colleges working, collaborating. We've

1 also been working with the investment
2 boards, the career centers, and the hotel
3 training school. We want to ensure that
4 the training is delivered efficiently and
5 that we don't duplicate our services.

6 We've also held meetings with the
7 developers to identify the jobs and
8 training leads. We have a meeting on July
9 11 which is going to be more of a sit down
10 and let's flesh out exactly how many
11 numbers, you know, what the numbers are
12 like in the different categories, what kind
13 of training will be needed, not only the
14 front side of the house, but also the
15 backside of the house. And then all the
16 partners in the region will compile what I
17 think somebody referred to as the inventory
18 training basket, because we need to see --
19 You know, some of us have got culinary
20 programs, others don't. For those of us
21 who are urban colleges, there is a space
22 shortage. As you can imagine, Bunker Hill
23 is bursting at the seams. So we need to
24 start planning well ahead as to what kind

1 of capacity we can all handle.

2 We will be discussing the training
3 for both the games and also the -- that the
4 training that's more credit focused in IT
5 or in communications skills, hospitality,
6 security, customer service, management
7 marketing, accounting. We've had some
8 preliminary conversations with the
9 developers, and even though we have a
10 curriculum -- a credit bound curriculum
11 fully developed, at this point, it seems
12 like just rolling out an introductory
13 casino management course is what they felt
14 was the way to go.

15 So at this point, we're not sure
16 whether or not we're going to develop
17 accounting for casinos or marketing for
18 casinos. That's still -- it's available.
19 We have it developed, but we're not sure at
20 this point if it's actually going to be
21 necessary to put in place.

22 We are interested, as has been
23 mentioned in the other regions, in creating
24 pathways for the workers. So it's not just

1 a matter of a job, that it becomes a
2 career. We would -- the navigators that
3 has been referred to for the career centers
4 will be very involved in this also. The
5 colleges are interested in what we call the
6 wraparound services. They're those real
7 support and advising available to the
8 people who are in this tract so they
9 understand what their options are beyond
10 getting some noncredit training.

11 We were planning to really ramp up
12 the adult basic education. I mean, there's
13 the need for that anyway in the Boston
14 area, but I think with this initiative, we
15 need to expand our capacity. So actually,
16 Bunker Hill is already looking at acquiring
17 another building down the road from our
18 main campus because there is a lot of need
19 for that.

20 So I think in summary, much of what
21 -- I think the regions are all overlapping
22 in terms of what we're doing. We're all
23 following the same kind of model, and I
24 think we will be ready to offer the

1 training when it's required. And I think
2 we'll have a much better idea after July
3 11th as to the numbers and precisely who
4 can offer what.

5 CHAIRMAN CROSBY: You're meeting
6 with both of the applicants on July 11.

7 MS. WOJCIECHOWSKA: Yes. We supply
8 to both.

9 COMMISSIONER STEBBINS: Just help
10 me understand in terms of, you know, the
11 regional group that you're building and
12 continue to build. You know, the number of
13 organizations I would expect you're going
14 to invite to the table --

15 MS. WOJCIECHOWSKA: Substantial.

16 COMMISSIONER STEBBINS: -- are
17 probably going to be substantial.

18 MS. WOJCIECHOWSKA: Yes.

19 COMMISSIONER STEBBINS: But we've
20 heard they cover the regional employment
21 boards, workforce employment boards. Are
22 you having success kind of drilling down
23 into the weeds to find when -- early on we
24 were told that more neighborhood-based

1 organizations can be helpful to help
2 encourage people who may need the training
3 services that you're talking about,
4 probably fall into that underemployed or
5 unemployed category. Are you finding
6 success recruiting those types of partners
7 to the table?

8 MS. WOJCIECHOWSKA: We haven't
9 drilled down to that level yet, but that's
10 certainly -- it's a good point. We need
11 to -- once we have the training ready, I
12 think we need to really expand our
13 outreach, but I'll make a note of that that
14 maybe we can look at some of the -- You
15 know, we have various partners, like the
16 Latina Alliance or Roca. I mean, there are
17 various people that we're already working
18 with that we can certainly bring into the
19 conversation.

20 COMMISSIONER STEBBINS: Okay.

21 MR. LEPAGE: In the case of one of
22 the developers, they provide on a pretty
23 constant basis those organizations that
24 they're partnering with and refer to them,

1 and we're organized to pursued the
2 communication.

3 So we have a list of maybe 40
4 organizations -- I guess I can say -- from
5 working with Mohegan Sun and all those
6 organizations that they've been partnering
7 with across the region to get the word out.
8 If you'd like us to provide that, I can
9 send you the list. But we've been hesitant
10 to get into the weeds so we can explain
11 exactly how this is going to move forward
12 and until the employability regulations
13 were completed.

14 COMMISSIONER STEBBINS: And I think
15 I saw him come into the room. We're happy
16 to offer up our director of licensing,
17 David Acosta, to be part of that
18 educational process for people to
19 understand what the licensing and
20 registration requirements are going to be.
21 And that's consistent across all the
22 regions.

23 MR. LEPAGE: He has been very
24 helpful in starting the teaching at the top

1 level with the career centers. So he has
2 been doing some briefings with the career
3 center executives. We want to make sure
4 they really understand it before we go down
5 and out to the community.

6 COMMISSIONER STEBBINS: Okay.

7 Great.

8 MS. GENTILE: Should I go?

9 CHAIRMAN CROSBY: Next.

10 MS. GENTILE: Good morning,
11 Commissioners. I'm Pat Gentile, the
12 president of North Shore Community College.
13 I started at North Shore six months ago in
14 January 2014. But prior to that, I was the
15 dean of Atlantic Cape Community College in
16 Southern New Jersey who oversaw the Casino
17 Career Institute as well as other
18 responsibilities and worked closely in
19 partnership with the casinos and hotel
20 resort properties in Atlantic City.

21 Now, over the 14 years I worked at
22 Atlantic Cape, I traveled extensively to
23 many new gaming venues to help public
24 higher education, gaming commissions,

1 enforcement agencies, and other entities
2 with education programs geared to the
3 gaming industry, including domestic and
4 international partnerships.

5 What I've learned over that time is
6 that the public/private collaboration
7 between community colleges and private
8 casino employers bears a lot of fruit. And
9 I think you're hearing a lot of that this
10 morning in terms of the collaborative
11 efforts that have already been going on and
12 have been going on for several years. I
13 think not only is it good for both the
14 community colleges and private employers,
15 but it's good for the state, it's good for
16 the labor force.

17 So I want to give you a couple of
18 examples of what I know in terms of the
19 win-wins that come from these kinds of
20 partnerships.

21 There's high quantity education and
22 training programs flexible to meet the
23 individual employer's labor demand needs.
24 What you've heard this morning is a lot of

1 people talking about we had a discussion
2 with the HR people, we talked with the
3 training people. And what we learned when
4 I was at Atlantic Cape is that's who you
5 listen to. What's their HR plan? How many
6 jobs are going to be available in what
7 areas? What kind of credentials are going
8 to be needed? What kind of skill levels
9 are they looking for? And building the
10 training programs both in the non-credit
11 areas as well as in the credit areas to
12 meet those needs.

13 We found that employers are
14 interested in both of those, not only the
15 industry credential, but also pathways for
16 their employees to get the credentials they
17 need to move on in their education so that
18 while they're an incumbent worker, they can
19 move their way up.

20 And one of you, I think, stated
21 earlier that you do know that this industry
22 is very good at promoting from entry level
23 up. That is one of the hallmarks, which I
24 think is very positive and why community

1 colleges, not only in Atlantic City, not
2 only here in Massachusetts but cross the
3 country have become very involved partners
4 with the gaming industry.

5 Community colleges act as
6 knowledgeable intermediaries for the
7 private employers whose training in human
8 resources is fairly limited, because they
9 are considered essentially a cost center
10 and may not be informed as to the abilities
11 of the Commonwealth to help provide a
12 strong potential worker recruitment
13 channel -- you've been talking about that,
14 where are we going to get the people
15 from -- but also in continued incumbent
16 worker training.

17 The expertise of the community
18 college in leveraging appropriate workforce
19 development training support has become a
20 critical asset to these employers. And you
21 know, sometimes we forget in the
22 bureaucracy that the language of government
23 is not easily translated to the language of
24 private employers. And I think that's

1 where the community college has built an
2 expertise in doing that, not only for the
3 casino gaming industries, but for many
4 private employers and that will be brought
5 to bear here as well.

6 So community colleges understand
7 what an ITA is, how to work with the
8 workforce investment board, where private
9 employers sometimes may not know what those
10 local resources are. There's a
11 longstanding collaboration with the
12 workforce investment board. In
13 Massachusetts, community colleges, like the
14 three that we're talking about right now in
15 Region A collaboration, work very closely
16 with their local WIBs to help with career
17 navigation for dislocated workers, so folks
18 who have lost their job not through their
19 own fault, underemployed and unemployed
20 workers.

21 Every community college president
22 like me has a mandatory seat on the WIBs
23 planning boards and works closely in policy
24 making and planning with workforce

1 development. So we sit at those meetings
2 and talk about the needs that we see and we
3 hear from the employers and then take that
4 back to our colleges to devise programs to
5 help with that training.

6 A large property, such as is coming
7 into Eastern Massachusetts with thousands
8 of new jobs, will increase the local
9 competition for skilled workers. You've
10 already pointed that out. Where are the
11 workers going to come from? And you're not
12 the first to meet that concern.

13 When I was in Atlantic City, for
14 example, during the growth period,
15 basically, we were running out of bodies.
16 Who could we train, how do we get those
17 workers to the vacancies. At one point,
18 not now, but at one point before the
19 recession, there were sometimes a thousand
20 open vacancies in that city.

21 So we did take a look and mapped
22 out where could those potential workforces
23 come from, looking at nearby commutable
24 counties and so on to help with not only

1 the recruitment, but also the training in
2 those areas and collaborate it with our
3 neighbor community colleges to make that
4 happen.

5 An example you've already brought
6 up is in the food and beverage industry
7 where the labor market here in the Boston
8 area is already pretty stretched for
9 talented workers was one of the industries
10 that even through the recession continued
11 to grow in the Boston area in terms of
12 labor demand. There could be difficulty
13 finding appropriately credentialed culinary
14 workers, but I think working closely with
15 the community colleges, not only in the
16 credit culinary programs that we have, but,
17 for example, in Atlantic City, we devised a
18 four-month program for those dislocated
19 workers where they could get their
20 ServSafe, where they could get essentially
21 nearly a semester, up to 11 credits, of
22 potential -- of credits down the line.

23 Once workers were on board though,
24 you asked so what happens after the initial

1 big bump. Okay. And obviously, we saw
2 that a couple of times. Not only when the
3 industry matured, but then new -- new
4 employers came to town, what happened at
5 that time, how did you smooth out the
6 training so that you weren't left with high
7 capacity. And I think some of that has
8 been addressed today, but there is also the
9 issue of continued work.

10 It's not just getting folks into
11 the industry. It's also working
12 collaboratively with the employer partners
13 to educate the incumbent workers. And in
14 Atlantic City, we're talking really 35
15 years of history of doing that. So it
16 wasn't just getting the folks into the
17 jobs, but a close collaboration.

18 I'll give you some examples of how
19 there's a true return on investment to the
20 prior -- to the private employers and to
21 the region that we measured in Atlantic
22 City.

23 Community colleges work in close
24 collaboration with the labor unions. UNITE

1 HERE is one of the major unions that have
2 an established relationship with community
3 colleges all across the country. In fact,
4 the international training manager, Steve
5 Shertel, for UNITE HERE lives in Atlantic
6 City and travels to all of these places.

7 So there is a knowledge base with
8 the unions. One example, for example, for
9 -- that I can tell you is the culinary
10 program that the unions had in Atlantic
11 City and that are possible here for an
12 apprenticeship program.

13 The unions worked with their chefs
14 in the properties to do the actual
15 on-the-job work, and then the college
16 provided the education part of the
17 apprenticeship program in what was called
18 the YTTW or the Youth Transition to Work
19 apprenticeship. So these are a few of the
20 direct benefits to the Commonwealth from a
21 strong training partnership with the
22 Commonwealth community college sector.

23 In July 2002, I was the project
24 director for United States Department of

1 Labor Sectorial Planning Grant. This was
2 modelled on the Nevada partners program
3 that was in collaboration with UNITE HERE.

4 And in this planning grant, we
5 determined -- you asked this question --
6 where the labor is going to come from.
7 Well, we determined that 86 percent of
8 existing Atlantic City workers came from
9 the county in which the casinos resided.
10 Okay. And that, of course, was Atlantic
11 County. And the county adjacent to it in
12 terms of good commuting patterns. So that
13 was the northern end of Cape May County and
14 the southern end of Ocean County in
15 Southern New Jersey.

16 So it's likely that the majority of
17 jobs for the licensee in either Revere or
18 Everett will be filled by residents in the
19 host and nearby communities.

20 In Region A, that would translate,
21 obviously, to Essex County as a primary
22 source and Suffolk County, especially the
23 City of Boston, as the next largest
24 recruiting areas for workers.

1 Now, the collaboration that Bogusia
2 spoke about, Bunker Hill, Roxbury, North
3 Shore Community College, would provide a
4 majority of training coverage for those
5 areas. And that training, as I said, is
6 not only just to prepare when the opening
7 of the casino resort comes to the area, but
8 it's also that continued incumbent worker
9 training that becomes important over time
10 to both the productivity of the labor force
11 and, obviously, the vitality of the casino
12 resort over time.

13 And I think as the economy
14 continues to recover in this region, there
15 will be increased competition for the
16 workers who are attracted to the casino
17 industry, and so there will be some
18 recruitment away.

19 We talked a little bit about the
20 hospitality industry's turnover rates. In
21 Atlantic City, it was around 26 percent.
22 And so there was a need for continued
23 backfill of those workers. It wasn't that
24 people were leaving the industry. It was

1 they were working their way up in the
2 industry.

3 So you'll find, as I found here in
4 Massachusetts, a lot of people who came
5 from Atlantic City who went on to Las
6 Vegas, went on the Pennsylvania, up here in
7 Massachusetts. And so what happens is you
8 really open up a worldwide career path for
9 the folks in the local area.

10 The hospitality is known for this
11 higher turnover rate, and one of the things
12 we tried to do in Atlantic City was to get
13 our arms wrapped around that. So we did a
14 planning grant again, because that's what
15 colleges do. We research, we look into it,
16 and we looked at the demand for a
17 particular group, another group I think
18 that we'll be serving here, and that's the
19 English as a second language group.

20 So we worked with Caesars
21 Entertainment, and we did a case study. At
22 the time, Caesars Entertainment had three
23 casino hotels in Atlantic City, a total
24 labor force of about 14,000 employees.

1 Before the English as a second language
2 training began, they had a turnover rate of
3 24.6 percent, which was typical of the
4 industry. Then with the community college
5 who leveraged the state workforce training
6 contract, English as a second language
7 classes were conducted for incumbent
8 workers uninterrupted twice a year for
9 three years with an average attendance of
10 350 student workers per year. Post
11 training, the annual turnover rate of that
12 core of English as a second language
13 student workers was only 6.7 percent, a
14 huge reduction in turnover from the
15 industry average. So there's real benefits
16 to the continued incumbent worker training
17 in this industry.

18 So here's some specific outcomes
19 that we got from that case study. Of the
20 guest room attendance, the control group of
21 employees who did not receive English as a
22 second language training had a turnover
23 rate of 27.2 percent. The ELS trained
24 workers' turnover rate was 12.5 percent.

1 Of the public area porters, control group
2 without English as a second language
3 turnover rate was 24.8 percent. Turnover
4 rate of porters who took the English as a
5 second language training was 2.7 percent.

6 Over the three-year period, 183
7 employees were retained as a result of
8 partnering with the community college to
9 provide incumbent worker training. Now,
10 assuming replacement costs of three month's
11 worth of wages, the total retention savings
12 realized were \$850,000 for that employer
13 while the total cost of paying employees to
14 attend the English as a second language
15 classes provided through state workforce
16 development contracts was 320,000. So the
17 return on investment for the employer for
18 training was 266 percent.

19 In addition, customer service
20 scores in the hotel rooms division reached
21 an all-time high during that three-year
22 training period.

23 So what we found there was key
24 success factors for both higher

1 productivity, lower turnover rate,
2 increased vitality of the industry making
3 sure that local workers were able to have
4 the skills, retain the skills, advance in
5 the career were this:

6 Number one, a willingness on the
7 private employer's part to partner with the
8 community college that provides both
9 training service and acted as a
10 public/private liaison to the state. We've
11 already found that, for example, in Region
12 A, with outreaches from both Mohegan Sun
13 and from the Wynn properties.

14 Private employers willingness to
15 train the potential workforce and incumbent
16 workers. Again, we're seeing that with all
17 the casino partners across the state.

18 A willingness to commit internal
19 dedicated resources, and we've heard that
20 commitment, at least in Region A, from both
21 Mohegan Sun and Wynn properties.

22 So quite frankly over time, the
23 community college casino training
24 collaborations that I saw in Atlantic City

1 generated many other benefits besides the
2 ones I've talked about, including
3 philanthropic support, development of the
4 community, and so on. You know, really
5 that entry level sort of portal for a
6 global career path and, obviously, economic
7 development for the region.

8 So I hope that that gives you some
9 idea of what I think are the benefits of
10 what you started here and truly the
11 outcomes in other areas.

12 So what I've heard this morning in
13 terms of folks working together to not only
14 reach out to the community to work with the
15 private employer, to hear what their HR
16 plans are for both on boarding and
17 overtime. I think that, you know, the
18 investment that you've made in this
19 collaboration will pay up in big dividends.

20 CHAIRMAN CROSBY: Comments.

21 COMMISSIONER CAMERON: You're a
22 wealth of knowledge, and I'm sure all of
23 your colleagues will, if they're smart,
24 they will utilize that knowledge. Are

1 there things that you didn't hear this
2 morning; meaning, additional training,
3 additional collaborations with operators,
4 are there a few things that you think need
5 to be worked on? We spoke a lot about
6 culinary, and there was some mention of
7 security surveillance and whatnot. Is that
8 something --

9 MS. GENTILE: Well, I think
10 building the pathways, for us I know, for
11 here in Massachusetts, it's been a learning
12 experience, both for the community colleges
13 and for the folks who are working both on
14 the credit and the noncredit side. We've
15 worked, when I was at Atlantic Cape, to
16 help them with getting the knowledge that
17 we had at that point and sharing that
18 knowledge, and I think they've done a very
19 good job in sitting down with the employers
20 and listening. I mean, that's really the
21 first place you go.

22 In terms of the state, those
23 workforce development contracts are
24 essential. I know a lot of people worry

1 about how much OJT or how much workforce
2 development funding comes from the state
3 for what appears to be a fairly wealthy
4 industry, but when you really think about
5 the return in investment for the state in
6 terms of having your workers and your local
7 residents prepared for not only to get into
8 that industry, but work their way up that
9 industry, and not only maybe stay in
10 Massachusetts but now have a global career
11 path.

12 You'll find a lot of the folks that
13 I've met here at Mohegan Sun, for example,
14 came from Atlantic City. You know that as
15 well. And having that training ground not
16 only helps that individual, it helps the
17 community. It helps that family. It
18 provides that self-sustaining career path.

19 And for the populations that we're
20 targeting, those folks who are immigrants,
21 those folks who are unemployed,
22 underemployed, those folks who are looking
23 to get in an entry level and work their way
24 up, this industry still provides that. And

1 I think it's a good mix for the regional
2 economy. Because a lot of the other jobs
3 that we prepare people for are fairly high
4 skill level where you need to get at least
5 a bachelor's degree or maybe even beyond.

6 And so I think that this mix is
7 very good for the economy, and the
8 community college partnership helps those
9 local folks get those skills they that need
10 to enter and then works over time. And
11 obviously in Atlantic City. We're talking
12 about decades of work for the community
13 college. So that work hasn't gone away.
14 That work has continued.

15 COMMISSIONER CAMERON: Thank you.

16 MS. GENTILE: You're welcome.

17 COMMISSIONER MCHUGH: I wanted to
18 follow up on that a little bit because all
19 this is enormously exciting. I think back
20 to about a year and a half ago when we
21 began these conversations and see how far
22 we've come, you've come, in putting this
23 all together.

24 But I wondered about the degree of

1 collaboration across the community college
2 area that's going on from the very high
3 level, the kind of strategic planning to
4 the actual course level. I looked at the
5 curriculum for the courses. "The Art of
6 the Cape" particularly caught my eye.

7 So I wondered about the plans for
8 cross facility collaboration, because it
9 strikes me that if you find that the course
10 that truly works, everybody would benefit
11 from that.

12 MS. GENTILE: Bill can talk to it.

13 MR. MESSNER: I think even though
14 the community colleges, as I think you
15 appreciate, is a decentralized system, you
16 don't have one whoever going up there
17 delivering orders. I think on this
18 initiative, the community and particularly
19 the five or six community colleges that are
20 most involved have come together, are
21 learning from one another. We may not do
22 everything exactly the same, but that's
23 going to be in part a function of the
24 casino developers we're working with and

1 their needs, but I do think there's a level
2 of collaboration here that, if not
3 absolutely unique, I think it's very
4 positive. And to be very honest, we know
5 that to a certain extent our reputations
6 are on the line on this one. So the order
7 has gone out, don't screw it up.

8 COMMISSIONER MCHUGH: A good order.

9 MS. ROMANOVITCH: I worked at the
10 executive offices for community colleges
11 before I worked at Bristol. So there is
12 this central place where presidents sit
13 with the executive office, and when good
14 things are happening, you tend to see
15 replication and there's a lot of strategic
16 planning going on, even to cross pollinate
17 the codes and things.

18 Right now, the community colleges
19 are applying for a grant to look at working
20 with MIT to sort of look at numbering the
21 courses so if someone takes something at
22 Bristol Community College, and then they
23 want to go to Holyoke, and they have
24 similar curriculum crosswalks. I think as

1 we start developing this, we'll see that
2 you have an opportunity to make this
3 systemwide because there is that kind of
4 infrastructure.

5 COMMISSIONER MCHUGH: That's great.

6 MR. HAYDEN: And Commissioner, I
7 know we've said it a few times, but this
8 whole stackable notion. So when you do
9 workforce training, it's about getting them
10 the skill for the job, but we've now got
11 agreements within and internally that, oh,
12 that's going to be worth so much credit,
13 that goes to this degree, that goes to this
14 certificate. So that's being defined. And
15 that type of discussion wasn't all that
16 frequent then years ago, and it's happening
17 very much these days.

18 MS. GENTILE: And I've seen a
19 change, too, in the industry in terms of
20 valuing the degrees and the credentials. I
21 would say probably a while ago that may not
22 have been so true. They were just looking
23 for the skill level, but that industry has
24 changed too as global competition has

1 heated up. You know, they really do value
2 the credentials that their employees bring.

3 I'll give you one example. When I
4 was in Atlantic City, Borgata took their
5 mid-managers, and we broke up into modules
6 the hospitality management degree and
7 taught -- they used their tuition
8 reimbursement funds to bring our community
9 college faculty on site to provide
10 noncredit modules that added up to credit
11 and then also added up to an associate's
12 degree in hospitality management with an
13 articulation agreement on to Stockton,
14 which is the nearby four-year public
15 college, to continue on and to get your
16 hospitality management bachelor's degree.

17 So there's more of an interest
18 today in the gaming industry in educating
19 their workers and in having credentialed
20 folks in their supervisory and management
21 levels.

22 CHAIRMAN CROSBY: We're going to
23 have to move on, but this is great. It's
24 very exciting. It's total serendipity that

1 you should end up here. It's a great
2 resource. We're glad to have you.

3 I did want to mention that we will
4 be meeting with the -- most of the
5 secretaries from the various secretaries in
6 the governor's executive branch who have
7 work going on relative to us to help
8 facilitate the working relationships
9 between all our permitting and all the
10 stuff going on, including Secretary
11 Kaprielian for the Workforce and Labor
12 Business.

13 So just keep that in mind that we
14 have a commitment from the governor and the
15 governor's people to try to really pay
16 attention to maximize the upside of this.
17 If that can be helpful in your work, let me
18 know. Thank you all very much.

19 COMMISSIONER MCHUGH: Thank you.

20 COMMISSIONER CAMERON: Thank you.

21 COMMISSIONER ZUNIGA: Thank you.

22 CHAIRMAN CROSBY: I'm going to
23 suggest a brief break.

24 (Break taken.)

1 CHAIRMAN CROSBY: All right.

2 Ladies and gentlemen, we are reconvening.
3 And we will pick up again with the third
4 item on our agenda, which I believe is
5 Director Griffin.

6 DIRECTOR GRIFFIN: Hello again,
7 Commissioners. In one of our previous
8 public meetings, the Commission asked for
9 clarification regarding the division of
10 professional licensure application process
11 as it pertains to private occupational
12 schools and, I think, specifically gaming
13 schools.

14 The Commission was concerned that
15 there not be undue duplication with our own
16 process to certify a gaming school. You
17 may recall that division of professional
18 licensure regulates private occupational
19 schools in the area in areas as diverse as
20 nursing to funerals, mortuary science, and
21 to include private gaming schools. They do
22 not, however, oversee community colleges
23 who will soon be offering training, as we
24 just witnessed, related to gaming.

1 The DPL review is thorough covering
2 areas such as facilities, curriculum,
3 equipment, instructors, staff, and
4 ownership. The department may inspect
5 school records, student files, enrollment
6 agreements, and such, and no change in
7 name, address, or ownership of a school can
8 occur until the department approves the
9 requested changes.

10 So I've included the application
11 which is required, a completed application
12 is required to be filled out by the
13 applicant. A required fee is also
14 required. Certification from the state
15 auditor that the applicant is financially
16 qualified to operate a school is required.

17 The applicant is also required to
18 submit the amount determined by the state
19 auditor, a bond or an irrevocable letter of
20 credit, payable to the Commonwealth to be
21 held in the trust for the benefit of the
22 students should the school close
23 unexpectedly.

24 Inspection reports from the local

1 building inspector certifying that the
2 premises comply with the state building
3 code and inspection report from the local
4 fire department certifying that the
5 premises comply with local fire codes are
6 required.

7 So in terms of the timing, I'm told
8 that the -- if the applicant files a
9 complete application with the Division of
10 Professional Licensure, that part of the
11 process takes about four to six weeks.
12 Prior to that, 90 days prior to that
13 application process, the state auditor has
14 about three months to look at the financial
15 records. So unless you have --

16 CHAIRMAN CROSBY: So the total --
17 theoretically, the total would be five
18 months, something like that?

19 DIRECTOR GRIFFIN: In the best case
20 scenario.

21 CHAIRMAN CROSBY: In the best case,
22 right. And can they operate on a
23 provisional basis like the way we license
24 sometimes while that's pending, because

1 five months --

2 DIRECTOR GRIFFIN: I don't think
3 so. I don't think so.

4 CHAIRMAN CROSBY: Okay. So then
5 the next question was whether our -- you
6 know, our application form looks pretty
7 reasonable.

8 DIRECTOR GRIFFIN: Right. I did
9 include our application because I think we
10 looked at the two application processes,
11 and we wanted to make sure that our process
12 used the information that is provided by
13 the prior process.

14 CHAIRMAN CROSBY: Right. Yeah.
15 That didn't look onerous to me in the
16 context of all the other stuff.

17 DIRECTOR GRIFFIN: Great.

18 CHAIRMAN CROSBY: Okay.

19 COMMISSIONER MCHUGH: Is there any
20 way to speed up that process? Is there
21 anything we could do to help speed up that
22 process? That is a long time.

23 CHAIRMAN CROSBY: That's the best
24 case.

1 COMMISSIONER CAMERON: Do we know
2 what the average is?

3 DIRECTOR GRIFFIN: You know, it was
4 not easy to get that information.

5 COMMISSIONER ZUNIGA: You know, I'm
6 not very concerned about the time in a
7 vacuum because a lot of what's required
8 here, if somebody's trying to set up a new
9 school, I think it's very much warranted.
10 If they're going for a renewal, then
11 they're already operating, which is your
12 previous point, Mr. Chairman.

13 So while on its face value,
14 requiring, you know, looking at the
15 financials, looking at the bond, et cetera,
16 may seem like a lot of work or like a long
17 time, you know, I think it's appropriate,
18 and, you know, given the context of
19 certifying something that has such a
20 significance in the people that are going
21 to patronize these schools.

22 DIRECTOR GRIFFIN: So that's an
23 important point. DPL is there to protect
24 the public, and there have been cases where

1 private occupational schools have closed
2 unexpectedly, and students have already
3 enrolled and put deposits on classes. So
4 you know, DPL is there to, for the most
5 part, ensure that these kind of cases don't
6 happen.

7 COMMISSIONER MCHUGH: Yes. I don't
8 quarrel with the thoroughness and maybe
9 don't quarrel with the time. I just
10 wondered if we could be thorough quicker.

11 DIRECTOR GRIFFIN: We've met
12 several times with DPL, and they seem very
13 cooperative and I think will do their best
14 to ensure that occupational schools receive
15 the attention that they need.

16 COMMISSIONER ZUNIGA: I -- I'm
17 sorry.

18 COMMISSIONER CAMERON: Do we know
19 how many schools or do we have any idea of,
20 you know, the quantity of schools that may
21 be interested in applying for this license?

22 DIRECTOR GRIFFIN: Currently,
23 there's one private occupational school
24 that is currently licensed. You know, I

1 believe they're located in the Emerald
2 Square Mall. And so I would anticipate
3 that they would be -- they may be
4 interested. They're currently, I think,
5 training for the Connecticut and Rhode
6 Island markets. We know that the community
7 colleges are interested, but we really
8 don't know how many others are out there.

9 COMMISSIONER STEBBINS: I don't
10 think we had to worry about the population
11 of these types of schools. I think it was
12 more of the consumer protection effort,
13 which drove a lot of these licensing
14 guidelines. I don't think we had a list of
15 we know that these 12 that do it somewhere
16 else in the country will want to come into
17 Massachusetts. It was more worried about
18 "Fly By Night Poker School" getting set up
19 and taking a lot of people's money.

20 DIRECTOR GRIFFIN: Right. We were
21 interested in maintaining a high level of
22 standard.

23 COMMISSIONER STEBBINS: And I
24 apologize if I've insulting any company

1 that's actually called Fly By Night Poker
2 School.

3 CHAIRMAN CROSBY: Well, Jill, then
4 this is good. This is helpful. This is
5 certainly what I was interested in. And it
6 looks on the face of it okay, although I
7 share Commissioner McHugh's concern a
8 little bit. But it's just important.
9 Let's just keep an eye on it. There ought
10 to be a particular file somewhere and just
11 make sure we keep in touch and see how long
12 it does work and make sure the system does
13 work. Great.

14 DIRECTOR GRIFFIN: Great. Thank
15 you. So if we're ready to move on, next on
16 the agenda, we have guests from Penn
17 National Gaming who are here to present
18 their draft at this point, vendor and
19 workforce plans. So I'd like to welcome
20 Lance George. Hi.

21 MR. GEORGE: Thank you.

22 DIRECTOR GRIFFIN: And Steve
23 O'Toole, who is the current general manager
24 of racing at Plainridge, is he here. Yes.

1 Somewhere. Cori Whitaker, vice president
2 of talent management for Penn National.
3 And Karen Bailey works in public affairs
4 for Penn National.

5 So pursuant to Penn National's
6 category 2 gaming license conditions, they
7 have submitted the initial vendor and
8 workforce plans as required. They
9 submitted them on May 28th to the
10 Commission. It was required 90 days from
11 the award of their license, which was
12 awarded on February 28th.

13 Condition 8 required an affirmative
14 marketing program for businesses providing
15 goods and services during the operations of
16 the casino. And you have in front of you
17 the two plans. The workforce plan is in
18 response to condition 13 that required a
19 marketing plan to the unemployed and
20 underemployed.

21 So I'm going to talk a minute about
22 the process that I took for soliciting
23 feedback from the public regarding these
24 plans. I'm going to highlight strengths,

1 areas of conditions, and then I'm going to
2 give Penn National a chance to respond, if
3 that process sounds good to you.

4 COMMISSIONER STEBBINS: Sure.

5 DIRECTOR GRIFFIN: So I asked for
6 feedback via e-mail from the statewide
7 community college collaborative; members of
8 the state Department of Labor; the Mass.
9 Gaming Commission vendor advisory team, all
10 about 20 members; the Mass. Gaming
11 Diversity Coalition also included in the
12 vendor team; and from a database of
13 individuals who have expressed interest in
14 diversity workforce or suppliers --
15 supplier issues that I have been
16 collecting, and at this time, that's about
17 80 individuals.

18 We received seven comments from
19 mostly from the vendor advisory team, the
20 community colleges, and the Mass. Diversity
21 Coalition, some individual responses and
22 some submitted as a group.

23 So let's see. So I'd like to start
24 first with the vendor diversity plan. I'm

1 looking for the comments. The vendor plan
2 is generally a solid plan. Penn adopted
3 the Commonwealth's procurement goals for
4 state agencies outlined in an October 2013
5 memo from the operational services division
6 which sets goals for state agencies at 6
7 percent minority, 12 percent WBE, and 3
8 percent veteran business enterprise.

9 They based their plan on a 2010
10 disparity study prepared for DCAMM. They
11 used industry guidelines for inclusion of
12 goods and services, specifically to
13 American Gaming Association research. They
14 outlined the networks that they have
15 established and would use to outreach to
16 targeted populations that includes the
17 Mass. Gaming Commission vendor advisory
18 team, the state supplier diversity office,
19 the greater New England Minority Supplier
20 Development Council, the Veteran Business
21 Owner Initiative in, I believe, New Bedford
22 and Worcester, local chambers of commerce,
23 the Center For Women in Enterprise.

24 Their diversity committee includes

1 top level leadership including Lance
2 George, their general manager, and their
3 vice president of purchasing. And Penn
4 National has implemented two policies that
5 I was actually excited to see included in
6 the plan. Any contract that is put out to
7 bid that equals or exceeds \$5,000 must
8 include at least one MBE, WBE, or ZBE bid
9 and at least one bid from a Massachusetts
10 vendor.

11 Penn National also outlined a fast
12 paid program that provides payment to
13 vendors within seven to ten days upon
14 completion of the project. This addresses
15 a need that has been highlighted by small
16 businesses across the Commonwealth. And
17 I'm hoping that current applicants who may
18 or may not be in the room will consider
19 this policy as well.

20 So I have shared areas of concern.
21 Karen and I have been in conversation, and
22 I am concerned about that their definition
23 of minority is limited and it does not
24 align with the state definition. And I

1 don't think that -- I think this was a
2 mistake. So I'll ask her to comment on
3 this.

4 The diversity committee, while I
5 highlighted that they include top level
6 leadership, we had suggested external
7 members in their original plan for
8 construction. And I'm concerned that in
9 this plan, the external members are
10 included on a rotating basis without
11 clarity about the term with no standing
12 membership.

13 So those are my comments. And why
14 don't I just talk just briefly about --
15 since I just found the comments from the
16 public, why don't I just highlight some of
17 those.

18 So we had comments from the
19 Hispanic American Chamber Institute who
20 said that in his -- Nader Acevedo, who is
21 the executive vice president, reviewed the
22 documents, and he said they did a good job
23 and cover all his concerns and questions.

24 The Mass. Gaming Diversity

1 Committee was concerned about some of the
2 exclusions that were listed in the plan,
3 and I'll have Penn talk about that. Warren
4 Bacon responded that they actually have
5 businesses in some of the areas that the
6 American Gaming Association indicates that
7 there aren't many minority women
8 businesses. So we can talk about that a
9 little bit later. This is the hard and
10 soft exclusion list that was included from
11 the American Gaming Association.

12 So those are the public comments
13 that are pertinent of the vendor plan. So
14 if Penn is ready.

15 MR. GEORGE: Sure.

16 DIRECTOR GRIFFIN: Thank you.

17 MR. GEORGE: Good morning, Mr.

18 Chairman, members of the Commission.

19 COMMISSIONER MCHUGH: Good morning.

20 COMMISSIONER CAMERON: Good

21 morning.

22 MR. GEORGE: Thank you. Thank you
23 again for giving us the opportunity to
24 present our workforce and our supplier

1 diversity plans to you today. Also many
2 thanks to Director Griffin in her efforts
3 to help gather feedback from the various
4 interested parties related to the outcome
5 of our plans to promote a diverse
6 workforce, provide ongoing opportunities
7 for diverse members of our business
8 community, and to address unemployment and
9 underemployment in our region.

10 Thank you also for introducing the
11 colleagues who are with me today. It's
12 been about a month since we submitted our
13 workforce and supplier diversity plans. We
14 have a significant amount of feedback
15 through Director Griffin's outreach to the
16 vendor advisory team and labor agencies in
17 the Commonwealth. As a result, the
18 documents you have before you are working
19 documents.

20 The feedback we received, the
21 feedback we receive from you today, and the
22 feedback we will receive from other
23 partners will be reflected in the next
24 draft of this document following today's

1 meeting.

2 If I may, I'd like to turn it over
3 to Karen Bailey to provide the highlights
4 of our initial plan as well as our action
5 items as it relates to the feedback we've
6 received. Cori and I will be available to
7 answer any follow-up questions you guys
8 might have.

9 MS. BAILEY: Good morning.

10 COMMISSIONER STEBBINS: Good
11 morning.

12 CHAIRMAN CROSBY: Good morning.

13 MS. BAILEY: I'll follow Director
14 Griffin's lead and just talk specifically
15 on the vendor plan first, and then we'll go
16 back to the workforce --

17 DIRECTOR GRIFFIN: Sure.

18 MS. BAILEY: -- feedback and come
19 back to me on that.

20 As you'll notice, the document
21 looks probably very strangely similar in
22 terms of its format as our construction
23 plan that we submitted prior to this, you
24 know, and along side as well as the fact

1 that we've also followed the state's goals,
2 the state's procurement goals in setting
3 our own. As Director Griffin mentioned, 6
4 percent minority owned businesses, 12
5 percent women owned businesses, and 3
6 percent goal for veteran owned businesses.

7 As noted by Director Griffin, the
8 definition of minority in the plan that we
9 submitted, that will be revised to be more
10 consistent with the state's definitions so
11 we keep that consistency.

12 In addition to that, we've
13 obviously already established a diversity
14 committee within our team at Plainridge to
15 make sure that this plan is implemented.
16 In addition to our internal Plainridge and
17 Penn representatives, we're also going to
18 invite two external organizations to
19 participate in our committee for the
20 purposes of helping communicate
21 opportunities as well as troubleshoot any
22 challenge that we may encounter in
23 fulfilling this plan or implementing this
24 plan successfully.

1 As Director Griffin mentioned, the
2 current draft that you had, it has a
3 rotation or suggested rotation of these
4 external members. And after a conversation
5 with her and through of the feedback, we
6 will be changing this to reflect the
7 representation of two organizations on a
8 permanent basis to have representatives
9 within that committee. Those two
10 organizations are the Massachusetts
11 Supplier Diversity Office as well as our
12 partner, the Greater New England Minority
13 Supplier Development Council of which we
14 are members.

15 We will also adjust the plan to
16 reflect on our consideration of adding
17 additional external organizations based on
18 the interest by these organizations as well
19 as the needs for our communications and
20 implementation needs for this plan.

21 None of what we've written has been
22 intended to preclude or supplant any one
23 particular disadvantaged group over
24 another. It's simply to ensure that we

1 have that representation and allow for
2 ongoing and broader representation as the
3 plan is -- as it's needed to implement as
4 well as the interests I noted before for
5 people to participant or organizations to
6 participate.

7 As we see these organizations and
8 these partnerships, whether they're veteran
9 business organizations, women
10 organizations, business organizations,
11 minority business organizations, and the
12 gamut of all the disadvantaged categories,
13 all of them are a key pipeline for us in
14 our communication of opportunities as well
15 as the development of relationships with
16 our target constituencies that are outlined
17 in plan.

18 I'd also like to talk a little bit
19 about the role of the American Gaming
20 Association's guidelines for procurement
21 and supplier diversity. First of all, this
22 plan -- or excuse me, the AGA document,
23 which should be also in your packet, this
24 is a document that was created in 2008 by

1 the industry. And how the industry looked
2 in 2008 is certainly different than it
3 looks like today. It certainly has grown,
4 particularly at the regional level.

5 So you'll see certain references
6 that kind of don't make sense for
7 Massachusetts, but certainly have
8 applicability elsewhere in the country.
9 But I'd like to emphasize the fact that
10 these are guidelines. They're not a bible.
11 We're -- they're not set in stone. And
12 that we have actually the ability and
13 intend to have the flexibility to reflect
14 our purchasing program to accommodate for,
15 say, industry representatives that may have
16 not existed in 2008 to service the gaming
17 industry that now may exist here in
18 Massachusetts. So we certainly allow for
19 the ability to adjust to local market
20 conditions.

21 And also like what we discovered in
22 some of our research with the construction
23 plan, this has also prompted the AGA to do
24 an update of some of their research

1 regarding supplier diversity within our
2 industry. So hopefully we'll start to see
3 some work on that in the coming months.

4 But to that effect or to that
5 point, and what I mentioned before is that
6 this is why it becomes so important for us
7 to have partnerships with all the various
8 supplier diversity membership organizations
9 to help feed this pipeline, to help advise
10 on what the market availability is for us
11 to tap into that.

12 And we will, in our next iteration
13 of this plan, note the fact that this is,
14 in fact, these are guidelines. They're not
15 set in stone and are not intended to
16 exclude anybody purposefully, but instead
17 to set a reasonable understanding and
18 standard as to sort of what we have to look
19 at as a gaming -- as a licensed gaming
20 entity in this state and who we can and
21 cannot do business with or what
22 opportunities exist.

23 But with that said, as a national
24 company, we do carry various services and

1 product contract at the corporate level or
2 we perform certain services in-house.
3 Things like payroll, that is done in-house.
4 Things like employee benefits, those are
5 done at a national level, economies of
6 scale, especially in the days of growing
7 cost like healthcare. So those are things
8 that are done at the national level.
9 However, given the interest and
10 opportunities that may exist with
11 businesses here in the Commonwealth, it
12 certainly gives them the opportunity to
13 pursue opportunities -- to pursue corporate
14 opportunities with our company and having
15 these relationships is certainly important.

16 I also wanted to highlight the
17 recommendations forwarded to us about
18 posting the RFP opportunities on our
19 website. This is something that we have
20 not done simply because a lot of what we do
21 at the RFP level is through our
22 partnerships with the membership
23 organizations of the target constituencies.
24 But that doesn't mean that we can't explore

1 doing something liken posting RFPs to the
2 website. We do have to tackle some
3 technology issues on that, but we're
4 certainly going to take a look at that and
5 sort of providing the ability for people to
6 research what business opportunities there
7 will be for us -- or with us, excuse me.

8 And then Director Griffin
9 highlighted two things that we're pretty
10 excited about and something that is a tried
11 and trued practice at other locations in
12 Penn properties, and that is the threshold,
13 the \$5,000 contract. That \$5,000 and above
14 contract threshold requiring bids from our
15 target constituencies as well as
16 Massachusetts based vendors. That's
17 something we've done before in practice and
18 have been successful. And then we'll
19 continue that here in Massachusetts. As
20 well as the fast pay program. You saw that
21 in our construction plan. We will be
22 implementing that as an ongoing program
23 with our procurement. That's all I've got.

24 COMMISSIONER STEBBINS: A couple of

1 quick questions, and I just want to go back
2 to this fast pay program, because when we
3 reviewed the construction plan, I might
4 have missed it.

5 You talked about the eligibility to
6 participate. What are some of those
7 eligibility requirements? It's great
8 because, as you pointed out and Jill
9 pointed out, it's a great way for small
10 businesses to help with cash flow
11 management issues, but what are some of the
12 eligibility guidelines?

13 MS. BAILEY: I think the big one,
14 the reason I put eligibility in there, I
15 think the big one for us is ensuring that
16 they're properly licensed, or if they're
17 going through the licensing process to be
18 able to do business with us through the
19 regulations set forth by the Commonwealth.

20 A lot of times in a lot of
21 jurisdictions we're given waivers that
22 people can do business while they're going
23 through the licensing process. So it
24 doesn't stop them from doing business, but

1 we maybe can't pay them right away until
2 they are licensed. So that was just giving
3 us that wiggle room that if we're in sort
4 of a situation like that, we have to --
5 That happens in the construction side a
6 lot. Not as much on the procurement side,
7 but I just wanted to account for that.

8 COMMISSIONER STEBBINS: And you
9 talked about having a local procurement
10 person in Plainville. I guess to kind of
11 make this happen, it's electronic, it's
12 fast. I'm assuming invoices, et cetera,
13 are going to bounce back and forth between
14 Pennsylvania and Massachusetts.

15 MS. BAILEY: Actually, for local
16 procurement, everything takes place at the
17 property.

18 COMMISSIONER STEBBINS: Fantastic.
19 Okay. My other question, again, just in
20 terms of your targeting percentages. I'm
21 assuming, like everything, you guys are --
22 that's your target, but you're hoping to
23 exceed those figures.

24 MS. BAILEY: Correct. And I think

1 as we've seen in other jurisdictions, over
2 the course of the growth of the industry
3 within the Commonwealth, you're going to
4 start to see businesses that maybe today
5 don't have casinos in their purview, but
6 then a year from now, five years from now,
7 ten years from now could become major
8 suppliers.

9 So it's certainly -- And that's
10 something that we, you know, help foster
11 and grow, particularly through -- we feel
12 that we achieve that through our -- the
13 \$5,000 contract threshold requirement. So
14 that if somebody has product or service X
15 today that maybe doesn't quite fit, but
16 then we work with them to determine how it
17 might fit down the road. So that's sort of
18 how the progression of that goes.

19 COMMISSIONER STEBBINS: And just
20 one final point, Karen. And you guys are
21 in a unique position because you're looking
22 to open next June.

23 Not only for this plan but also for
24 the workforce plan, I was hoping -- and it

1 would be helpful for us too, but it'd also
2 be helpful for the stakeholders who want to
3 support your mission and efforts. Is there
4 any way we can include some type of
5 calendar as to building back from opening
6 day, need to have these types of vendors in
7 line, you know, that impacts how we can
8 assist you with licensing those businesses.

9 MS. BAILEY: Sure.

10 COMMISSIONER STEBBINS: Is there
11 any way to -- as best as you can spell it
12 out, kind of a timeline working back from
13 that opening date as to when we know we
14 need to recruit somebody who's going to be
15 our vendor for "X"?

16 MS. BAILEY: Right.

17 COMMISSIONER STEBBINS: And maybe
18 not to that level of detail, but kind of
19 building out from those few months because,
20 again, we're hopefully within a year of
21 your opening.

22 MS. BAILEY: Certainly. The short
23 answer is yes. Longer explained answer is
24 on the vendor side of things, so we've got

1 obviously all of the purchasing that's
2 going to take place to outfit the casinos.
3 So the nonconstruction, but preopening
4 fixtures, furniture, equipment, costs.

5 So a lot of that is done at the
6 national level; however, what we do at --
7 at the corporate level, excuse me. But
8 what our head of purchasing at corporate --
9 who was unable to attend today as I think
10 he's getting a slots delivery in Dayton, so
11 he had to be there and to accept that.

12 What he does is he actually seeks out
13 secondary supplier chain folks to do things
14 like installation. So we might be building
15 our signs in New Jersey because we have a
16 certain design and a certain spec, but
17 locally, we'll need somebody to install it.

18 So he seeks out those secondary
19 supplier chain vendors to be able to --
20 that then fold into the vendor plan, his
21 activities plan. And then the second part
22 of that, I think Lance, once you have your
23 procurement folks on board and particularly
24 his finance folks, they'll be responsible

1 for the ongoing element of that.

2 But a calender, yes, we'll
3 certainly take a look at that and put
4 something together. Cori will have that on
5 the workforce side with her hiring
6 schedule.

7 COMMISSIONER STEBBINS: And again,
8 just -- and I think we've talked about this
9 a little bit before as it relates to the
10 construction piece is there is folks on the
11 vendor advisory team representing
12 relationships and connections to what we've
13 classified as those kind of creative
14 economy group sector in Massachusetts that
15 may help you reach some of your targets,
16 but are certainly not the big businesses
17 but may help not only on the FF and U side
18 to help you open your doors, but kind of on
19 an ongoing basis. And again, it's not a
20 sector that we instantly gravitate to maybe
21 through a chamber of commerce or some of
22 the other stakeholders, but certainly those
23 folks are out there, again, to help you
24 have another avenue to buy Massachusetts

1 products.

2 MS. BAILEY: Absolutely.

3 COMMISSIONER STEBBINS: Thank you.

4 COMMISSIONER MCHUGH: I had a
5 question that's really pretty basic about
6 appendix one, the hard, soft, and
7 non-exclusions, because I'm, particularly
8 on the vendor side, having difficulty
9 understanding conceptually how some of this
10 works.

11 If we look at appendix one and the
12 hard exclusions and, for example,
13 director's fees, what about director's fees
14 would be biddable in the first place?

15 MS. BAILEY: That's really what a
16 hard exclusion is that there just isn't --
17 it's not a spend, it's not a piece of our
18 cost of operating that, you know, that can
19 even be there. So, you know, from a
20 director's fee, so whether it's board of
21 directors or things like customer comps,
22 there's no -- it's not a business, but it
23 is still a business cost. So that's why
24 they're considered hard exclusions because

1 they're not -- it's part of our cost, but
2 it's not something that's biddable to an
3 outside company.

4 COMMISSIONER ZUNIGA: You couldn't
5 bid it.

6 MS. BAILEY: Correct.

7 COMMISSIONER MCHUGH: But you could
8 bid aircraft fuel.

9 COMMISSIONER STEBBINS: We hope you
10 won't.

11 COMMISSIONER MCHUGH: No. But just
12 conceptually, I'm having difficulty, I
13 guess, with the concept of what we're doing
14 on the vendor side. Is the hard -- is this
15 addendum one something that's designed to
16 include all categories of business costs?

17 MS. BAILEY: It's supposed to
18 encapsulate it.

19 COMMISSIONER MCHUGH: And then
20 saying some are things for which you're
21 going to solicit bids and some for which
22 you're not, either because they're just not
23 biddable or because there is no diverse
24 supplier base to whom you could submit

1 bids. Is that how it works?

2 MS. BAILEY: Correct. So something
3 like aircraft fuel, you know, if there's a
4 minority company that services aircraft
5 fuel at Boston Logan for the use -- and
6 unfortunately Lance has not been given his
7 own plane. So let's be very clear on that.
8 I think he's getting a little excited over
9 here. He's getting jittery. Sorry, Lance.

10 You know, if there were a vendor at
11 Boston Logan that met that criteria, then
12 that would be something we would bid out
13 then if it had that opportunity, but as it
14 is, aircraft fuel is a pretty controlled
15 product.

16 COMMISSIONER MCHUGH: Right. So
17 aircraft fuel is there because there's no
18 diverse base typically, and director's fees
19 are there because director's fees are an
20 element of cost that's just not outsourced.

21 MS. BAILEY: Correct.

22 COMMISSIONER ZUNIGA: It goes to
23 the directors.

24 COMMISSIONER MCHUGH: Okay. Thank

1 you.

2 MS. BAILEY: And we can do a better
3 job of explaining some of this or at least
4 providing an introductory paragraph to sort
5 of help clarify that if that makes it
6 easier.

7 COMMISSIONER MCHUGH: Well, if
8 there's other people who are as dense as I
9 am, that might be useful.

10 CHAIRMAN CROSBY: Okay. Jill.

11 DIRECTOR GRIFFIN: All right. So
12 regarding the workforce plan, Penn National
13 highlighted their relationship with a
14 consortium of workforce leaders in the
15 region, many of whom you heard from earlier
16 today, including Bristol and Massasoit
17 Community College and the local career
18 centers.

19 In their workforce plan, they have
20 outlined a red carpet service training and
21 interest in upward mobility in promoting
22 education for their employees, including
23 onsite classes in partnership with the
24 local community colleges and a tuition

1 assistance program.

2 Penn National has indicated that
3 they believe their workforce should reflect
4 the communities around them, and, as such,
5 made commitments to hiring 90 percent of
6 the workforce from designated host
7 community of Plainville and the designated
8 surrounding communities of Foxboro,
9 Mansfield, Wrentham, and North Attleboro.

10 They have established a goal of
11 hiring ten percent of their workforce from
12 individuals from ethnic minority groups.
13 And I have also provided you in your packet
14 a one pager that outlines the demographics
15 of Plainville and the surrounding
16 communities based on the latest census
17 figures, because I did want to highlight
18 the implications of this plan regarding
19 diversity.

20 The Mass. Gaming Diversity
21 Coalition has indicated that unemployment,
22 the coalition consensus that 90 percent
23 local employment does not support a diverse
24 workforce and suggests that Penn National

1 needs to expand the area. So I did want to
2 highlight that concern.

3 COMMISSIONER CAMERON: Can I ask a
4 question about that. Is that part of the
5 host community agreement, correct? So it
6 isn't something you have flexibility. You
7 didn't just say I'm only going to work from
8 those, what, five communities?

9 MS. BAILEY: Right. Ninety percent
10 workforce hiring was part of our
11 application.

12 COMMISSIONER CAMERON: Well, part
13 of your application, but that because it
14 was included in the host community
15 agreement.

16 MS. BAILEY: Correct.

17 COMMISSIONER CAMERON: Okay.

18 DIRECTOR GRIFFIN: So other areas
19 of concern. More specific information
20 would really be helpful regarding which
21 Massachusetts communities would be targeted
22 next for outreach if Penn National, through
23 their best faith efforts, are not able to
24 meet their hiring goals in the host and

1 surrounding community.

2 For example, the areas of high
3 unemployment, perhaps Taunton, Brockton,
4 Fall River, Bridgewater. Some more
5 information about that would be helpful.
6 Folks did comment that the workforce plan
7 is very high level and does not include
8 detail specific to Penn's expected hiring
9 at startup and over time and expected
10 hiring needs by job type and the pipeline
11 approach to fill it. I know that some of
12 this information has been shared locally
13 with the community college and workforce
14 and one stop career center, however.

15 The plan does reference one stop
16 career centers and community colleges, but
17 it lacks detail regarding their role in the
18 process. So one suggestion was additional
19 strategies on recruitment with roles and
20 responsibilities for partners.

21 So one stop career centers may be
22 helpful in recruiting folks from the host
23 and surrounding communities in particular
24 areas. So I think that is what I have.

1 COMMISSIONER ZUNIGA: Can I have a
2 question? It's a bit of a follow-up from
3 Commissioner Cameron's report. Remind me,
4 you executed neighboring community
5 agreements --

6 MS. BAILEY: Correct.

7 COMMISSIONER ZUNIGA: -- with
8 communities that are not included here out
9 in the surrounding community list; is that
10 correct?

11 MS. BAILEY: No. We had the -- we
12 have Plainville. Obviously, they're a host
13 community, and then four surrounding
14 communities that we have our host
15 agreements with.

16 COMMISSIONER ZUNIGA: Am I
17 confusing them with another applicant who
18 had the neighboring --

19 CHAIRMAN CROSBY: Yes.

20 COMMISSIONER ZUNIGA: -- that
21 expanded it a little bit more?

22 MS. BAILEY: That wasn't us.

23 COMMISSIONER ZUNIGA: This is the
24 universe of all the surrounding

1 communities?

2 MS. BAILEY: Correct.

3 COMMISSIONER ZUNIGA: All the
4 agreements that you have with anybody?

5 MS. BAILEY: Correct.

6 DIRECTOR GRIFFIN: Could I just ask
7 that the screen change to reflect the one
8 pager demographics. These figures. This
9 is for a later presentation.

10 COMMISSIONER ZUNIGA: Page 63.

11 CHAIRMAN CROSBY: Something you
12 were going to say, Commissioner.

13 COMMISSIONER CAMERON: And I know
14 what these demographics are going to say.
15 It's like 93 percent. But, you know, we
16 just heard the presentation from Bristol,
17 and Bristol and Massasoit are located in
18 diverse areas, but they could train folks
19 that you couldn't hire, is that correct,
20 because of this 90 percent from those five
21 communities?

22 MS. BAILEY: What we actually did
23 address in this plan is the fact that if we
24 find ourselves falling short of that 90

1 percent local, meaning Plainville, and then
2 our four surrounding communities, then
3 we're going to expand that universe in
4 concentric circles which would include
5 those locations specifically targeting more
6 diverse populations as well as the
7 unemployed, the higher unemployment region
8 or areas of those concentric circles.

9 COMMISSIONER STEBBINS: I
10 personally would prefer as you draw those
11 concentric circles out to target the
12 communities of the higher employment and
13 underemployment.

14 MS. BAILEY: It might have some
15 spots needs some gerrymandering.

16 COMMISSIONER STEBBINS: It can be a
17 squiggly line, but we know the communities
18 around there. And if we look at a time --
19 you have the benefit of not a lot of time,
20 but you also have the benefit of being able
21 to back out. You know what five
22 communities you need to target first. You
23 know, if you move into other communities
24 which have some additional training needs

1 required of those residents, that's a
2 timeline that folds in with the community
3 college's ability to kind of bring those
4 people up to speed or do whatever training
5 that's required. But I would prefer
6 specifically going after some target
7 communities to not only, you know, achieve
8 the goals of employing the underemployed or
9 unemployed, but also giving you the
10 advantage of creating a more diverse
11 workforce.

12 DIRECTOR GRIFFIN: I would also
13 like to suggest that although there are low
14 levels of diversity within the host and
15 surrounding communities, there is still
16 opportunity to outreach to the group -- the
17 minority groups within those communities,
18 and I'd urge you to do your best to reach
19 out locally to those groups.

20 MS. BAILEY: Absolutely.

21 COMMISSIONER STEBBINS: And another
22 follow-up point to that. On another angle,
23 every community in Massachusetts has a
24 veterans services agent. They typically

1 know everybody who's served in uniform from
2 their hometown and probably know personally
3 who might be looking for work and who
4 isn't, but that's a great network to also
5 tap into.

6 MS. BAILEY: Yes.

7 CHAIRMAN CROSBY: Are you finished
8 with your comments, Jill? I didn't follow
9 exactly what the -- Jennifer James's
10 concern about the WIBs and the one stops.
11 The sufficient -- insufficient
12 collaboration with them or something. What
13 was that about?

14 DIRECTOR GRIFFIN: So I think the
15 concern was that there weren't established
16 roles and responsibilities. Although the
17 career centers were generally mentioned in
18 the plans, it didn't seem that there was
19 clarity regarding what their roles would
20 be. And she actually suggested that an MOU
21 between the WIBs and one stop career
22 centers --

23 MS. WHITAKER: And I'm happy to
24 address that. We've been more or less

1 operating under the umbrella that our
2 consortium is the community colleges and
3 the career centers. So we have included
4 them in our initial kickoff meeting. As
5 feedback to that, we have reached out to
6 the career centers and such to say, you
7 know, we're happy to sign a MOU with you
8 guys as well. We've just been operating
9 under the impression the they were part of
10 the consortium, but if we need to single
11 them out to do that, we're happy to do
12 that.

13 CHAIRMAN CROSBY: Well, that was my
14 reaction, too. We've heard the folks from
15 the community college institute --

16 MS. WHITAKER: Right.

17 CHAIRMAN CROSBY: -- talking about
18 how everybody's working together and
19 everybody's cross fertilizing and
20 everything else, and now -- Yes. Do you
21 want to say something?

22 MR. LEPAGE: Mr. Commissioner, many
23 of those organizations do have already
24 existing MOUs. Those were put in place

1 when we didn't know who the developers
2 were, as you recall, in each of the
3 regions. And there are existing MOUs with
4 the career one stops that are in place, so
5 it does have some definition --

6 CHAIRMAN CROSBY: MOUs with you,
7 you mean.

8 MR. LEPAGE: Yes, sir. So we have
9 the MOU with Penn National Gaming that we
10 have kind of MOUs that feed in from the
11 community.

12 CHAIRMAN CROSBY: But the point
13 here is not MOUs. The point here is
14 collaborating together comprehensively. We
15 don't want to just say to Penn National
16 keep signing MOUs to make everybody feel
17 better. What we want to make sure is that
18 there is the maximum utilization of the
19 resources, the lack of duplication and
20 wasted energy, and if -- so I just --

21 Jennifer James seems to feel like
22 the lack of an MOU with Penn National is a
23 problem. I don't know whether it is or
24 not, but we ought to be -- but particularly

1 the guys from the institute who we have
2 sort of seen as being the coordinators here
3 need to say is it a problem, should there
4 be there, is there some substantive issue,
5 or is Jennifer just missing the boat here.

6 MS. BAILEY: I think one thing do
7 too just because we've had this out for a
8 month and also in consultation with
9 Director Griffin and some of the feedback
10 is that the career center specifically --
11 you have a copy of the draft that's in
12 front of you, and their feedback and
13 contribution to talk about those roles
14 specifically will be in the next draft of
15 this plan.

16 So there has been collaborations.
17 I guess we always assume that if we're told
18 to collaborate, we're going collaborate,
19 but we didn't know we always have to sort
20 of spell it out necessarily, to the
21 Chairman's point. But there certainly is
22 because as we're working with the community
23 colleges, as you heard earlier today, the
24 career centers are equally important to us

1 because they are going to be the people who
2 help us identify the unemployed. They're
3 also going to be -- And you'll see written
4 in the plan, Cori has already started the
5 process in setting up the dates to train
6 the career center staff to understand what
7 these careers are.

8 So as the community colleges see it
9 from an academic standpoint and a
10 curriculum standpoint, it's also from a
11 career center standpoint that you need to
12 go into food and beverage in the casino or
13 to go in as a slot pass or to go in at any
14 given entry level position.

15 To some people, it will be just a
16 job. It's a way to pay the bills and
17 that's all they sort of see it as. But for
18 other people, these are career starting
19 positions.

20 And I'll just insert my own
21 personal observation of the industry that
22 I've been a part of now for almost seven
23 years is that it's one of the few
24 industries really where you can start at

1 the bottom and move to the top. You still
2 can do that.

3 You know, our vice president of
4 communications at corporate started as a
5 bus greeter in Atlantic City. Now she's in
6 the senior executive team of a large casino
7 corporation. The dealers and slot techs
8 that have moved up those chains.

9 So we have career pipelines. We
10 like to keep our people. We like to train
11 and move our people through our pipelines.
12 We don't like to lose them to our
13 competitors, although we know that happens.
14 And so that's something that's also in a
15 role to the efforts that Cori's already
16 embarked on and that is training the career
17 center people to understand sort of the
18 long view for those that they're looking to
19 place.

20 MS. WHITAKER: And we are
21 scheduled, along with the community
22 colleges, to do a tour of all of the career
23 centers. We've met on two to three
24 different occasions with the career

1 centers, the last as part of the big
2 consortium meeting, and our next step was
3 to really get out to the career centers,
4 visit, and then really understand all of
5 the careers available. I mean, we believe
6 that they are going to be our funnel of
7 candidates into our applicant system. So
8 they're a vital, very important part of our
9 application process.

10 So it's really just getting out
11 there on the grounds, meeting with them,
12 and using them really as our kind of spoke
13 and hub kind of recruitment center.

14 COMMISSIONER STEBBINS: I would
15 echo the Chair. We don't necessarily need
16 to send you scrambling off to sign more
17 MOUs, but obviously, you allude to it in
18 the proposal in terms of how you plan to
19 maximize resources and services available
20 to the Department of Labor and Workforce
21 Development and subsequently other career
22 centers, and just spelling out from your
23 benefit how you plan -- how you're going to
24 utilize services, that they probably would

1 be chasing other employers to offer them
2 services.

3 MS. WHITAKER: We're excited.
4 We're very exciting to be working with
5 them. They have a very nice operations and
6 very good technology, so they will be
7 instrumental for us.

8 CHAIRMAN CROSBY: Okay. I don't
9 want to make too much of this, but it does
10 look like there's a little bit of a
11 disconnect. Some of the questions that
12 Jennifer James from labor and workforce
13 development are asking these questions, and
14 I know from what you said early have
15 already been answered, so there's not a
16 perfect fit there.

17 DIRECTOR GRIFFIN: There's a
18 meeting coming up.

19 CHAIRMAN CROSBY: Okay. Fine.

20 MS. BAILEY: We've got one in July
21 and one in August.

22 MS. WHITAKER: We've been working
23 really with the local folks, and I'm not
24 sure what Jennifer --

1 MS. BAILEY: What trickles up.

2 MS. WHITAKER: Yes. What -- Yes.

3 So we've been really on the ground with the
4 local folks.

5 CHAIRMAN CROSBY: Okay. But it's
6 the ones at the top who talk to the people
7 and make noise in the world, and we want
8 the ones at the top to know this is going
9 on, too.

10 DIRECTOR GRIFFIN: So maybe an
11 invitation to one of these meetings would
12 be appropriate.

13 CHAIRMAN CROSBY: Yes.

14 MS. WHITAKER: Alice has been, but
15 Jennifer has not.

16 CHAIRMAN CROSBY: Okay. I think on
17 the agenda, does it say vote.

18 DIRECTOR GRIFFIN: It does say
19 vote.

20 COMMISSIONER STEBBINS: But it
21 sounds like you want us to put that off
22 until you bring the plan back with some
23 edits or corrections.

24 MS. BAILEY: Or you can put, as we

1 did with construction, I guess approve with
2 conditions of the edits that we mentioned
3 we'll be making, and we'll submit those
4 edits once they're complete.

5 CHAIRMAN CROSBY: That's up to you
6 Commissioner Stebbins and Director Griffin,
7 however you want to handle it.

8 DIRECTOR GRIFFIN: I think that
9 would be appropriate as we did with the
10 construction plans.

11 CHAIRMAN CROSBY: Are you all right
12 with that, Commissioner?

13 COMMISSIONER STEBBINS: Yes. I
14 think that's fine.

15 CHAIRMAN CROSBY: Okay. Do you
16 want to put a motion on the table.

17 COMMISSIONER STEBBINS: Sure.
18 Mr. Chair, I move that the Commission
19 approve the -- Penn Gaming's vendor --
20 operational vendor plan and workforce
21 development report subject to the updates
22 and additional information as requested.

23 CHAIRMAN CROSBY: And that would be
24 submitted to us in final form sometime in

1 the not too distant future.

2 COMMISSIONER CAMERON: Second.

3 CHAIRMAN CROSBY: Any other
4 discussion? All in favor?

5 COMMISSIONER STEBBINS: Aye.

6 COMMISSIONER MCHUGH: Aye.

7 COMMISSIONER ZUNIGA: Aye.

8 COMMISSIONER CAMERON: Aye.

9 CHAIRMAN CROSBY: Aye.

10 Opposed? The ayes have it
11 unanimously.

12 And now I am at (d.) just before
13 lunch, but don't feel any pressure. Thank
14 you very much.

15 COMMISSIONER MCHUGH: Thank you.

16 MS. BAILEY: Thank y'all.

17 DIRECTOR GRIFFIN: So
18 Commissioners, this should be brief. I
19 wanted to start the discussion about
20 reporting. And so I have -- that's it. I
21 have a one-page mockup, and I should note
22 that the data in this mockup is not real.
23 It does not reflect Penn National at all.
24 But this is an example of the type of

1 information that -- or proposal for the
2 type of information that we could be
3 collecting and reporting. I envision a
4 report like this could live on our website.
5 So I wanted to start that conversation and
6 get your reaction.

7 I envision that we would have a
8 report on each licensee, and then we would
9 have a report similar to this that compiles
10 all of the information and gives a
11 statewide report of all the applicants --
12 rather, licensees.

13 CHAIRMAN CROSBY: Commissioner
14 Stebbins and I have already looked at this.
15 Are there thoughts?

16 COMMISSIONER ZUNIGA: No. I think
17 that is great. The fact that we can have
18 and communicate a dashboard type view of
19 the statistics as they move along the
20 project and the lifecycle.

21 My reaction was that I think -- I
22 believe there is a lot of other areas that
23 this applies to, and I know there's an
24 ongoing effort in terms of performance

1 management where this is clearly going to
2 be a subset or a flavor of this would be a
3 subset. But the data behind what is
4 obviously attractive reporting, I think is
5 wonderful. So we should put the actual
6 data soon.

7 COMMISSIONER CAMERON: I think the
8 format is excellent also. It is a
9 dashboard type document, easy to read,
10 gives you a real snapshot of information in
11 it and in a format that's just really user
12 friendly.

13 CHAIRMAN CROSBY: Anybody else?
14 Okay. Anything else on your agenda?

15 DIRECTOR GRIFFIN: No. I'm
16 complete. Thank you.

17 CHAIRMAN CROSBY: Okay. Quite a
18 morning.

19 COMMISSIONER MCHUGH: Thank you
20 very much.

21 CHAIRMAN CROSBY: Thank you.

22 DIRECTOR GRIFFIN: Busy morning.

23 CHAIRMAN CROSBY: Yes, a busy
24 morning. All right. It's a few minutes of

1 1:00. Let's see if we can -- let's take a
2 lunch break and see if we can be back by a
3 quarter of 2:00. I think we spent a lot
4 more time on this topic than we intended
5 to.

6 DIRECTOR DURENBERGER: Could we do
7 the racing?

8 COMMISSIONER MCHUGH: We could do
9 racing. They've got two pro forma things.

10 CHAIRMAN CROSBY: Okay. Fine.

11 DIRECTOR DURENBERGER: And we have
12 a guest.

13 CHAIRMAN CROSBY: Fine. Sorry that
14 first item took a lot longer than we had
15 anticipated, which often happens.

16 MR. NOWAK: It's no problem.

17 CHAIRMAN CROSBY: But thank you for
18 your patience.

19 DIRECTOR DURENBERGER: Important
20 stuff and interesting stuff.

21 Thank you Commissioners. We'll be
22 very brief today. I know that the
23 transition over to racing agenda items
24 sometimes feels like a bit of a non

1 sequitur. So I'm just going to pick right
2 up on what I heard this morning by
3 reminding everybody that this summer, as we
4 speak, we have approximately 4,500
5 occupational licensees, W-2, and 1099
6 employees, both ours and our operators',
7 hard at work ensuring a successful live
8 racing season.

9 So one of them is with me here
10 today, and you'll hear a little bit from
11 him in the next agenda item. In the
12 office, I just wanted to update you on some
13 projects that were wrapping up.

14 The Racing Division has been -- we
15 enlisted the assistance of an independent
16 auditor, as you know, to review the
17 financial accounting system that we
18 inherited and the distributions that we
19 were making to various trust funds. That
20 project is wrapping up, and we should be
21 bringing a report to you in front of you
22 sometime in July.

23 In common with that is the wrap up
24 on our crossover to the new system that was

1 approved as the result of a competitive bid
2 process last year, and staff members are
3 working with the fiscal department to look
4 at create how those reports are going to
5 interact with the Commonwealth's accounting
6 system, and we're doing some beta testing
7 right now and, in fact, had a very good
8 beta test this morning. So we're very
9 close on that crossover as well.

10 The other item in the
11 administrative update is the request from
12 Suffolk Downs to reschedule some live
13 racing dates, Tuesdays in July. We've come
14 before you in May and in June with similar
15 requests. Again, this is primarily rooted
16 in the lack of enough horses to maintain a
17 four-a-day race card.

18 We did approve that. An approval
19 letter is included in your packet from June
20 13th. That's pursuant to the authority
21 that you delegated to me last year. So we
22 did approve that, of course with the
23 condition that those are rescheduled later
24 in the racing season. My understanding is

1 that the parties are working together to --
2 they're working on an amendment to their
3 existing purse agreement to work on this
4 issue.

5 Which brings me, if you don't have
6 any questions, to item (b).

7 COMMISSIONER MCHUGH: Are these --
8 I'm not sure I understood. Are these days,
9 the Tuesdays that are cancelled in July, is
10 the hope that they will be reinserted,
11 those days will be reinserted later?

12 DIRECTOR DURENBERGER: Later in the
13 season.

14 COMMISSIONER MCHUGH: Season.
15 Okay.

16 DIRECTOR DURENBERGER: So maintain
17 a three-day-a-week racing season versus a
18 four-day-a-week or a five-day-a-week, you
19 need to have a sufficient horse population
20 to draw on, and, frankly, we're just not
21 there.

22 COMMISSIONER MCHUGH: Yes. No,
23 I've got it. They're not being cancelled
24 permanently right now.

1 DIRECTOR DURENBERGER: Rescheduled.

2 COMMISSIONER MCHUGH: At least the
3 hope is right now.

4 CHAIRMAN CROSBY: Not yet anyway.

5 COMMISSIONER MCHUGH: Right.

6 DIRECTOR DURENBERGER: All right.

7 So agenda item (b.) is the request from the
8 Standardbred Owners of Massachusetts for
9 recognition under Chapter 128, which is the
10 agricultural statute, section 2(j). It
11 talks about the recognition of a
12 representative organization of standardbred
13 breeders and owners.

14 And we brought before you Mr. Ed
15 Nowak last year. He was the president last
16 year. He is still the president this year.
17 And the request is in your packet. And we
18 would certainly recommend that you take
19 this into consideration and recognize him.
20 But he's here to answer any questions that
21 you have regarding the sire stakes program
22 or what it is that his organization does.

23 MR. NOWAK: I just wanted to say I
24 come before you every year on an annual

1 basis. By law I have to -- we have to
2 apply for recognition. And we managed the
3 breeding of standardbred racehorses in the
4 Commonwealth as well as the sire stakes
5 racing program.

6 We've been the organization that
7 does this since 1992 and would like to
8 continue to manage the program as we go
9 forward.

10 CHAIRMAN CROSBY: And again, we
11 don't have any other applicants for the
12 position, right?

13 MR. NOWAK: Not that I know of.

14 COMMISSIONER MCHUGH: And there --
15 remind me, us, how many breeding farms
16 there are. There's 70, 75 farms in
17 Massachusetts?

18 MR. NOWAK: Yeah. I guess it
19 depends who's counting the breeding farms.
20 But I think in a recent survey that was
21 done by the Racing Committee, the number
22 for standardbreds was 45 or 50. I don't
23 know. It's at least that much right now.

24 COMMISSIONER MCHUGH: Right.

1 MR. NOWAK: Again, depending on how
2 you define a farm or breeding farm or
3 trading farm.

4 COMMISSIONER MCHUGH: Right. And
5 of course, there was a significant success
6 last year with at least one standardbred
7 horse had a terrific year.

8 MR. NOWAK: Yes, there was. You
9 can't get much better than that.

10 COMMISSIONER MCHUGH: No.
11 Massachusetts bred horse won the
12 Hambletonian, and I don't to spoke in code.
13 It was a great triumph for a Massachusetts
14 bred horse.

15 CHAIRMAN CROSBY: Any other
16 questions, thoughts?

17 So I guess if Director
18 Durenberger's in favor, then I would tend
19 to go along. So Commissioner --

20 COMMISSIONER MCHUGH: We need a
21 vote.

22 CHAIRMAN CROSBY: -- Cameron, do
23 you want to propose a vote?

24 COMMISSIONER CAMERON: Sure.

1 Mr. Chair, I move that we formally
2 recognize the Standardbred Owners of
3 Massachusetts and its president, Ed Nowak,
4 to be the organization to represent
5 standardbred breeders in the Commonwealth.

6 CHAIRMAN CROSBY: Second?

7 COMMISSIONER MCHUGH: Second.

8 CHAIRMAN CROSBY: Any other
9 questions? All in favor?

10 COMMISSIONER STEBBINS: Aye.

11 COMMISSIONER MCHUGH: Aye.

12 COMMISSIONER ZUNIGA: Aye.

13 COMMISSIONER CAMERON: Aye.

14 CHAIRMAN CROSBY: Aye.

15 Opposed? The ayes have it
16 unanimously.

17 MR. NOWAK: Thank you.

18 DIRECTOR DURENBERGER: Thank you.

19 COMMISSIONER STEBBINS: I may see
20 you next year.

21 CHAIRMAN CROSBY: All right. Yes.
22 See you next year.

23 COMMISSIONER STEBBINS: You or
24 someone else.

1 CHAIRMAN CROSBY: Let's see if we
2 can do it in 45 minutes. We'll take our
3 lunch break, so we'll be back here at 1:45.

4 (Break taken.)

5 CHAIRMAN CROSBY: We are ready to
6 reconvene. I think the score is one
7 nothing, guys.

8 And we are going to item number 5,
9 administration, CFAO Lennon.

10 MR. LENNON: Good afternoon, Mr.
11 Chairman and Commissioners. I'll do a
12 quick administrative update in place of
13 Director Day. Last Friday, we received the
14 \$4.9 million payment representing MGM's
15 annual slots fee, and a portion of the
16 assessment out was included in the license
17 determination conditions. They paid it
18 within the five days that they had agreed
19 to pay.

20 For a hiring update, we have three
21 open financial investigation positions
22 posted. We have a good group of resumes
23 and candidates already in. We have one
24 financial investigator who's currently

1 going through the background check process.
2 So since our last meeting, I don't know if
3 it was a conversation we had or just better
4 outreach. I know Trooper Dean has been
5 trying to get the position posted in
6 different areas. We've got better interest
7 and we are moving forward with those
8 positions.

9 We have one paralegal position
10 posted for the legal department. We're
11 still searching for a gaming lab manager,
12 but may have identified a way to begin
13 building a laboratory operation through a
14 contracted position while we keep looking
15 for a full time.

16 And then the racing division, we
17 have completed 37 seasonal hires. We only
18 have one in the background check process
19 which should complete the hiring process.
20 And then we have a full-time administrative
21 assistant position posted for the racing
22 director. That completes the
23 administrative update.

24 CHAIRMAN CROSBY: Do you know how

1 long our background checks are taking these
2 days?

3 MR. LENNON: I don't know how long
4 they're taking, but we have streamlined the
5 process. I know Trooper Dean worked with
6 the IEB on what the racing division,
7 especially on the seasonal positions where
8 if we've done some of the background in the
9 past, they speed through the process. I
10 know that we have shortened on the IRS side
11 of it where we only go back five years
12 versus seven years so that we can get an
13 online application versus waiting the two
14 to three weeks that it was taking to get
15 the hard copies in.

16 CHAIRMAN CROSBY: That's good.

17 MR. LENNON: So we've done as much
18 as possible to streamline the process.

19 CHAIRMAN CROSBY: Great.

20 COMMISSIONER ZUNIGA: To the extent
21 you can or maybe Director Wells can give us
22 an update later, I didn't realize we were
23 looking for three positions in the
24 financial investigating -- investigate -- I

1 guess, investigation arena.

2 MR. LENNON: So it would actually
3 be four. That office, when fully staffed,
4 will be five positions. It's a director
5 and four analysts. We're having a hard
6 time finding a director position, so what
7 we're trying to do is hire the analysts and
8 let Karen either promote from within if we
9 get someone that's more qualified in the
10 group, or just manage during the process.

11 But these salaries are much lower
12 than the cost we get charged for forensic
13 accountants by consultants.

14 COMMISSIONER ZUNIGA: Right. And
15 is the idea -- I guess it must be both --
16 investigating the vendors that are
17 already --

18 MR. LENNON: Vendors, employees.

19 COMMISSIONER ZUNIGA: -- licensing
20 employees ongoing --

21 MR. LENNON: Yes. So this is a
22 high period for the IEB and the licensing
23 divisions getting vendors in, getting
24 employees in. Once we have people, start

1 opening up operations.

2 COMMISSIONER ZUNIGA: Great.

3 CHAIRMAN CROSBY: Thank you.

4 COMMISSIONER MCHUGH: I thought we
5 were looking for a lawyer as well. Is that
6 down the line at some point?

7 MR. LENNON: So it hasn't been
8 posted yet. We did shift some money around
9 in the budget. I just don't think it's a
10 job description --

11 COMMISSIONER MCHUGH: Okay. We
12 shifted it. Okay.

13 MR. LENNON: The job description
14 hasn't been pulled together.

15 CHAIRMAN CROSBY: Any chance Artem
16 can come back?

17 MR. LENNON: We'd love that. I
18 feel the loss myself. He helped me draft a
19 lot of the scope of work for every single
20 contract we do, so I'm currently feeling it
21 right now. But it would be nice to have
22 him back.

23 CHAIRMAN CROSBY: Okay.

24 MR. LENNON: On the budget update,

1 on May 29th, we presented a \$29.3 million
2 budget to the Commission. It was comprised
3 of 24.5 million in spending for gaming
4 operations and 4.8 million in spending on
5 racing operations. Since that time period,
6 we've been asked to review contracted costs
7 to see full-time equivalents are a more
8 prudent use of resources which resulted in
9 a shift of 380,000 from consulting costs to
10 FTEs within the IEB and legal decisions.
11 But for FY15, they're going to be budget
12 neutral due to the level of training we're
13 expecting. We're going to have to send
14 these investigators out with our
15 consultants for the first, I'd say, two to
16 three months until they get a handle on the
17 right protocols and right information we're
18 looking for.

19 So we'll have some duplication of
20 costs for a certain time period, but we
21 think in the long run, this'll save us
22 until we get those really cost prohibitive
23 consultant fees off and we just have a base
24 cost built into our budget on an ongoing

1 basis.

2 We're going to -- we were asked to
3 conduct comparison research between
4 jurisdictions that use central management
5 systems and those that do not. That's
6 resulted in the team investigating this
7 matter to schedule site visits in Ohio with
8 the Ohio Casino Control Commission to see
9 how it operates in a Penn facility that
10 doesn't use a central monitoring system.
11 They just give eyes into their back end
12 slots management system to the regulators.

13 And then we're also going to visit
14 Maine to see how that system is used.
15 Maine has a very low budget, and they use a
16 central monitoring system there to do a
17 huge portion of the regulatory control. So
18 they have a \$2 million budget, and 1
19 million of it is comprised of their central
20 monitoring system there. I think they only
21 have five or six FTEs that go along with
22 that.

23 So we'll take a look at one that's
24 using it almost solely for regulatory

1 environment and another one that's not
2 using it at all.

3 And then we hope to be done with
4 our research, come back, and present to you
5 towards the end of July on the three
6 scenarios that you asked for, one a
7 non-central management role; two, an
8 environment that's -- we're just
9 aggregating data almost in a data warehouse
10 of our own; and then a third where it would
11 be a central management environment.

12 And then you also asked that we
13 meet with the slot parlor licensees --

14 COMMISSIONER MCHUGH: Excuse me,
15 the -- I know you will do so, but the five
16 in Maine are for the two casinos?

17 MR. LENNON: Yes, for two casinos.
18 So there are about 1,700 slot machines
19 between the two casinos. I think when we
20 talked to the executive director, he said
21 it was him, two clerks, two auditors, and
22 one or two enforcement agents. So it's a
23 really slimmed down model that they have
24 there.

1 COMMISSIONER MCHUGH: Right.

2 COMMISSIONER ZUNIGA: So that's the
3 extent of the commission?

4 MR. LENNON: That's the extent of
5 it. And the rest, they rely on the central
6 monitoring system.

7 COMMISSIONER MCHUGH: Okay. It
8 would be fascinating to see.

9 MR. LENNON: Yes. You've asked us
10 to meet with the slot parlor licensees to
11 review the proposed FY15 budget. We found
12 these meetings very helpful. I think that
13 Penn was able to articulate some of the
14 concerns most of the licensees are having,
15 central management system being one of
16 them, our staffing patterns being another.

17 They shared with us some models
18 about their regulatory boards and what
19 their staffing patterns were, and we are
20 trending on the high side. So I think it
21 will be something that we watch out for.
22 We've committed to coming back to meet with
23 them shortly after the slots parlor opens
24 to see how the experience is as well as

1 seek their input each year as we build a
2 budget before we present it to the public,
3 see what they think about the staffing
4 patterns, see what they think about law
5 enforcement patterns, where do we have down
6 time, wasted time.

7 And finally, we were asked to post
8 the FY15 budget recommendation for public
9 comment. We did not receive any public
10 comment within the comment period. So my
11 presentation would have been much shorter;
12 however, late Tuesday, we received comment
13 from one of the Region A applicants, Wynn
14 Resorts. The packets were already prepared
15 for this presentation, so you don't have
16 those in there, but I will speak to them
17 and we can always post them after this
18 meeting.

19 So they had eight points that they
20 wanted to discuss. The first point was
21 Wynn Resorts thought that the two places we
22 compared, Michigan and Pennsylvania,
23 weren't good areas to compare to. They
24 thought Ohio would have been a better

1 baseline to compare to. They have four
2 licensees operating there, four facilities.
3 And they contended that the budget we're
4 presenting is high. The Ohio budget is
5 only at 13.4 million while they have four
6 operations open. And \$8.4 million of that
7 is spent on salaries, which leads to, I
8 think, 75,000 for a full-time employee,
9 which is about \$15,000 lower than what our
10 current salary numbers are.

11 So as I presented at my first
12 meeting when I did a comparison, the
13 devil's in the details with any of these,
14 legislations and budgets.

15 COMMISSIONER CAMERON: Question,
16 Derek. I know that Ohio uses -- they do
17 not have separate licensing. They have a
18 statewide licensing system as well as IT,
19 so there are functions that they do not do
20 independently.

21 MR. LENNON: And that's the devil
22 in the details of any of these laws. Their
23 extent of law enforcement coverage isn't
24 the same, their attorney general's office

1 doesn't have the same requirements.
2 They're not going through a building
3 process right now that has oversight
4 project management costs built in.

5 If you take a look at the CPI, we
6 grew 22 percent faster over a 30-year
7 period than Ohio did, which is, once again,
8 your most modest review, which is why
9 contracts usually reflect it that way.

10 So if you add it into a salary,
11 which no one ever said to, but I'm just
12 going with the most modest review, we'd
13 only be off by about 4,600, and I think
14 that's a cost of living here -- you can
15 talk to David Acosta -- the difference
16 between cost of living here and cost of
17 living in Ohio.

18 So I don't think we're off by that
19 much when it comes to salary. And if you
20 think about our organization right now,
21 we're top heavy. We have all of our
22 directors hired. Once we start filling in
23 line level positions, our cost per salary
24 is going to drop drastically.

1 One of the other points I brought
2 up was that the projections set forth in
3 the FY15 budget would be the second largest
4 in the United States on a per employee and
5 per casino basis. It referenced Nevada.

6 They also made some references --
7 and this is the problem with not being able
8 to have the data in a timely fashion. They
9 referenced some things in their attachment
10 that are contradictory to the research I
11 did when I came to Pennsylvania and
12 Michigan. They had the fee that
13 Pennsylvania's charging at \$25 million
14 where it's 33 currently in Michigan. They
15 had the Pennsylvania assessment off. It's
16 really Pennsylvania assesses 1.5 right now
17 for their overhead where they're actually
18 spending at 2 percent.

19 So they're just, with any of these
20 things, the devil's in the details. So I
21 give caution to some of the information
22 that's in the attached charts.

23 CHAIRMAN CROSBY: Are you going to
24 go through all of this at some point,

1 Derek, and respond --

2 MR. LENNON: Yes.

3 CHAIRMAN CROSBY: -- and respond to
4 them as well?

5 MR. LENNON: Yes, I will. I'll sit
6 down with them. I just wanted to talk to
7 it right now, and then I'll provide a
8 written response and sit down with the
9 applicants.

10 CHAIRMAN CROSBY: Okay.

11 MR. LENNON: They also questioned
12 the inclusion of the central monitoring
13 system, which we've heard consistently from
14 everyone. So we're going to come back and
15 report to the Commission.

16 They asked whether the cost for
17 licensing an RFA-2, which I'm assuming for
18 Region C would be billed to all of the
19 licensees, or if it would just be billed
20 back to the particular applicants, similar
21 to how the process is going now. That
22 process doesn't change. It bills back to
23 the particular applicants.

24 I have a \$1.2 million revenue

1 source in the budget which was just a
2 guesstimate at that point in expenditures,
3 tying up that 1.2 million or Region C. If
4 we don't spend that much, we don't bring in
5 that much revenue so it's --

6 COMMISSIONER MCHUGH: Revenue
7 neutral.

8 MR. LENNON: -- revenue neutral,
9 and it doesn't have any affect on the
10 current licensees or current applicants.

11 They had a question with respect to
12 vendor registration, and the exact question
13 was assuming that the applicant's
14 background procedures are assessable to the
15 MGC, we propose eliminating any duplicative
16 investigations by the MGC and thereby
17 reducing the amounts attributable to such
18 investigations.

19 I talked to David Acosta, and we
20 don't really understand what this question
21 means, so we need to sit down with them and
22 get better insight into what they're
23 looking for. But I think with anything we
24 do, we look to reduce duplicative

1 processes, and as long as we're not hurting
2 the regulatory environment, we'll be open
3 to those discussions.

4 They asked for details to the \$1
5 million in the ombudsman's office.

6 CHAIRMAN CROSBY: I like that one.

7 MR. ZIEMBA: Me, too, Mr. Chairman.

8 MR. LENNON: That's funny. We just
9 talked about that, John and I did. So out
10 of that \$1 million, 700,000 of it is for
11 grants that we're anticipating as part of
12 the, just, application process for Region
13 C. Based on timeline shifts and what could
14 be happening, we can cut that in half, but
15 once again, it's revenue neutral. We
16 charge that back to the actual applicant
17 that this is going to be happening to in
18 Region C. It goes back out to the
19 community and it's a wash.

20 So it wouldn't change the
21 assessment, it would just change our bottom
22 line of what our budget is for the year.

23 They asked about the 3.9 million
24 allocated for problem gambling and whether

1 there's any crossover with that with the
2 public health trust fund contribution. I
3 just want to clarify that. We are not
4 going to be making the \$5 million
5 assessment to the public health trust fund
6 until FY16, so yes, there are duplicated
7 costs in here. We anticipate a big portion
8 of this being shifted off to that
9 assessment, so it won't be duplicated in
10 future years.

11 CHAIRMAN CROSBY: Well, it's never
12 duplicated. When you say it's duplicated,
13 it makes it sound like paying twice. They
14 aren't.

15 MR. LENNON: No, they aren't.

16 CHAIRMAN CROSBY: Once the public
17 health trust fund has an assessment in it,
18 any other assessment will be eliminated,
19 any other costs will be eliminated.

20 MR. LENNON: Correct. We'll shift
21 those costs over to the public health trust
22 fund.

23 CHAIRMAN CROSBY: Right.

24 MR. LENNON: Only 205,000 of that

1 3.9 million is going toward staff salaries
2 for the problem -- salaries and fridge
3 related benefits for the problem gambling
4 unit.

5 CHAIRMAN CROSBY: It's mostly the
6 research project.

7 MR. LENNON: Correct. And then
8 they asked with respect to the 1.8 million
9 allocated to the state police,
10 clarification as to how that will increase
11 when additional facilities come on. And
12 that's a good question. We haven't really
13 worked out that MOU. And as those
14 facilities begin to come open, I think that
15 the IEB will work with state police and
16 figure out what the right staffing patterns
17 are, and we'll have some idea of whether we
18 were too high or too low based on the slots
19 parlor in our conversations with Penn at
20 that point.

21 COMMISSIONER ZUNIGA: Now, that
22 figure includes, doesn't it, the funding of
23 the -- of certain positions in the
24 graduating -- in the academy?

1 MR. LENNON: So the 1.8 million
2 pays for a trooper class of ten troopers,
3 their break-in period, a 12-week break-in
4 period. It also includes the cost of our
5 seven staff that do all the investigations
6 into employees and background checks. It
7 includes 250,000 for about what we're
8 projecting to be 4,500 fingerprints at
9 about \$50 a piece. And it also includes a
10 small piece of overtime that we negotiate
11 in the MOU. So that -- that's a --

12 COMMISSIONER ZUNIGA: It's a budget
13 figure, it could change. And we'll refine
14 it as we go along, too.

15 MR. LENNON: Yes. So that's all
16 the comments. Once again, I will draft up
17 some responses and meet with the applicants
18 on these and hopefully get them posted to
19 the website.

20 CHAIRMAN CROSBY: Did -- MGM didn't
21 comment?

22 MR. LENNON: MGM did not comment.

23 CHAIRMAN CROSBY: Okay. Well, I
24 think you've handled this really well,

1 Derek, really thoroughly thought and
2 carefully -- As I said last time, and this
3 is obvious, and I don't think you are going
4 to be prone to this, but let's do be sure
5 that -- it does look like sort of very
6 presumptively that we are heavy, maybe, and
7 take some time to think it through, but
8 let's just very careful that we do in fact
9 think it through and don't lose the
10 flexibility. It's never easy to be cutting
11 back once you've done it, but let's just
12 don't forget that that's important. I
13 think you've done a really good job.

14 MR. LENNON: And we have been very
15 thoughtful, and we want to continue to
16 listen, because we don't want to become an
17 outlier and we don't want to be thought of
18 as a nonbusiness friendly environment.

19 So we are going to listen to the
20 input. We are going to listen to hard data
21 that says during these hours we saw nothing
22 going on. We don't understand why you need
23 this. We're going to listen to what Ohio
24 has to say about a central management

1 system versus noncentral management system.

2 I think their deputy director
3 worked in Kansas where they had a central
4 management system, and from what I
5 understand, he's all about not going with
6 the central management system.

7 So it will be good to hear every
8 side of the coin and present a full picture
9 for the Commission to think about.

10 And one other piece I wanted to
11 note that one last suggestion that we did
12 make, and I've noted it before, but I want
13 to put it in this final piece before I ask
14 you to vote on a budget. Was that we
15 reduced revenue projections by 377,000 to
16 account for my mistake the first time
17 around of including a full fee for the
18 slots parlor for region -- and for the
19 slots costs for Region A where our
20 regulations clearly don't allow for that.
21 It has to be prorated, the point that we
22 make the determination of an award.

23 So that dropped the revenue down by
24 377,000 which dropped the assessment out by

1 that corresponding amount. So instead of
2 asking for \$20.4 million assessment, I'm
3 referring to you asking for a \$20.78
4 million assessment.

5 CHAIRMAN CROSBY: Don't worry about
6 that.

7 MR. LENNON: Okay. So based on
8 that information, I recommend approving a
9 \$29.3 million FY15 budget with the
10 following provisions: Include in that
11 budget the cost of a central management
12 system and cohort study, but do not allow
13 us to spend for those until we bring back
14 information to you and you have a chance to
15 formally approve them.

16 Assess \$20.78 million on licensees,
17 but only bill in six-month increments based
18 on the anticipated need for those six
19 months.

20 As I reported at the beginning of
21 this, Region B, we gave that same option to
22 during the license determination and
23 negotiation period. They agreed to it. We
24 billed them, and they paid that amount. I

1 had discussed with Penn that I'd probably
2 do the same thing if you approved that, so
3 this isn't new information to them.

4 And Region A is still pending a
5 license determination, so I wouldn't make a
6 pitch for what to do there. That's up to
7 their licensing negotiations with the
8 Commission.

9 I also recommend billing the slot
10 parlor for the four-year cost of their
11 approved slot machines, the same thing we
12 did to MGM, and they paid that.

13 And then bill Region A licensee the
14 slot fee prorated based on the date of the
15 determination of their license.

16 CHAIRMAN CROSBY: Great.

17 COMMISSIONER ZUNIGA: I think it's
18 important perhaps to emphasize something
19 that you mentioned, which is the assessment
20 versus the yearly budget. The assessment
21 will be predicated on the costs that we
22 know and are, you know, reasonably certain
23 will happen between now and the end of the
24 year.

1 MR. LENNON: Correct.

2 COMMISSIONER ZUNIGA: Which is what
3 we've done. You know, the discussions we
4 had with MGM, and then the proration that
5 applies to the other licensee and the
6 potential future licensee.

7 MR. LENNON: Correct. So without
8 going into huge detail on it, we have a
9 \$24.5 million budget. We'd only be looking
10 to assess 20.7, 20.78, which means we have
11 revenues coming in throughout the year.
12 The way I take a look at it is, I mean,
13 some of those costs only begin after
14 January, and I think it equates to \$4
15 million of our budget begin as costs begin
16 only after January.

17 So that would drop our \$24 million
18 budget down to a \$20 million budget. Then
19 if you back out the revenues that we're
20 anticipating, and the slots fee is a large
21 majority of it, you bring those in and all
22 of a sudden you're down to 16. So now
23 you're assessing for half of that for the
24 year, 8 million, 8.6 I think it is, 8.3,

1 8.6, somewhere around there, that we'd be
2 assessing on the industry six -- well, we'd
3 be billing on the industry in this first
4 six months, bill of the \$20 million
5 assessment. So you'd get your prorated
6 share of that.

7 COMMISSIONER MCHUGH: Right.
8 Right.

9 CHAIRMAN CROSBY: Do you want to
10 move the action?

11 COMMISSIONER ZUNIGA: Sure. Based
12 on the presentation and all the work that
13 you've done up until today, but that has
14 been happening for a while now, I recommend
15 that the Commission approve the budget, the
16 yearly budget, as presented as well as the
17 assessment to our licensees as presented
18 and discussed here today.

19 CHAIRMAN CROSBY: Second.

20 COMMISSIONER MCHUGH: Second?

21 CHAIRMAN CROSBY: Any further
22 discussion? All in favor of the motion
23 signify with aye.

24 COMMISSIONER STEBBINS: Aye.

1 COMMISSIONER MCHUGH: Aye.

2 COMMISSIONER ZUNIGA: Aye.

3 COMMISSIONER CAMERON: Aye.

4 CHAIRMAN CROSBY: Aye.

5 Opposed? The ayes have it
6 unanimately.

7 MR. LENNON: Thank you.

8 CHAIRMAN CROSBY: Thank you.

9 COMMISSIONER CAMERON: Thank you.

10 COMMISSIONER MCHUGH: Thank you.

11 CHAIRMAN CROSBY: Good job. We now
12 go to Ombudsman Ziemba with the million
13 dollar budget.

14 DIRECTOR WELLS: Worth every penny.

15 MR. ZIEMBA: Recently reduced, Mr.
16 Chairman.

17 Good afternoon, Commissioners.

18 Today the Commission is continuing its
19 discussion of Region C and its schedule.
20 Since your last meeting, we solicited
21 further comments about whether the
22 Commission should open up Region C to new
23 competition, whether the Region C RFA-2
24 application date should be extended to

1 March 2015 or some earlier or later date,
2 and how the Commission may further promote
3 competition in the region.

4 We received numerous comments,
5 including comments from communities
6 considering hosting facility and companies
7 hoping to develop a facility in the region.
8 A summary of those comments is included in
9 your packets.

10 Also concluded in your packets are
11 two charts that provide further analysis of
12 application dates. The first chart shows
13 three application dates the Commission had
14 discussed and when a host community
15 agreement would need to be executed in
16 order to meet those dates.

17 The second chart shows three new
18 potential Region C application dates that,
19 among other possibilities, may potentially
20 enable the non-successful applicant in
21 Region A to compete in Region C if it
22 chooses to do so.

23 Please note, we have no indication
24 that any applicant in Region A would have

1 any interest in Region C. They both
2 obviously are fully engaged in a very tough
3 competition that they both plan to win.

4 Before getting into a discussion on
5 the charts, I'm going to ask Director Wells
6 to provide you any update on background
7 checks in Region C. As a reminder under
8 our current revised application schedule,
9 background checks were hoped to be complete
10 by August 18th of this year.

11 CHAIRMAN CROSBY: Director Wells.

12 DIRECTOR WELLS: Thank you. Good
13 afternoon, members of the Commission and
14 Mr. Chairman. I'm beginning to sound like
15 a broken record coming before you on this
16 issue. Once again, my update is basically
17 the same, that the IEB has yet to receive
18 from any potential applicant for Region C a
19 completed package which outlines a deal
20 that would lead to a resort casino for
21 Region C. So I am in the same position
22 I've been in for months and months, just
23 waiting.

24 So I do have a recommendation for

1 the Commission as we go forward. Whatever
2 the Commission decides as far as timing, my
3 recommendation is that the Commission set a
4 deadline for the applicant to submit a
5 package to the IEB of their deal and then
6 give the IEB discretion to determine if the
7 deal is substantially complete so that I
8 can report back to the Commission more
9 accurately about a timetable for completion
10 of the investigation.

11 As it stands right now, the target
12 is that I have this completed in August. I
13 can't imagine having that completed in
14 August, even if I get some additional
15 individual qualifiers going through the
16 forms that have not yet been completed and
17 their tax returns, things like that, I
18 don't think will be happening by the August
19 date.

20 The BED forms that any other
21 companies that we would have to investigate
22 are necessarily more complicated, and
23 therefore, that would additionally take
24 more time. Plus there is the time for the

1 completion of the report. I have to review
2 the report. I have to give the report to
3 the Commission. The Commission has to
4 review the report. We have to set a date,
5 and then we have to have a hearing, whether
6 it be a public hearing because there are no
7 conditions on suitability, or if there is
8 an adjudicatory hearing. That even takes
9 more time.

10 So I don't see us making that
11 deadline as it is right now. And for
12 efficiency's take, I think it may be a good
13 idea for the Commission to at least
14 consider setting a deadline that any
15 potential applicant, if we want to move
16 forward in Region C, they would have to get
17 me a package by a certain date, and then I
18 can report back to the Commission.

19 If I indicated it's substantially
20 complete, I can move forward; if it's not,
21 if they want to address the Commission or
22 come before the Commission to contest that,
23 then I would suggest they would be free to
24 do so. But understand it's frustrating to

1 be waiting for months for something to come
2 to completion. And I do believe setting a
3 deadline is the most effective way to get
4 things moving. So that would be my
5 recommendation at this point.

6 COMMISSIONER ZUNIGA: Is that under
7 the current phase two deadline? What
8 you're suggesting is a hard phase one
9 deadline. Is that a good characterization?

10 DIRECTOR WELLS: Well, I would say
11 it's somewhat similar to what we did
12 before. What I want to avoid is the
13 situation where the applicant gives -- you
14 know, for example, get applicant A, for
15 example, gives me a package, but they don't
16 have a partner that can really contribute
17 the necessary equity to make this happen.
18 I'll know that pretty quickly based on the
19 initial forms, and I'll be able to tell the
20 Commission that.

21 Now, we could just go forward and
22 then at the end, you know, if you set a
23 deadline for suitability, I could just
24 report out that they are -- they would not

1 be suitable because they don't have the
2 equity. That is an option. But I think it
3 would be helpful for the Commission to get
4 an earlier picture of what's going on in
5 the region, and maybe they would be able to
6 have a more informed decision of what the
7 Commission wants to do going forward. It's
8 an option for your consideration.

9 COMMISSIONER ZUNIGA: Right. I
10 understand the concept, but I'm trying to
11 overlay it with our current phase two
12 deadline, whether it applies or not.

13 DIRECTOR WELLS: As far as whether
14 we can make the deadline.

15 COMMISSIONER ZUNIGA: Well, we have
16 a current deadline, phase two.

17 DIRECTOR WELLS: Right.

18 COMMISSIONER ZUNIGA: It sounds
19 like it's very, very tight because you
20 don't have, apparently, somebody with a
21 full set of partners --

22 DIRECTOR WELLS: Correct.

23 COMMISSIONER ZUNIGA: -- you know,
24 currently.

1 DIRECTOR WELLS: Right.

2 COMMISSIONER ZUNIGA: So our
3 September 25th --

4 MR. ZIEMBA: September 23.

5 COMMISSIONER ZUNIGA: I'm sorry,
6 September 23 deadline looks very tight for
7 two big reasons. We'll probably get into
8 the second one in a minute. But the one
9 that you're referring to because there's
10 not a lot of investigation time,
11 adjudicatory or hearing time, if we need
12 it, between now and the actual deadline for
13 all intents and purposes, the September
14 23rd.

15 MR. ZIEMBA: Yes.

16 CHAIRMAN CROSBY: So what I think
17 you're suggesting is whatever date we do
18 set for the final application deadline,
19 that we should also set a firm background
20 check deadline. Call it 90 days, whatever,
21 90 days before. So effectively this
22 deadline has already passed.

23 COMMISSIONER ZUNIGA: Right.

24 Right. Well...

1 CHAIRMAN CROSBY: We have on the
2 table a proposition of March 15th or March
3 something or other. So your suggestion is
4 if we pick, for sake of discussion, March
5 15th as the final application deadline,
6 that we also pick a deadline by which time
7 applicants would have to have their
8 background checks in to you.

9 DIRECTOR WELLS: Correct.

10 COMMISSIONER MCHUGH: Well, we have
11 at the moment -- Just to make this a little
12 more concrete. We have one Region C
13 applicant, right?

14 DIRECTOR WELLS: We have one
15 that --

16 COMMISSIONER MCHUGH: Applicant --

17 DIRECTOR WELLS: -- submitted as
18 part of Region C, correct.

19 COMMISSIONER MCHUGH: One entity
20 that's paid \$400,000 and filed some papers.

21 DIRECTOR WELLS: Correct.

22 COMMISSIONER MCHUGH: Right.

23 DIRECTOR WELLS: Yes.

24 COMMISSIONER MCHUGH: That's what I

1 mean by applicant.

2 DIRECTOR WELLS: Yep.

3 COMMISSIONER MCHUGH: Have we done
4 a background investigation of that?

5 DIRECTOR WELLS: Yes.

6 COMMISSIONER MCHUGH: So that piece
7 is done.

8 DIRECTOR WELLS: Well, I mean, it's
9 not in final report form because --

10 COMMISSIONER MCHUGH: No, I
11 understand that.

12 DIRECTOR WELLS: But yes. We have
13 been working on that and done as much as we
14 can do on those pieces, correct.

15 COMMISSIONER MCHUGH: So if -- and
16 I'm just trying to make sure I understand
17 where we are. If that applicant were to
18 pair with somebody as to whom we've already
19 done a background investigation as well and
20 there are no changes --

21 DIRECTOR WELLS: Correct.

22 COMMISSIONER MCHUGH: -- two big
23 ifs.

24 DIRECTOR WELLS: Correct.

1 COMMISSIONER MCHUGH: But if both
2 of those occur, then all that's left to
3 do -- and I don't minimize the task.

4 DIRECTOR WELLS: Yes.

5 COMMISSIONER MCHUGH: But all
6 that's left to do is write up the results
7 and present them to us.

8 DIRECTOR WELLS: Correct.

9 COMMISSIONER MCHUGH: Right? Okay.
10 All right. So that shows the best possible
11 case that could happen.

12 DIRECTOR WELLS: Correct.

13 COMMISSIONER MCHUGH: All right.
14 Got it.

15 CHAIRMAN CROSBY: However, that
16 same party would have to have negotiated a
17 host community agreement --

18 COMMISSIONER MCHUGH: Oh, no. I'm
19 just talking about background checks.

20 CHAIRMAN CROSBY: No, I know.

21 COMMISSIONER MCHUGH: I understand
22 all that.

23 COMMISSIONER ZUNIGA: Well, that's
24 the second piece I was alluding to.

1 COMMISSIONER MCHUGH: I think we
2 need to talk about that. Because I just
3 want to get the phase one or RFA-1 piece.

4 DIRECTOR WELLS: Correct.

5 MR. ZIEMBA: So Mr. Chairman, if I
6 can proceed. So as I mentioned, among the
7 excellent comments that we received, some
8 communities and companies wishing to build
9 in Region C provided comments. We also
10 received a letter from Representative
11 Koczera from the 11 Bristol district that
12 includes the City of New Bedford and
13 Acushnet. I know you have those comments,
14 so I'll just briefly summarize the subset
15 of those comments from applicants and
16 companies and communities.

17 The City of New Bedford asked the
18 Commission to extend the current deadline
19 to a date subsequent to November 14th, a
20 date that would allow a host community
21 referendum to be held on the date of the
22 November 4th general election. The city
23 voiced its opposition to opening the
24 process to new applicants or extending the

1 deadline beyond this year because it could
2 threaten the commercial viability of Region
3 C, according to the city.

4 Representative Koczera urges the
5 Commission to extend the application
6 deadline to March 23rd, 2015 to promote
7 further competition and to enable the
8 unsuccessful bidder in Region A to consider
9 a site in Region C.

10 Ken Fiola representing the City of
11 Fall River expressed support for an
12 extension to March to the Region C
13 application deadline. He expressed
14 opposition to lowering the minimum of 500
15 million destination resort construction
16 requirement.

17 The City of Taunton requested that
18 the Commission not extent its Region C
19 deadline noting the progress of the tribe
20 and that the market demonstrates that a
21 commercial casino in Region C is not
22 economically viable.

23 The Town of Bridgewater urges the
24 Commission to extend the current

1 application deadline and to open up the
2 region to new applicants and to make
3 alterations to the Commission's minimum
4 capital requirements.

5 KG New Bedford, LLC expresses
6 opposition to allowing new applicants to
7 file an RFA-1 application because it
8 believes it would be unfairly prejudicial
9 to existing applicants. KG expressed
10 support for a deadline extension of 90 days
11 effectively at the end of December, and
12 urged the Commission to include land costs
13 and carried interest costs in the
14 calculation of the \$500 million minimum
15 Capital investment.

16 The Claremont Clairvest Group
17 recommends that the Commission extend the
18 current deadline to March 2015 and further
19 urges the Commission to open up the region
20 to new applicants enabling the group to
21 compete in Region C. Finally, urged the
22 Commission to revise its minimum capital
23 investment requirements.

24 So with those comments as a

1 backdrop, I ask the Commission to turn to
2 the first chart titled "Host Community
3 Agreements - Region C." It's a pink, blue,
4 and yellow chart.

5 COMMISSIONER ZUNIGA: John, can I
6 just clarify something?

7 MR. ZIEMBA: Yes.

8 COMMISSIONER ZUNIGA: Because I --
9 From a couple of the comments relative to
10 the minimum capital investment, I gather
11 that there is a bit of a misunderstanding
12 as to what we have discussed. I think that
13 what we discussed last time and I think
14 what we should continue to consider maybe
15 now or later are the costs that are
16 included in the capital -- in the minimum
17 capital investment, not changing that
18 amount by itself.

19 Some people who provide comments
20 clearly understand that concept, and I'm
21 glad. There's a couple that do not, and I
22 want to make sure that they understand that
23 at least I have never talked about lowering
24 the minimum capital investment from 500 to

1 anything else.

2 CHAIRMAN CROSBY: We couldn't.

3 COMMISSIONER ZUNIGA: We couldn't.

4 Actually, we couldn't. It's a requirement
5 of the legislation. The leeway that we do
6 have gives us to certain costs that can be
7 included in that calculation, and I think
8 we should continue to -- There is one
9 particular cost that we have clear
10 direction from the legislature as to having
11 that broad discretion and that's the land
12 cost.

13 It is very expressly written there
14 that we could decide to include it or not.
15 So far, we have decided not to, but it does
16 not mean that we could not change that.

17 So I just wanted to state that for
18 the record.

19 MR. ZIEMBA: And Commissioner,
20 you're obviously exactly correct on the
21 regulation. Perhaps the comment was a bit
22 of a shorthand, but once they've had --
23 well, additionally though, is that
24 regardless of whatever our requirement is,

1 what is included and what is excluded in a
2 host community agreement, and a community
3 retains the ability to set a higher
4 threshold regardless of what our minimum
5 would be.

6 So with those comments as backdrop,
7 I ask you to turn to the Host Community
8 Agreements - Region C chart that's in your
9 packet. This chart shows the three further
10 application, the dates, that the Commission
11 has already discussed over the last couple
12 of months.

13 As we noted previously, the 60-day
14 deadline for the execution of a host
15 community agreement for the current
16 September 23rd date is close to expiration
17 on July 14th. Yes. That's the correct
18 chart. Similarly, the 90-day HCA deadline
19 for the second application date, October
20 17th, 2014, is also about to expire on
21 July 8th. Only the third option, November
22 17th, has an HCA 90-day deadline that is
23 not approaching in the next few weeks. A
24 host community agreement would need to be

1 concluded by early August to meet the
2 90-day date.

3 Please note that none of these
4 dates factor in local procedural
5 requirement such as city council schedules
6 or other pre-vote scheduling requirements.

7 The second chart that we have for
8 you --

9 COMMISSIONER ZUNIGA: I'm sorry,
10 John. On that chart, just so that I'm
11 clear, 60 days back, July 14 is 60 days
12 from September 23.

13 MR. ZIEMBA: It is 60 days back
14 actually from ten days back.

15 COMMISSIONER ZUNIGA: Okay.

16 MR. ZIEMBA: Because the theory
17 here is that by the day before the
18 application date, there would have to be a
19 certification --

20 COMMISSIONER ZUNIGA: A
21 certification of the vote.

22 MR. ZIEMBA: And so you would have
23 to have your referendum ten days prior to
24 that certification date, and then you would

1 have to schedule your referendum 60 days
2 before that actual referendum. So that
3 brings you back to July 14th.

4 COMMISSIONER ZUNIGA: Okay.

5 MR. ZIEMBA: Or June 14th, which
6 has already passed, with the 90 days back.

7 CHAIRMAN CROSBY: Do you know
8 whether there are very intense negotiations
9 on an HCA underway?

10 MR. ZIEMBA: I understand that
11 there's been a lot of discussions in some
12 of the communities on HCAs. There's been
13 public reports on that to the best of my
14 knowledge. And we've pretty routinely
15 checked. No host community agreement has
16 been executed. Indeed, part of the
17 background checks would be necessary for
18 part of that if people are trying to
19 determine who the parties are that would be
20 part of that host community agreement.

21 So in short, what that means is
22 that I don't believe any host community
23 agreements have been executed, and there's
24 some potential. There is a possibility

1 that one could be executed within the time
2 frame of July 14th, but given some of the
3 comment letters, I don't know that would be
4 likely.

5 But we don't know that. But in
6 some of the communities that have expressed
7 an interest in having the deadline
8 extended, they've at least expressed that
9 they would like more time to get through
10 the process. But I don't have a definitive
11 that it is impossible to meet that date.

12 So the second chart is titled
13 "Additional Potential Region C RFA-2
14 Application Dates." This shows, as I
15 mentioned, the dates -- three dates well
16 after the conclusion of the Region A
17 competition. The chart shows the number of
18 days -- you can see that in the green --
19 the number of days between the potential
20 application date and our projected Region A
21 award date of September 12th.

22 All of these three dates exceed 100
23 days, which is the amount of days necessary
24 for a full 90 days prior to a local

1 referendum plus the ten day vote
2 certification period.

3 We've also shown the three
4 potential award dates using an application
5 of evaluation period of approximately 140
6 days. So if we had application dates of
7 January 30th, 2015; February 27th, 2015; or
8 March 27th, 2015, you'll see in that pink
9 line those are the potential award dates.
10 And again, that award date is based on 140
11 days which is what we have pencilled in for
12 the anticipated award date based on a
13 September 23rd date. And what that shows
14 is that it anticipates at least one
15 arbitration going for the full length, but
16 it is basically the minimum number of days
17 that we would need to complete that
18 process. And as we've seen, certain things
19 do come up. But I think 140 days is a good
20 indication of the number of days that would
21 be necessary for an evaluation. So --

22 COMMISSIONER MCHUGH: Can I ask a
23 question? I'm having trouble figuring out
24 this. What's the green horizontal

1 represent?

2 MR. ZIEMBA: So the green is if we
3 have an application date of January 30th,
4 2015, for example, there would be 140 days
5 after our anticipated award of the Region A
6 license. So what that reflects is if a
7 Region A applicant were interested in
8 competing for Region C, they would have 140
9 days to put together an application --

10 COMMISSIONER MCHUGH: Got it.

11 MR. ZIEMBA: -- before us. And
12 that 140 days would include 100 days that
13 would be necessary to complete the local
14 referendum process if they opted for a
15 90-day notice period.

16 COMMISSIONER MCHUGH: Okay. And
17 then the blue?

18 MR. ZIEMBA: And so what we have
19 here, in the blue, consistent with what we
20 talked about a couple of minutes ago with
21 Director Wells, if we do open up the region
22 to further competition --

23 COMMISSIONER MCHUGH: Region C.

24 MR. ZIEMBA: Region C to further

1 competition, we would have to establish a
2 new RFA-1 deadline. And all that is
3 referenced here is that October 10th, 2014
4 RFA-1 date. That is just simply a
5 calculation of -- it is about a month after
6 we would make our determinations on Region
7 A to enable the Region A -- the
8 non-successful Region A applicant to put
9 together whatever would be necessary for
10 RFA-1. And so under this theory,
11 obviously --

12 COMMISSIONER MCHUGH: But can I
13 stop you there?

14 MR. ZIEMBA: Yes.

15 COMMISSIONER MCHUGH: Why would the
16 Region A unsuccessful applicant have to put
17 together an RFA-1?

18 MR. ZIEMBA: So I was just about to
19 get into that. So on this issue, so
20 obviously, RFA-1 would be for new
21 applicants. They would have to fill out
22 all the BD forms, et cetera, et cetera, et
23 cetera.

24 But what we talked about was that

1 it might make a lot of sense for the
2 Commission to establish a deadline for
3 everyone competing in the process to have
4 their teams together. What we've seen in
5 this process in Region C is that there's
6 obviously been a lot of discussion about
7 partnering between different groups and how
8 were they going to work together and find a
9 specific community.

10 What we are thinking is that it
11 might make sense for us to have a very
12 specific deadline for the non-new
13 applicants in the region for us to know who
14 they're partnered with so we can make sure
15 we can complete their background check in
16 enough time for the application for RFA-2
17 application.

18 So you'd have all of the new
19 applicants that apply by October 10th, and
20 if, indeed, there is a Region A applicant
21 that wants to compete in Region C, we would
22 want to know that it has a team by October
23 10th, 2014 so we can properly evaluate any
24 of their backgrounds.

1 Now, October 10th, 2014 is purely a
2 plug date. And it just reflects basically
3 about a month after the Region A
4 competition whether or not that is
5 sufficient to enable a Region A applicant,
6 if there ever were one, to put together a
7 team to compete in Region C. I'm not quite
8 certain a month would do it, but that's
9 basically the earliest possible date that
10 we could explore.

11 So with that general background, I
12 thought for the point of the Commission's
13 discussion, I would just break down a
14 number of questions that result from our
15 solicitation and maybe a way of approaching
16 all of these questions. I forget what it's
17 called, Director Blue. Counsel Blue always
18 comes up with like a road map. What do you
19 call that?

20 MS. BLUE: A decision tree.

21 MR. ZIEMBA: Decision tree. So I
22 have five separate questions and hopefully
23 in an order that potentially that could be
24 discussed.

1 five. And that is what -- a decision we
2 made a little while ago relative to
3 restricting the field to applicants as
4 opposed to qualifiers. What we have seen
5 is that these deals come together with
6 multiple parties, sometimes with the
7 expectation that there's a future party,
8 but there's an LLC that becomes the
9 applicant and that, in my estimation, sort
10 of only gives Director Wells a lot of
11 difficulties trying to figure out whether
12 the applicant is complete, et cetera, et
13 cetera.

14 So I think in order to get some
15 flexibility, whether we do this now or
16 later, open it up or not, we need to think
17 about ways to incorporate qualifiers, not
18 necessarily just applicants as part of
19 the --

20 CHAIRMAN CROSBY: But if we do, in
21 the decision tree is the question should we
22 open it up to new applicants. If we open
23 it up to new applicants as a practical
24 matter, that includes qualifiers. So it

1 accomplishes the same purpose.

2 You could narrow it and say only
3 open it to qualifiers, but if you open them
4 to new applicants, you would include
5 qualifiers.

6 COMMISSIONER MCHUGH: And I think
7 we did this because our regulation talks
8 about, and you don't have to pay us another
9 fee is based on the regulation saying what
10 the deadline for applicants was, right.
11 We're still working off that January 1,
12 2013 applicant application RFA-1 deadline.

13 CHAIRMAN CROSBY: That's right.

14 COMMISSIONER MCHUGH: Which brings
15 me to the --

16 MR. ZIEMBA: Plus the September
17 30th, 2013 Region C RFA-1.

18 COMMISSIONER MCHUGH: Right. But
19 still that was -- Yes, that's right. So --
20 But now we have a scenario. Another part
21 of this decision making process is that we
22 either move forward with one of three
23 scenarios. We're limiting to -- we're
24 limiting the field, basically, to -- we're

1 either going to open up the field to
2 everybody. That's one choice. We're
3 presently limiting the field to those who
4 were in as an applicant. That's one
5 entity. Plus any -- I was going to say
6 there's three. It's only two. Plus
7 anybody who they can put a deal together
8 with, and if they put a deal together with
9 somebody who was a previous qualifier and
10 we checked, then we move forward.

11 COMMISSIONER ZUNIGA: No. That's
12 key here. Previous applicant, not previous
13 qualifier.

14 COMMISSIONER MCHUGH: The previous
15 applicant plus anybody who was -- who we
16 did a background investigation for who was
17 a qualifier before, right?

18 COMMISSIONER ZUNIGA: Or a new,
19 which is part of her point --

20 COMMISSIONER MCHUGH: Yes, I know.
21 But those are two -- we move forward with
22 two speeds based on whether we've already
23 done a background check or not.

24 COMMISSIONER ZUNIGA: Well, the

1 point is that some of the -- some are not
2 complete. These background checks are not
3 complete necessarily.

4 COMMISSIONER MCHUGH: All right.

5 COMMISSIONER ZUNIGA: Because there
6 are new qualifiers to be done.

7 COMMISSIONER MCHUGH: All right.

8 CHAIRMAN CROSBY: The proposal on
9 the table is we open it up to new
10 applicants, we extent the deadline and we
11 open it to new applicants. That's
12 something we put on the table as something
13 to be considered. It's something we wanted
14 people to comment on.

15 So let's take one step at a time as
16 John set out.

17 Number one, do we want to extend
18 the deadline? I think the answer to that
19 is pretty clear. We do. We're not sure to
20 what --

21 COMMISSIONER ZUNIGA: Well, I'm --

22 CHAIRMAN CROSBY: Okay.

23 COMMISSIONER ZUNIGA: You might be
24 speaking for yourself, Mr. Chairman.

1 CHAIRMAN CROSBY: Okay. That's all
2 I ever do. Let's do that question first.

3 COMMISSIONER ZUNIGA: At this
4 point, I don't know that we may need to
5 extend the deadline just yet. I think we
6 could wait at least until July 14th to
7 consider whether to extend the deadline by
8 whatever amount of time in whatever
9 circumstances we may want, because between
10 one -- between now and July 14, there is
11 still at least the mathematical possibility
12 -- I want to make a reference to all the
13 qualifying with the World Cup. It may be
14 very, very low probability that it will
15 actually happen, but somebody, a current
16 applicant, could still put a deal together,
17 at least technically, between now and July
18 14. Is that correct?

19 MR. ZIEMBA: That's correct.

20 COMMISSIONER MCHUGH: But we have
21 -- I'm sorry.

22 COMMISSIONER ZUNIGA: So extending
23 the deadline between now and then and
24 allowing other applicants, we may hear

1 from, you know, that party saying, you just
2 changed the rule on us. We were operating
3 under a deadline for a while --

4 CHAIRMAN CROSBY: The only question
5 is should we extend the deadline now. The
6 issue of opening to other applicants is not
7 on the table.

8 COMMISSIONER ZUNIGA: Okay.

9 CHAIRMAN CROSBY: And even the one
10 applicant who has the theoretical
11 possibility of getting in under the current
12 deadline has asked for an extension. So
13 there doesn't seem to be any reason not to
14 extend. They said extend but don't permit
15 new applicants, but that's the second
16 question on our decision.

17 COMMISSIONER ZUNIGA: But I think
18 they go hand in hand because extend the
19 deadline to whom, just that one applicant?

20 CHAIRMAN CROSBY: Well, we have to
21 get to that. No. It -- The first question
22 would be do we extend the deadline, period.
23 That means just the people who are now
24 qualified as applicants.

1 COMMISSIONER MCHUGH: But I agree
2 with Commissioner Zuniga. I think they do
3 go hand in hand. Because if we say we're
4 going to extend the deadline without
5 deciding do we allow new applicants in,
6 then the question becomes to what end.

7 COMMISSIONER ZUNIGA: That's right.

8 COMMISSIONER MCHUGH: It is simply
9 to give the current applicant more time to
10 put a deal together. The current applicant
11 has had a year and a half to put a deal
12 together. And to extend the deadline
13 without also opening it up to new
14 applicants means that we're no more likely,
15 in my view, to have a completed deal at the
16 end of the extended deadline than we are
17 today. And at the same time, to leave the
18 deadline in place now is to commit
19 ourselves, is to gamble, that they will
20 have a deal together by the time that
21 deadline arrives and that we are left with
22 a single applicant, which plays against the
23 competition of -- the desirability of
24 competition, which is thus far we've been

1 corrected in saying it dramatically
2 improves the quality of the product we get.

3 So that, for me, is the dilemma and
4 why I think the two do go hand in hand.

5 The problem, just to finish the thought --
6 and maybe I'm talking in strings that don't
7 connect neatly. But if we don't extend the
8 deadline, which is an option, then we
9 really are facing the possibility that we
10 get one application. And then as I think
11 we've discussed before, to say, well, we
12 got one application which we know today is
13 the most we could get, but we want
14 competition so we'll extend the deadline, I
15 think would be very unfair. So we either
16 make that --

17 COMMISSIONER ZUNIGA: Well, this is
18 the definition of dilemma. The one only
19 possible who could meet the deadline is
20 asking us to extend the deadline.

21 COMMISSIONER MCHUGH: That's right.

22 COMMISSIONER ZUNIGA: You know, so
23 keeping the current deadline, in my view,
24 would give our process a lot more

1 legitimacy to opening it up -- opening it
2 all up to new applicants after that
3 deadline is seen through, provided of
4 course that nobody admits it.

5 COMMISSIONER MCHUGH: I don't
6 disagree with that, just to follow that
7 point. But it also means that we may have
8 one applicant and by that deadline, we may
9 have an applicant by that deadline, and it
10 then would be unfair, I think, to open it
11 up because we're not happy with one
12 applicant.

13 COMMISSIONER ZUNIGA: Well, I don't
14 want to concede that we will not be happy.
15 It's a big assumption. It's not an unfair
16 assumption, but getting one applicant in
17 the current deadline may be sufficient.

18 We have to look at it. We would
19 have to look at it. And there's still 60
20 days after July 14 for that party, if they
21 get a host community agreement, to put --
22 you know, to put a deal together.

23 COMMISSIONER MCHUGH: No. I'm not
24 saying that necessarily we'd be unhappy.

1 COMMISSIONER ZUNIGA: Right.

2 COMMISSIONER MCHUGH: I'm just
3 saying we wouldn't have any competition.
4 Which is an element of unhappiness.

5 COMMISSIONER ZUNIGA: There is a
6 unique factor in this region which is the
7 prospect, however far likely or unlikely,
8 of competition in that region with -- from
9 the track. If we are to give it a
10 commercial license, there's a level of
11 uncertainty in this region that other
12 regions have not had to deal with.

13 So by the sheer number for us to
14 say that one application would be
15 insufficient for competition, I don't know
16 that I would take that at face value. I
17 know it's not highly desirable and that's
18 your point, but I don't think it's
19 undesirable.

20 COMMISSIONER CAMERON: I think your
21 original argument, Commissioner, was it was
22 unfair because there's a possibility that
23 one applicant could make the deadline. I
24 think that argument no longer exists with

1 the fact that they've asked for an
2 extension. So -- And I think it serves all
3 of us well to think about opening it up
4 because of the competitive factor.

5 So I would think your original
6 argument had some merit when, in fact,
7 there was an opportunity for them to meet
8 the deadline, but now that they've asked
9 for this extension, I think that that --
10 that argument no longer exists, so I think
11 we're in good stead to talk about (A), an
12 extension; and (B), opening it up to
13 others.

14 CHAIRMAN CROSBY: Commissioner
15 Stebbins, do you want to join this boring
16 back and forth?

17 COMMISSIONER ZUNIGA: I don't find
18 it boring.

19 COMMISSIONER STEBBINS: No. You
20 know, we're talking about a difference of,
21 you know, two weeks. And I understand
22 Commissioner Cameron's point of, you know,
23 the lone name that's out there that has the
24 potential to abide by the date has asked

1 for an extension. It's two weeks to
2 essentially let that first kind of
3 self-imposed deadline come and go, and
4 we're back here in the end of July to
5 revisit this issue.

6 We're obviously not revisiting the
7 issue of extending the deadline. That will
8 be obviously a no-brainer, and the only
9 question at that point in two weeks will be
10 do we open it up to new applicants.

11 COMMISSIONER ZUNIGA: Well, I want
12 to perhaps reiterate that I think the
13 question is -- goes together. It's one
14 question. Extend the deadline now with an
15 opening of new applicants. That would
16 be -- that's the way that I would frame it.
17 Extending the deadline now by itself does
18 us no -- certainly right now, does us no
19 good, in my opinion.

20 COMMISSIONER CAMERON: I would
21 agree they go together, but I just don't
22 see the value in waiting two weeks to make
23 that decision.

24 CHAIRMAN CROSBY: And we waited two

1 weeks two weeks ago. It's a month now.
2 Does -- I think we know what the issues
3 are. I'm not sure we know where we come
4 down on them, but I think we know what the
5 issues are. Does somebody want to put one
6 or the other of these -- do you want to put
7 your idea in a motion and let us --

8 COMMISSIONER CAMERON: Well, I
9 would move that we extend the deadline and
10 open it to new competition, which serves
11 the whole process well and is not being
12 unfair to anyone.

13 CHAIRMAN CROSBY: Do you want to
14 proposed a date to which to extend, or do
15 you want to make that a second?

16 COMMISSIONER CAMERON: Well, I
17 think most of the comments suggest that the
18 March 15th date is something that makes
19 sense. Those that wanted it sooner were
20 really thinking of their own best
21 interests. And I think that we've been
22 very fair to everyone as far as giving
23 additional time. And so I don't think that
24 that serves us well, and I know that's...

1 CHAIRMAN CROSBY: So your motion
2 would be to extend to March 15th and to
3 open up -- to completely open it up to new
4 applicants?

5 COMMISSIONER CAMERON: Yes. And I
6 do see merit in Director Wells' point that
7 we should have a date before that in which
8 packages need to be complete because that
9 really does cause -- there's turmoil, and
10 it makes it difficult to make those dates
11 when you don't have a completed package.

12 COMMISSIONER MCHUGH: What is the
13 March 15 date, for the RFA-2 application?

14 COMMISSIONER CAMERON: That was the
15 original proposal that I asked.

16 MR. ZIEMBA: I modelled a date at
17 the end of March --

18 COMMISSIONER MCHUGH: March 27.

19 MR. ZIEMBA: I'm just quickly
20 trying to make sure the March 15th is not
21 on a Sunday.

22 COMMISSIONER MCHUGH: But March 27
23 would be the RFA-2 application, is that --

24 MR. ZIEMBA: That was one of them.

1 COMMISSIONER ZUNIGA: Yes. That
2 was --

3 COMMISSIONER MCHUGH: Okay. But if
4 we open it up, we need an RFA-1 deadline.

5 CHAIRMAN CROSBY: Does 90 days do
6 it? Is that appropriate if we made it
7 March 27th?

8 DIRECTOR WELLS: Well, when we did
9 the -- You know, it depends on the deal.
10 You know, obviously I could do it a little
11 quicker if I've got some prior applicants.
12 But as a point of reference, when we did
13 the slots applications, you know, we did,
14 you know, we had a four-month window,
15 and that --

16 COMMISSIONER ZUNIGA: If we wanted
17 to increase competition, which is what we
18 have been talking about, I mean, my
19 opinion, an RFA-1 deadline should be after
20 November.

21 DIRECTOR WELLS: The other option
22 is just on the RFA-1 deadline, that the
23 applicant, you know, present it and IEB can
24 review it and I can report to the

1 Commission, you know, within a few weeks
2 where they are with it, and there may be
3 applicants that are missing a chunk of
4 their necessary equity. I don't know.

5 COMMISSIONER MCHUGH: Can I --
6 Before we -- It seems to me that we got
7 ourselves into this position because the
8 RFA-1 didn't have to have a completed
9 package. Now, this has been out there for
10 now 18 months.

11 DIRECTOR WELLS: Right.

12 COMMISSIONER MCHUGH: And our
13 regulations are our regulations. But we
14 could certainly, on a nonemergency basis by
15 whatever date we pick, change the
16 regulation to say that the RFA-1
17 application has to have an operator and
18 financing and both.

19 CHAIRMAN CROSBY: Substantially
20 complete.

21 DIRECTOR WELLS: Right.

22 COMMISSIONER MCHUGH: Right. And
23 they're indispensable or we're not going to
24 take your \$400,000.

1 DIRECTOR WELLS: Correct. That
2 would be helpful.

3 COMMISSIONER MCHUGH: Right.

4 COMMISSIONER CAMERON: That makes
5 sense. Would the end of the year be
6 appropriate? That would give just about
7 four months.

8 CHAIRMAN CROSBY: So it would be
9 three months.

10 COMMISSIONER CAMERON: March 27th,
11 well, you're right.

12 CHAIRMAN CROSBY: February, March
13 -- December 27th would be 90 days until the
14 RFA-2 was due. And December 27th would be
15 two months after Region A is decided. So
16 that would theoretically give the Region A
17 loser, if they wanted to, 60 days to try to
18 put together a deal.

19 COMMISSIONER MCHUGH: No. It would
20 be three months, December 27th. October,
21 November, December.

22 CHAIRMAN CROSBY: Sorry. Three and
23 three. Yes. So it would be three months.
24 So three to put together a deal and three

1 for the background checks.

2 DIRECTOR WELLS: My obvious
3 preference would be a month earlier, so
4 having it due at the end of November. But
5 I'd defer it to the Commission.

6 COMMISSIONER CAMERON: Or move into
7 April on the back end.

8 DIRECTOR WELLS: Right. If you're
9 opening it to new applicants, then who
10 knows who could come in. I could be
11 looking at a whole brand new entity
12 theoretically, and I just want to make sure
13 I manage the Commission's expectations
14 with -- We would have significant work to
15 do.

16 COMMISSIONER STEBBINS: I'd rather
17 give you the extra month and give you till
18 the end of November.

19 MR. ZIEMBA: And one additional
20 consideration. We always try to get this
21 done before the referendum. The dates that
22 we have here assume that the referendum is
23 being completed basically ten days before
24 the application date. But the earlier that

1 you can make it, the more likelihood that
2 the background check will be completed
3 prior to a referendum for the new
4 applicants.

5 CHAIRMAN CROSBY: Well, the only --
6 so that would -- if we made it November
7 27th, today is June, so that's July,
8 August, September, October, November,
9 that's five months, except for the Region A
10 loser, and the Region A loser would only
11 have two months.

12 DIRECTOR WELLS: Right. But with
13 Region A, for my purposes, if it's
14 substantially the same entities that are
15 going to be applying in Region C from
16 Region A, that's simple for --

17 CHAIRMAN CROSBY: No. But I meant
18 for that, in the remote hypothetical that a
19 Region A loser wanted to try to play in
20 Region C, they'd have to start over again.
21 They'd have to find a community.

22 DIRECTOR WELLS: Right.

23 CHAIRMAN CROSBY: Who knows what
24 would happen.

1 COMMISSIONER MCHUGH: But November
2 27th wouldn't necessarily be their deadline
3 if they didn't change anything about their
4 structure or finance.

5 COMMISSIONER STEBBINS: It's just
6 who they are.

7 COMMISSIONER MCHUGH: So they
8 basically have --

9 COMMISSIONER ZUNIGA: It's a
10 nuance.

11 COMMISSIONER MCHUGH: They would
12 basically have until March 27th to find a
13 site, negotiate.

14 CHAIRMAN CROSBY: That's right.
15 Because you don't have -- when you make --
16 you can file your RFA-2 -- sorry. You can
17 file your RFA-1 without a site.

18 COMMISSIONER CAMERON: Right.

19 CHAIRMAN CROSBY: That's right.
20 Okay. That seems reasonable to me.

21 MR. ZIEMBA: So November 27th is
22 Thanksgiving day.

23 COMMISSIONER MCHUGH: Make it
24 December 1st.

1 CHAIRMAN CROSBY: All right. So
2 you want to restate that motion now.
3 You've got three elements, I think.

4 COMMISSIONER CAMERON: I move that
5 we extend the deadline as well as open to
6 new applicants the RFA-1 filing to December
7 1 of 2014 to be followed -- and that would
8 have to be a substantially complete
9 application on December 1st of 2014
10 followed by a RFA-2 deadline of March 27th,
11 2015.

12 COMMISSIONER STEBBINS: Second.

13 DIRECTOR WELLS: If I just may make
14 a comment. I just want to make sure it's
15 clear on the record, new applicants would
16 have to have it substantially complete. I
17 would also want the Commission to add that
18 existing applicants would have to have the
19 deal complete.

20 COMMISSIONER CAMERON: So we amend
21 that both new as well as existing
22 applicants must be substantially complete
23 by December 1st.

24 DIRECTOR WELLS: Correct. Thank

1 you.

2 CHAIRMAN CROSBY: Substantially
3 complete RFA-1.

4 COMMISSIONER CAMERON: Correct.

5 COMMISSIONER MCHUGH: And can we
6 say what we mean by substantially complete.
7 It has to include financing, operations,
8 and all qualifiers?

9 DIRECTOR WELLS: Well, I -- that
10 may be a little too onerous. I think
11 that -- I think identifying an operator and
12 also their proposed equity interests. What
13 the companies may end up doing if they have
14 a certain amount of equity, they may go to
15 a bank and get financing later, but we can
16 tell when we go through the RFA-1 process
17 if we have identified that they have enough
18 equity to go to a financing institution and
19 get the remaining money they will need to
20 complete the project.

21 We went through that with the cat
22 one and cat twos. It's -- You know, I'll
23 defer to how complete the Commission wants
24 it. I would say that would be a minimum.

1 The more we require, the easier it is for
2 me to give you a better picture. But that
3 would be consistent with what we were
4 looking at when we did the prior
5 applicants.

6 COMMISSIONER ZUNIGA: Right. And
7 that would also be consistent with the way
8 that actually these deals are put together.

9 DIRECTOR WELLS: Correct.

10 COMMISSIONER ZUNIGA: There's
11 only -- we've accepted, even for the RFA-2
12 portions, letters of credit and letters of
13 intent, highly confident letters from
14 banks, not necessarily actually the
15 financing. But it's the equity that's
16 important here.

17 DIRECTOR WELLS: Correct.

18 COMMISSIONER MCHUGH: Okay. I
19 would just like to avoid being back here
20 again. So some way some how it seems to me
21 we ought to spell out in advance in more
22 detail, either through a regulatory change
23 or otherwise, what we mean by substantially
24 complete so that people who are trying to

1 package an RFA-1 application have a target
2 to shoot at and we have a benchmark against
3 which to judge whether we've hit the
4 target. And whatever flexibility is
5 commercially reasonable, but...

6 COMMISSIONER CAMERON: Would it be
7 possible to prepare a document that would
8 outline those basic pieces and that could
9 be part of what we'd put up on the website
10 so that people could understand. You could
11 probably work with the legal team on
12 phrasing.

13 DIRECTOR WELLS: Yeah. I think
14 that's a good idea. I think I like the
15 idea of more specificity so that we don't
16 get into a back and forth. So I think
17 that's a good idea.

18 CHAIRMAN CROSBY: All right there
19 was a second.

20 COMMISSIONER ZUNIGA: And we have
21 enough -- plenty of time to put that
22 specificity.

23 DIRECTOR WELLS: Right. We could
24 work that out.

1 COMMISSIONER ZUNIGA: You know, we
2 could figure out whether 5 percent
3 threshold in terms of missing equity
4 participation, just to throw out a number,
5 would be a range that we could live with as
6 opposed to a hundred percent.

7 DIRECTOR WELLS: Right.

8 COMMISSIONER MCHUGH: Then we ought
9 to revisit that either, as I say, through a
10 regulatory amendment or at another hearing
11 soon so people can understand what they
12 need to do.

13 COMMISSIONER ZUNIGA: Before we
14 move into the voting, I would also like to,
15 as a second question, and I know this -- I
16 see this as a separate question but one
17 that should be immediately talked about, in
18 my view, or soon, is the definition of
19 capital investment. We could hopefully get
20 to that in our conversation.

21 CHAIRMAN CROSBY: Yeah. That's
22 next on this decision tree. Anymore
23 discussion on this motion? All in favor of
24 Commission Cameron's motion signify with

1 aye.

2 COMMISSIONER STEBBINS: Aye.

3 COMMISSIONER MCHUGH: Aye.

4 COMMISSIONER ZUNIGA: Aye.

5 COMMISSIONER CAMERON: Aye.

6 CHAIRMAN CROSBY: Aye.

7 All opposed? The ayes have it

8 unanimously.

9 COMMISSIONER STEBBINS: Did we have
10 a second on?

11 CHAIRMAN CROSBY: Yes. You
12 seconded the motion.

13 COMMISSIONER CAMERON: You seconded
14 it.

15 COMMISSIONER STEBBINS: Oh, I did.

16 COMMISSIONER MCHUGH: Yes. And we
17 appreciated it. That was a long time ago.

18 CHAIRMAN CROSBY: Now, I think was
19 the next one the capital structure?

20 MR. ZIEMBA: Yes. We went through
21 four out of the five already.

22 Congratulations.

23 So number 5 is should the
24 Commission revisit its decision on the

1 minimum capital investment requirement.

2 CHAIRMAN CROSBY: I think we
3 should.

4 COMMISSIONER ZUNIGA: I'm going to
5 speak to that, because I don't think I was
6 eloquent enough last time we talked about
7 this. And I think we should in a nutshell.
8 I think, as I mentioned before, and under
9 the goal of increasing competition, the way
10 we've defined the costs that are to be
11 included in the minimum capital investment
12 and given the market assessment that we've
13 already done that have this region with the
14 least potential, especially compared to
15 Region A, that we should think about and I
16 would be in favor of including certain
17 major costs that are presently excluded
18 from the minimum investment calculation and
19 include those costs.

20 If there's hopefully a situation
21 where we get multiple, more than one, say,
22 proposals, that that number will be part of
23 the evaluation that we -- you know, that we
24 evaluate, as it is currently. That a

1 higher minimum investment, compared to
2 someone else would be, at least in the
3 finance section, viewed more favorably. It
4 could be a requirement of the city or any
5 one of the towns that they say even though
6 the Commission defines or excludes certain
7 costs, we want you to include -- rather
8 exclude. We want a higher capital
9 investment. That could easily be a
10 requirement they put forward.

11 But for the reasons of getting
12 better responses, in my view, or more
13 competition, we really need to think about
14 those two big categories that I can speak
15 to, either land and/or capitalized
16 interest.

17 CHAIRMAN CROSBY: Did we -- Last
18 time we did this, we did take your
19 suggestion about adding infrastructure
20 outside the gaming premises.

21 COMMISSIONER ZUNIGA: That's right.

22 CHAIRMAN CROSBY: The gaming
23 establishment. Okay. So now the other two
24 are land and capitalized interests.

1 COMMISSIONER ZUNIGA: That's right.

2 CHAIRMAN CROSBY: Those are the two
3 other major --

4 COMMISSIONER ZUNIGA: That's
5 right.

6 CHAIRMAN CROSBY: And I think we
7 took Commissioner Stebbins' suggestion
8 about fees and stuff, even though that was
9 small money, but we adopted those. Right.

10 Okay. So land and capitalized
11 interest. Explain to me how that would be
12 a common standard that everybody -- In
13 other words, if somebody owns the land
14 today and they're contributing the land as
15 part of the project, do you appraise that
16 and consider that part of the 500,000.

17 COMMISSIONER ZUNIGA: Sure.

18 CHAIRMAN CROSBY: So that is how
19 you would equalize it?

20 COMMISSIONER ZUNIGA: Yes.

21 CHAIRMAN CROSBY: So anybody --
22 some guy's having to go out and buy the
23 land, he gets credit for that as does
24 somebody who is contributing the land.

1 Okay. And is that -- are those the only --
2 I guess if your lease -- what about if
3 you're leasing the land, what would
4 happened in the case of Mohegan Sun?

5 COMMISSIONER ZUNIGA: Yes. Good
6 question. We have to look at it. There is
7 a value that you could -- you could, in
8 follow accounting principles, capitalize
9 the investment that you are putting, even
10 though you're going to make it over the
11 years. You can sub compute, you know,
12 compute what that is worth.

13 CHAIRMAN CROSBY: To me the issues,
14 the issues about that, about the land issue
15 were two. One Commissioner McHugh said
16 which is, is that really adding any value
17 to anything. You know, somebody's getting
18 paid a chunk of -- you know. And given the
19 presumed or understood intention here about
20 this was economic development money, that
21 kind, the land economic development impact
22 is very slim to none in some situations.

23 COMMISSIONER ZUNIGA: Yeah. I'm
24 going to disagree with that.

1 CHAIRMAN CROSBY: Okay. That was
2 one issue. And then the second issue was
3 could you come up with a structure, a
4 metric, so that each applicant would have
5 equal opportunity to get credit for land
6 values equally, equally assessed, equally
7 determined. And it sounds like you're
8 thinking that on the latter case, the
9 answer is yes, that we could figure out a
10 way that that would be generally accepted
11 as giving everybody an equal shot at
12 valuation of the land and that would then
13 leave Commissioner McHugh's concern.

14 COMMISSIONER ZUNIGA: Yeah.

15 CHAIRMAN CROSBY: You feel like we
16 can equalize. No matter which way you're
17 acquiring your land, we could come up with
18 a tool that people would generally accept
19 as fair.

20 COMMISSIONER ZUNIGA: Yeah. And,
21 you know, there's a little bit of an art in
22 valuing land and valuing, you know, future
23 payments or option payments during a period
24 of time. You know, but somebody can

1 reasonably, you know, come up with an
2 appropriate discount rate or value and
3 comparables and, you know -- or even the
4 appraisal. And there's multiple ways to
5 appraise land. Usually there's a cost
6 approach and comparables and there's
7 revenue approach in terms of what those
8 future payments discounted to today would
9 be.

10 But I want to talk a little bit
11 about, you know, the notion that land by
12 itself does not go with the notion of
13 capital investment. And I think that we
14 should consider it as to what else is that
15 land doing, and it becomes -- in my view,
16 it's a conduit to the whole project.
17 Without it -- However much it is valued
18 now, that -- anything that you put over
19 land is going to make that land more
20 valuable, especially if it's a project of
21 this magnitude. And this is a little bit
22 where the hard part comes in, in terms of
23 valuing it, but I'm arguing that there's a
24 reason to include it, much like, you know,

1 the statute gives us the leeway to do.

2 Now, actually -- the other category
3 I thought it was easier for us to consider,
4 you know, because the land, you know, kind
5 of you could argue both ways. I suggest
6 the merits of accounting capital
7 investment. Capitalized interest is
8 usually capitalized under accounting rules
9 under tax law.

10 CHAIRMAN CROSBY: So play this out.
11 Give me an example, if you're in this
12 model.

13 COMMISSIONER ZUNIGA: Right.

14 CHAIRMAN CROSBY: Give me a
15 hypothetical. Applicant A.

16 COMMISSIONER ZUNIGA: Applicant A
17 has to pay \$85 million to us, and he's
18 going to carry all of that cost during at
19 least two and a half years that it takes to
20 build a casino or however long. And the
21 only time that they can start to repay the
22 up front amount of money is two and a half
23 years from now.

24 The interest, you know, the amount

1 of interest between now and two and a half
2 years from now, the IRS and GAP allows you
3 to count as the capital investment that
4 you've made and would eventually allow you
5 to depreciate all of that over the life of
6 the asset, 49 years, 39 years, et cetera,
7 et cetera. We -- And the longer -- the
8 bigger these projects and the longer the
9 payout, the more significant these
10 capitalized interests becomes. It does add
11 up.

12 My initial position of excluding
13 this, I was actually very initially
14 thinking that this would be a cost that we
15 would determine whether to include or not,
16 that we would give ourselves the leeway as
17 to -- Attorney Grossman might remember, we
18 had a third category of costs that are
19 included and costs that are excluded. I
20 was suggesting that this might be a third
21 category of costs that may be included.
22 Because some of these costs the way they
23 are put together with multiple parties can
24 sometimes be plain vanilla interests and

1 other times can be ways to profit for one
2 of the financing partners to take profit
3 away from, you know, the deal. That starts
4 looking, to me at least, a lot less than
5 the plain vanilla interest that's
6 capitalized.

7 In any case, I think I was -- now
8 looking back at that. I think we should --
9 we could easily consider capitalized
10 interest under generally accounting and --
11 generally accepted accounting principles,
12 whatever normally is capitalizable
13 currently to be included in the calculation
14 of capital investment.

15 COMMISSIONER CAMERON: So because
16 -- We're thinking about amending our
17 regulations because it's a riskier region
18 to do business in; is that your thought on
19 this?

20 COMMISSIONER ZUNIGA: Well, I would
21 say, you know, the first and foremost, the
22 desire that's very expressly here of
23 increasing competition. But the context of
24 that is this region has a little bit more

1 risk when it comes to investing a very
2 large amount of money compared to the other
3 two.

4 I also have now looked at what the
5 State of New York did. They tiered the
6 minimum capital investment. There's also a
7 minimum capital investment. It's lower up
8 there, but they tiered it depending on the
9 market.

10 The closest that they were to New
11 York City, which is the much bigger market,
12 the higher the capital investment
13 requirement was. The further away they
14 were, up in upstate New York, and the
15 closer they were to existing Indian
16 operations, the lower the capital
17 investment was. And that, to me I think,
18 is recognition that the dynamics of the
19 market clearly define, at least in some big
20 way, what would be extracted in terms of
21 capital investment.

22 CHAIRMAN CROSBY: You know, I would
23 -- to me, the -- Region C is a dramatically
24 less desirable market for three reasons.

1 One is, as Enrique repeatedly pointed out,
2 the projects gross gaming revenue is
3 one-half of Region A and three quarters of
4 Region B. So it's half the size of another
5 group that's required to put in 500
6 million.

7 Number two is more competitive
8 because you've got the slots parlor and
9 Twin Rivers relatively close by.

10 And number three, you have this
11 Damocles sword of an Indian casino dropping
12 out of the sky at any time.

13 So it's a dramatically different
14 situation, and for business people to be
15 assessing it that way is entirely
16 reasonable. What we have to determine is
17 what's the sine qua non here. Is the most
18 important thing for us to amend our rules
19 in order that we do get three casinos with
20 a lot of competition? Is that the most
21 important thing? Because if it is, then we
22 probably should permit these to come in.

23 If the sine qua non is don't let
24 there be a facility which is less than a

1 really robust destination resort and that
2 has the most leverage on its impact
3 dollars; in other words, you put dollars
4 into payroll rather than dollars into
5 interest, then may we don't want to.

6 So if the market can't sustain a
7 casino, then we weren't told we had to do a
8 casino here. It said we could do up to
9 three. If the market can't sustain a
10 casino, that's all right. You know, then
11 the tribe comes along some day maybe and
12 pays 17 percent rather than nothing.

13 So we sort of have to figure out
14 what are we supposed to be doing here. You
15 know, it's clearly a difficult market, and
16 if all we're trying to do is within the
17 rules, within the law give the maximum
18 chance for a casino in Southeastern Mass.
19 with the most potential for competition, if
20 that's what we're suppose to be doing, then
21 I think Commissioner Zuniga's suggestion is
22 a good one.

23 I'm not a hundred percent sure that
24 is what we should be doing, but I think

1 that's the question.

2 COMMISSIONER MCHUGH: We're glad
3 you put that question, because I don't
4 think that is what we should be doing. And
5 it seems to me that that's the path down
6 which we started when we began this
7 discussion about what we would include in
8 the capital costs and what we would -- we
9 excluded the land costs, the capitalized
10 interest, and the external infrastructure
11 because we wanted the money to go into the
12 facility. And we wanted the money to go
13 into the facility because the facility that
14 had that money would be more likely to draw
15 out-of-state revenues and recapture
16 external revenues than a facility that
17 didn't have that capital investment. And
18 it seems to me that paradigm still holds
19 true. Nothing's changed.

20 The difficulty in the market, I
21 understand, and the market has talked to us
22 about that, is there, but I don't think
23 that we are in the business of authorizing
24 a casino just because we can.

1 I also think that the legislature
2 made a clear difference between a slots
3 parlor and a category one gaming
4 establishment. The slots parlor is more
5 likely to draw customers and money from the
6 immediate region around it than these
7 category one casinos are. And the closer
8 we -- the more we allow money to go into
9 things other than the casino itself, the
10 more likely we are to get a facility that
11 has the qualities that draw from the
12 immediate vicinity rather than attract
13 money from people who come from out of
14 state or recapture money that's going
15 elsewhere.

16 Beyond that, it seems to me to
17 change dramatically now is to alter a
18 competitive -- potentially alter a
19 competitive assessment that the existing
20 licensee designate and our current licensee
21 applicants may well have made and that is
22 what are the barriers to entry for a
23 competitor in that region and what kinds of
24 competitions are they going to face? And

1 to change dramatically what we're doing now
2 to potentially allow a third competitor to
3 come in under circumstances not then
4 envisioned, that seems to me to be unfair
5 to them.

6 So my bottom line is I don't think
7 we are in the business of -- should be in
8 the business of authorizing a third casino
9 because we can. I think we ought to
10 authorize a third casino because we are
11 convinced that it is intended to do what
12 the legislature wanted us to do in terms of
13 recapturing money and out of state -- new
14 out-of-state dollars.

15 COMMISSIONER ZUNIGA: I think
16 that's a great argument for the future. I
17 think what we're currently -- the decision
18 to grant a license in that region or not, I
19 think the decision that we are currently
20 doing is a solicitation decision and in
21 order to spur competition, and then we'll
22 see. Then we'll see the quality, then
23 we'll see who, if anybody, surpasses the
24 minimum capital investment and in what way

1 and how much and how does it look and et
2 cetera, et cetera.

3 I am advocating for the decision
4 today to open it up, just like we did, in a
5 fashion that, at least in theory, can
6 elicit the most responses, and then, you
7 know, in April or May of next year, we have
8 a lot more information than we do today.
9 We hopefully have more than one or evaluate
10 -- proposals to evaluate. We look at the
11 landscape, and we see how things are, and
12 we can make that decision to award or not.
13 We've always had that, you know, that
14 ability.

15 CHAIRMAN CROSBY: What do you think
16 about that, Commissioner? I think that's
17 an interesting...

18 COMMISSIONER MCHUGH: I think it's
19 a very interesting point. I think that the
20 dynamics of the process will inevitably
21 drive us to award a license to somebody. I
22 guess I fear that the dynamics of the
23 process will drive us to awarding a license
24 even if it doesn't meet the high standards

1 that we set for the other --

2 COMMISSIONER ZUNIGA: We'd still
3 have to be convinced that it produces
4 enough revenue.

5 COMMISSIONER MCHUGH: I know. I
6 know. Intellectually, you're absolutely
7 right. But by then, you've got an enormous
8 amount of energy behind a variety of
9 different proposals, and saying no to all
10 of them is, I think, at that point very
11 difficult. Not impossible. May happen.
12 It's not impossible. But I would rather
13 say that this is what we're looking for and
14 we welcome anybody who's prepared to comply
15 with those requirements.

16 COMMISSIONER ZUNIGA: Well,
17 remember, we're not doing that in a vacuum.
18 Because we already had how many months of
19 people trying but not -- at least one of
20 them exiting in some part in some reason
21 for the comments that they provided because
22 of the risk relative to the minimum capital
23 investment.

24 COMMISSIONER MCHUGH: Right.

1 COMMISSIONER ZUNIGA: So it's not
2 an exercise in -- you know, we have a lot
3 of information. We're coming at this after
4 having had a period of open solicitation
5 without an actual result.

6 And the other competing element
7 that we have here is a region that has told
8 us in a number of times, don't leave us
9 behind. People in the City of Fall River,
10 New Bedford, and elsewhere, officials from
11 there when we've come to hearing down there
12 that say we also want the benefits that can
13 come from these economic development
14 projects. So I think, you know, because
15 they also see that the timeline with the
16 tribe is one that is very hard to assess,
17 et cetera, et cetera.

18 So the way you describe it,
19 Mr. Chairman, as absolutes, I think there's
20 a lot of -- or extremes in those completing
21 priorities has all these other elements as
22 well. So.

23 CHAIRMAN CROSBY: Well, somebody
24 want -- anybody else?

1 COMMISSIONER CAMERON: I just had a
2 question about -- and I see what you're
3 saying in the case of New York. But are we
4 considering changing the rules after two
5 regions have had to abide by them? Is that
6 a disadvantage to those folks?

7 COMMISSIONER ZUNIGA: They have a
8 much larger market, which is -- you know,
9 which we now know a lot better. You know,
10 they are -- at least in Region A, they're
11 clearly surpassing the minimum capital
12 investment. They don't need the inclusion
13 of land or not because the market is
14 driving them to -- because both competition
15 and the market is allowing them to invest a
16 lot more.

17 They could attract people
18 internationally and out of state, and they
19 have every incentive to doing it by
20 building a larger facility, one with more
21 amenities, et cetera, et cetera. So you
22 know, that is, I guess, the difference with
23 Region C which is surrounded by ocean
24 without major airports. Certainly not

1 Logan Airport.

2 So I think that, as I've said
3 before, we should include certain costs in
4 the minimum investment calculation that are
5 presently excluded for that reason.

6 CHAIRMAN CROSBY: Well, somebody
7 want to put one or the other of these in a
8 motion?

9 COMMISSIONER ZUNIGA: I'd be happy
10 to. And I could break them up into
11 different categories if it's going to be a
12 mixed bag, I guess.

13 CHAIRMAN CROSBY: I sort of hear
14 land and interest or nothing. I don't hear
15 land or interest or nothing.

16 COMMISSIONER CAMERON: I -- Okay.
17 So it's one or the other.

18 CHAIRMAN CROSBY: Well, it doesn't
19 -- Go ahead. Do it different.

20 COMMISSIONER CAMERON: No, I am --
21 It feels like if we're, you know, talking
22 about both, that's a real significant
23 difference, and should we be discussing
24 maybe just interest or something, since

1 land is very complicated. I'm just not --
2 you know, I'm not clear on this.

3 COMMISSIONER STEBBINS: Is there a
4 percent of a deal that finds itself in
5 capitalized interest? I mean, how do you
6 -- I know how you assess capitalized
7 interest, but I mean, even trying to get a
8 sense of what the impact would be and
9 having it part of the calculation of a half
10 a billion dollar investment.

11 COMMISSIONER ZUNIGA: You mean a
12 percent --

13 COMMISSIONER STEBBINS: Percent of
14 the project.

15 COMMISSIONER ZUNIGA: What percent
16 of the project. I have very, very -- I
17 would have to run certain numbers, I guess,
18 or ask some of our consultants. It's one
19 category that could represent a large but
20 not a very large.

21 CHAIRMAN CROSBY: Like \$5 million
22 or something like that basically.

23 COMMISSIONER ZUNIGA: No. It could
24 be more. It could be a lot more than that.

1 It could be \$40 million over the term of,
2 you know, two and a half years once you're
3 done with, you know, early report,
4 depending on what the sources are and your
5 cost of capital. It all depends.

6 I guess, you know, if this is part
7 of the question you may be getting to,
8 Commissioner, but I know it gets very
9 complicated. We could cap relative to some
10 percentage how much applicants could count
11 towards -- in either of these categories.
12 We could say land cannot represent more
13 than "X" percent of your total investment.
14 Even if it does, we're just going to let
15 you count "X" percent.

16 If we were really troubled by, I
17 don't know, having very different costs
18 between applicants, because somebody
19 already owns it or because somebody already
20 has to come and lease it or has to come and
21 purchase it. You know, there's -- there
22 would be a level of, you know, judgment and
23 arbitrariness to that, but it could be
24 done. You know, it's a mathematical

1 calculation.

2 Same thing with the capitalized
3 interest. We could say no more than "X"
4 could be counted towards the minimum
5 capital investment because we are not
6 comfortable with what an outlier somebody
7 could be.

8 COMMISSIONER CAMERON: And it's
9 your experience that many deals of this
10 magnitude include interest?

11 COMMISSIONER ZUNIGA: Yes. Yes.

12 COMMISSIONER CAMERON: So we were
13 being -- initially when we decided not to
14 include that, it was pretty much outside
15 the -- of what is typical in a deal of this
16 size?

17 COMMISSIONER ZUNIGA: Well, I tell
18 you, I will take the full responsibility
19 for this. I think we -- I was going a
20 little bit too nuanced. I was envisioning
21 the possibility that somebody could count
22 capitalized interest that is really a, you
23 know, profit distribution or a payment
24 distribution between parties. Because if

1 you are a financing arm of a project that
2 gets put together and all you do is
3 collect, say, a rate of return and the
4 project is able to capitalize that
5 interest, that would be, you know, not in
6 the spirit of the intention. However, you
7 know, in every large capital investment
8 projects, there -- you know, people can
9 capitalize the interest.

10 COMMISSIONER MCHUGH: But aren't we
11 mixing apples and oranges when we talk
12 about that? We're talking about financing
13 costs and what your financing costs are,
14 what are your costs of capital are. That's
15 one thing. We're talking about what you
16 get credit for in tax.

17 COMMISSIONER ZUNIGA: Yes.

18 COMMISSIONER MCHUGH: And can
19 include in depreciation, which is a tax, is
20 a piece of the tax. And then we're talking
21 about our statute, and our statute talks
22 about what you put in the ground. And
23 those are not necessarily -- none of those
24 three is necessarily the same. What it

1 costs you to get the money doesn't
2 necessarily determine what your tax rate is
3 because how you get the money has an
4 implementation on the tax. The taxes don't
5 necessarily correlate to how it cost you to
6 get the money, and none of that necessarily
7 cost -- tells you what you're putting in
8 the ground for purposes of our statute.

9 So I think that's -- I think, for
10 me at least, I have to separate those when
11 I look at it.

12 COMMISSIONER ZUNIGA: I'm not sure
13 I follow. What tax are you talking about?

14 COMMISSIONER MCHUGH: Income tax.
15 Capital gains tax. The various taxes that
16 you've been talking about. You're talking
17 about depreciation and --

18 COMMISSIONER ZUNIGA: No. No.

19 COMMISSIONER MCHUGH: -- and you
20 can capitalized interest for tax purposes,
21 we were talking about.

22 COMMISSIONER ZUNIGA: Yeah. Yeah.
23 Yeah. But there's -- No. No. No. Let
24 me clarify. In order to calculate your --

1 you know, to do your taxes, the IRS lets
2 you capitalize interest and that's an
3 accounting procedure.

4 COMMISSIONER MCHUGH: I understand.
5 I understand accounting procedures.

6 COMMISSIONER ZUNIGA: Your taxes
7 are not going to count towards the capital
8 investment. I hope you're not suggesting
9 that.

10 COMMISSIONER MCHUGH: No, I'm not
11 saying that. I'm saying the fact that you
12 can capitalize your taxes -- your interest
13 for tax purposes doesn't necessarily mean
14 you should be permitted to capitalize them
15 for purposes of our statute. That's all
16 I'm saying.

17 CHAIRMAN CROSBY: So for
18 Commissioner Cameron, you said so by us
19 setting that aside, did that mean we were
20 doing something different from other big
21 deals. That is the --

22 COMMISSIONER ZUNIGA: We don't.

23 CHAIRMAN CROSBY: No, this isn't.
24 Because this only pertains to our statute.

1 You know, what is defined as within that
2 \$500, and the legislature gave us some
3 discretion.

4 We didn't do anything that was
5 abnormal in the big business financing
6 world. We just chose to make one element
7 not includable within the context of our
8 statute. We weren't like an outlier in the
9 way we were constructing this.

10 COMMISSIONER CAMERON: No. I know
11 we have total discretion with this matter.

12 CHAIRMAN CROSBY: It is totally
13 idiosyncratic to this situation, too.

14 COMMISSIONER ZUNIGA: But what is
15 generally understood as capital investment
16 includes capitalized interest. And that's
17 my point when I mention GAP and the IRS.
18 So it is often done.

19 COMMISSIONER CAMERON: Okay. I
20 guess I see merit in both arguments here.
21 I see merit in, look, we really wanted the
22 money to be spent. We wanted this to be a
23 first class resort casino. That's the
24 intention of the legislation, although they

1 did give us some discretion.

2 And I also see merit in the fact
3 that this is different, Region C is
4 different. And if it helps to consider
5 maybe one of these options, I'm just saying
6 personally, I would be more inclined to be
7 persuaded that, you know, interest would be
8 something we could consider, where I feel
9 like personally the land is -- you know,
10 we're really including a lot, and do we get
11 away from that original thought of, look,
12 we want this to be a first class facility,
13 and, you know, or are we making decisions
14 based on a third casino as opposed to what
15 does the market drive here.

16 So I'm just asking -- I'm just
17 exploring not considering the two together.

18 COMMISSIONER ZUNIGA: Okay. And I
19 could certainly make the motion later
20 separately, but we're in agreement, it
21 sounds like or maybe, on the capitalized
22 interest. But I'll still make an argument
23 towards the land, which our statute
24 specifically gives us the discretion to

1 include the land or not.

2 COMMISSIONER CAMERON: I understand
3 that.

4 COMMISSIONER ZUNIGA: And because,
5 I'm going to suspect, that the policy
6 makers, those writing the statute, figured,
7 well, how do you count land? It's a big
8 piece and we're also trying to get money to
9 be invested here or not, and we're just
10 going to leave that up to the Commission,
11 which is what they did. Given everything
12 we now know about the region, about the
13 market, and about -- actually, several of
14 our applicants told us, you know, consider
15 including land --

16 COMMISSIONER CAMERON: Well, of
17 course, they're going to ask for everything
18 so I --

19 COMMISSIONER ZUNIGA: Well, no.
20 They didn't ask for everything. They did
21 ask for these two in particular.

22 COMMISSIONER CAMERON: Which are
23 the two most significant pieces.

24 COMMISSIONER ZUNIGA: Yeah, the two

1 most significant pieces. Because it's very
2 clear from the statute that we have that --

3 COMMISSIONER CAMERON: I
4 understand.

5 COMMISSIONER ZUNIGA: -- that
6 discretion. So.

7 COMMISSIONER STEBBINS: John, am I
8 correct that we've only had -- I can go
9 back to the comments, but there's only been
10 one individual or one party that raised it
11 issue or asked us to include --

12 COMMISSIONER ZUNIGA: No. No. I'm
13 sorry.

14 COMMISSIONER STEBBINS: No. Go
15 ahead.

16 COMMISSIONER ZUNIGA: Were you
17 talking about land or?

18 COMMISSIONER STEBBINS: About land.

19 MR. ZIEMBA: We've had a number of
20 parties that have asked us to revisit our
21 minimum capital investment requirement.

22 The City of Fall River has been
23 steadfast in opposing any changes to the
24 minimum capital investment, as indicated

1 before.

2 CHAIRMAN CROSBY: But they don't
3 understand --

4 COMMISSIONER ZUNIGA: The City of
5 Fall --

6 CHAIRMAN CROSBY: -- how it works.

7 COMMISSIONER ZUNIGA: Well,
8 fundamentally, the City of Fall River is
9 not making the capital investment, with all
10 due respect to the City of Fall River.

11 CHAIRMAN CROSBY: And they don't
12 understand the way it works.

13 MR. ZIEMBA: Or it was shorthand,
14 correct.

15 CHAIRMAN CROSBY: Did any other
16 commercial party request inclusion of land?

17 MR. ZIEMBA: So let me just flip
18 back.

19 COMMISSIONER ZUNIGA: There's the
20 nice summary chart that you gave us in the
21 packet.

22 COMMISSIONER CAMERON: It doesn't
23 break it out though.

24 MR. ZIEMBA: I'm trying to remember

1 who broke it out and who just more
2 generally talked about the requirements.

3 COMMISSIONER ZUNIGA: I'm just
4 remembering some of the comments we had the
5 first time we talked about it. And there
6 was an applicant that is no longer --

7 MR. ZIEMBA: I mean, specifically
8 MG&E --

9 CHAIRMAN CROSBY: No. KG -- Yes.
10 KG called for it. So there's at least two.

11 MR. ZIEMBA: KG and MG&E and
12 Claremont and Clairvest incorporating the
13 MG&E comments. And then I can't remember
14 if anybody else specifically asked for
15 that. Town of Bridgewater I think just
16 more generally on minimum capital
17 investments, rather than breaking it down,
18 but KG specifically broke out the two and
19 asked for both.

20 CHAIRMAN CROSBY: Do we have more
21 discussion? Commissioner Stebbins, do you
22 have other questions or thoughts before we
23 see if we can get a vote to do one thing or
24 another?

1 COMMISSIONER STEBBINS: No. But I
2 would agree with my colleagues to take
3 these separately.

4 CHAIRMAN CROSBY: Take them
5 separately. Okay. Do you want to --

6 COMMISSIONER ZUNIGA: Sure. So on
7 that note, I would move that this
8 Commission amend its regulations, either by
9 the regular course or by an emergency
10 basis, to allow for the inclusion of
11 capitalized interest in the calculation of
12 the minimum capital investment for Region
13 C.

14 CHAIRMAN CROSBY: Second?

15 COMMISSIONER CAMERON: Second.

16 CHAIRMAN CROSBY: So this is to
17 include --

18 COMMISSIONER ZUNIGA: Just
19 capitalized interest.

20 CHAIRMAN CROSBY: -- just
21 capitalized interest. Any further
22 discussions? All in favor of the motion,
23 say aye.

24 COMMISSIONER CAMERON: Aye.

1 COMMISSIONER ZUNIGA: Aye.

2 COMMISSIONER STEBBINS: Aye.

3 CHAIRMAN CROSBY: That would be
4 three.

5 Opposed?

6 COMMISSIONER MCHUGH: Nay.

7 CHAIRMAN CROSBY: Nay.

8 That motion carries three to two.

9 COMMISSIONER ZUNIGA: And I would
10 further move that this Commission amend
11 it's regulations, either by emergency or
12 the regular course of promulgation, to
13 include the cost of land in the calculation
14 of minimum capital investment for Region C.

15 CHAIRMAN CROSBY: And the cost of
16 land means you'll help us come up with some
17 metric that standardizes all kinds of
18 acquisitions?

19 COMMISSIONER ZUNIGA: Right.
20 Subject to the further evaluation of how
21 that land is calculated.

22 CHAIRMAN CROSBY: Second?

23 COMMISSIONER STEBBINS: Second.

24 CHAIRMAN CROSBY: Any further

1 discussion?

2 All in favor?

3 COMMISSIONER ZUNIGA: Aye.

4 CHAIRMAN CROSBY: All opposed?

5 COMMISSIONER MCHUGH: Nay.

6 COMMISSIONER CAMERON: Nay.

7 COMMISSIONER STEBBINS: Nay.

8 CHAIRMAN CROSBY: Nay.

9 That motion fails one to four. I
10 guess that's the name of that tune.

11 All right. Thank you.

12 COMMISSIONER ZUNIGA: Thank you.

13 CHAIRMAN CROSBY: Can we adjourn
14 for one quick second.

15 (Break taken.)

16 CHAIRMAN CROSBY: If you will pick
17 up. I have to dash out, and then there
18 will be a Region A topic. So why don't we
19 give a quick break and then Commissioner
20 McHugh will pick things up.

21 (Break taken.)

22 COMMISSIONER MCHUGH: All right.

23 We're prepared to resume now with the
24 remaining elements of the agenda of which

1 there are two, one of which has subparts.
2 So we'll turn to item 7, legal division,
3 and General Counsel Bleu.

4 MS. BLUE: Good afternoon,
5 Commissioners. We have next up on the
6 agenda an update from Mr. Grossman
7 regarding his meeting with the department
8 of banking on the ATM question that we've
9 been considering for the last meeting or
10 so.

11 MR. GROSSMAN: Good afternoon,
12 Commissioners. As you'll recall, there was
13 the issue presented before the Commission
14 relative to the placement of ATMs at gaming
15 establishments. There is a provision in
16 the banking law that says no electronic
17 branch, which is essentially an ATM, may be
18 located upon premises where legalized
19 gambling occurs, other than the state
20 lottery.

21 So we set out to figure out what
22 the application of that provision is and
23 what effect it would have. And to that
24 end, Chairman Crosby and I have met with

1 the commissioner of the division of banking
2 and his staff to set in motion the
3 discussion to try to reach some conclusions
4 on that front.

5 And essentially, what we've
6 determined at this point is just that we
7 need to do a little more research, reach
8 out to the applicants, licensees and get a
9 sense as to the use of ATMs presently and
10 prospectively at gaming establishments and
11 take a look at how other states handle the
12 issue, circle back with the division of
13 banks, and try to come to some type of
14 understanding as to how the provision at
15 issue will be applied and report back to
16 this Commission with our findings.

17 So anyway, this is intended just as
18 a status update. That's where we are, that
19 we have begun looking into the issue.

20 COMMISSIONER MCHUGH: Any -- Are
21 there any -- I think it's good that we try
22 to canvas the waterfront and talk to the
23 banking industry. Are there any
24 regulations in place now as to what that

1 provision of the statute means and how they
2 interpret it?

3 MR. GROSSMAN: There is a
4 regulation in place, but it largely mirrors
5 the statute. It has a few additional
6 nuances that don't necessarily resolve the
7 issue.

8 COMMISSIONER MCHUGH: It really
9 didn't consider this environment because it
10 didn't exist.

11 MR. GROSSMAN: No. Well, our
12 understanding was this law was put in place
13 decades ago in an effort to deal with bingo
14 halls and the like and wasn't necessarily
15 put in place to deal with gaming
16 establishments.

17 COMMISSIONER MCHUGH: All right.
18 Any other questions, comments?

19 COMMISSIONER CAMERON: No.

20 COMMISSIONER ZUNIGA: I'm sorry,
21 you may have said this, but what's the next
22 step in this?

23 MR. GROSSMAN: We're beginning to
24 try to formulate an interpretation, a legal

1 interpretation, of the statute in
2 conjunction with our own statute which
3 makes reference to ATMs, but a part and
4 parcel of that is gaining a clear
5 understanding of as to (A), how other
6 states handle the issue; and (B), how our
7 licensees and prospective licensees would
8 even want to use ATMs.

9 So we get a sense as to how big the
10 issue actually is. And that won't take too
11 long to figure out that latter part, but
12 the former part I think will require us to
13 go back to the division of banks and work
14 this out with them as ultimately it's their
15 statute, not ours, that controls this
16 issue. They're the ones that approve the
17 placement of ATMs ultimately.

18 So in some respects, regardless of
19 what we think about it, they would need to
20 sign onto our view.

21 COMMISSIONER MCHUGH: All right.
22 That sounds like a good course of action.
23 Thank you.

24 This second element.

1 MS. BLUE: We have before you today
2 the surveillance and administrative search
3 regulations. They have come before you
4 once before, and they were out for informal
5 comment. We are asking Director Wells and
6 Mr. Band and Ms. Lillius to talk to you
7 about any changes that have been made since
8 then, and then request that you vote to
9 move them through the formal process.

10 DIRECTOR WELLS: Good afternoon
11 again.

12 COMMISSIONER MCHUGH: Good
13 afternoon.

14 DIRECTOR WELLS: I wanted to take
15 this opportunity to formally introduce
16 Assistant Director Bruce Band. He's on
17 board. He's been invaluable to us,
18 bringing 30 years of casino experience to
19 the IEB, and he has been the one taking the
20 lead on reviewing surveillance regulations.
21 That is his area of expertise.

22 I defer to him on any particular
23 comments he may have for the Commission on
24 the text that's before you today, but my

1 understanding is this is the version that
2 we would like to go for formal public
3 comment and for further -- go forward in
4 the process.

5 COMMISSIONER MCHUGH: I've
6 forgotten. This is first public meeting --

7 DIRECTOR WELLS: Correct.

8 COMMISSIONER MCHUGH: -- that
9 Mr. Band has -- Deputy Director Band has
10 been with us. Welcome aboard formally.

11 MR. BAND: Thank you.

12 COMMISSIONER MCHUGH: You've
13 already become invaluable, so I feel
14 familiar already. It's very good to have
15 you with us.

16 MR. BAND: Thanks.

17 COMMISSIONER MCHUGH: And we look
18 forward to working with you and profiting
19 from your advice and your experience. So
20 we'll hear what you have to say on this
21 subject, if anything.

22 MR. BAND: Yes. Go ahead.

23 DIRECTOR WELLS: No. No. Please,
24 go ahead.

1 MR. BAND: I think that we only got
2 a few comments from the outside on this. I
3 don't have those here.

4 DIRECTOR WELLS: I have them.

5 MR. BAND: One was from Mohegan
6 Sun. And we discussed them amongst
7 ourselves. We also got some comments from
8 one of the camera manufacturers. And I
9 think we really kind of determined that the
10 points that they made were non-issues at
11 this point.

12 DIRECTOR WELLS: Yes. I think that
13 we can certainly consider that as we go
14 forward with the process, but there was
15 nothing in the comments that we received,
16 and I think Mr. Band is in agreement, that
17 would have us change what we were
18 suggesting be forwarded for public comment
19 at this time. We're confident that the
20 version we have before you today is the
21 best thing for the Commission at this
22 point, but we are always open to
23 discussion. We can have further
24 conversation with Mohegan Sun and their

1 comments, but this, I think, is the best
2 version to go forward, and then we'll
3 continue with the process.

4 COMMISSIONER MCHUGH: So the
5 version in the packets now is the version
6 that you'd like to have a vote to send out
7 for the formal period of public comment,
8 and then ultimately after we digest those
9 comments, come back and we'll look and see
10 what the terms are.

11 DIRECTOR WELLS: That's correct.
12 And if there are any questions by the
13 Commission on any specifics in the proposed
14 regulations that are before you, I think
15 Mr. Band would probably be the best to
16 answer those.

17 COMMISSIONER MCHUGH: All right.
18 Any questions or comments?

19 COMMISSIONER STEBBINS: Yes. I
20 just had a quick question, and it came up
21 in one of the site visits that we did to
22 another facility. And you talk about how
23 the camera will be positioned, nothing to
24 obstruct. It's in a manner that will

1 prevent them from being obstructed,
2 tampered with, and disabled. If they're
3 high up enough above, and maybe this gets
4 to an internal control discussion later at
5 some point, but putting something in their
6 way which objects them from doing the job.

7 MR. BAND: Usually with the height
8 of the ceilings in casinos, it's not an
9 issue; but you get into some of the
10 hallways and back in the cashier's cage and
11 so on, then it can be because you might just
12 have an eight-foot ceiling.

13 Surveillance should really be on
14 top of anything that obstructs their view
15 of any of their cameras. It's just
16 something you kind of have to put in the
17 wording so they know that they have to be
18 vigilant about that.

19 COMMISSIONER STEBBINS: With
20 technology today, does the height of the
21 ceiling have anything to do with the
22 ability to monitor what a camera is
23 supposed to monitor?

24 MR. BAND: No. You can really zoom

1 in on a lot of the -- you know, from just
2 about any distance, and with the added
3 magnification in some of the digital
4 systems, it's never an issue.

5 COMMISSIONER STEBBINS: Okay.

6 COMMISSIONER MCHUGH: All right.

7 DIRECTOR WELLS: All right. We
8 also had the -- Oh. Did you have a
9 question, Commissioner?

10 COMMISSIONER CAMERON: You needed a
11 approval. I was just going to.

12 DIRECTOR WELLS: Oh, yeah. And so
13 that. And I don't know if you can do it --
14 you may want to do it together. I have
15 Attorney Lillius on the industry research
16 regulation. She handles that.

17 MS. LILLIUS: And this regulation
18 also was brought to you, I think it was, on
19 May 12th and put out for the informal
20 public comment. We did receive one comment
21 from Mohegan Sun on this regulation as
22 well. This is the one that deals with the
23 regulatory monitoring of the casino and
24 slots licensee as well as the licensees and

1 registrants who work at those gaming
2 establishments.

3 The Mohegan Sun comment is not
4 reflected in the draft that you have before
5 you. But again, we're asking for this to
6 go out for the formal comment period which
7 would give us more of an opportunity to
8 evaluate that comment.

9 The draft before you does have two
10 changes. And this is the regulation 142.
11 It does have two changes from what you saw
12 on May 12th. The first change is reflected
13 in 142.02, and we have added an area
14 subject to inspection and that is to
15 include persons licensed and/or registered
16 under 23K. Really, it was contemplated all
17 along that persons would be included, but
18 it seemed to make sense to explicitly
19 include that in the regulation both to give
20 notice to licensees and registrants. Also
21 in the event that when and if this is
22 reviewed, judicially reviewed, explicit
23 mention of it would lend to the
24 interpretation that the Commission has

1 interpreted in that way.

2 And this is, although our Supreme
3 Judicial Court has not had the opportunity
4 to review this obviously, similar language
5 has been reviewed by other state supreme
6 courts. The other change --

7 COMMISSIONER MCHUGH: And reviewed
8 with an outcome and that validated the
9 regulations?

10 MS. LILLIUS: Correct. That the
11 scope of monitoring anticipated required
12 for the gaming environment is to -- and
13 reasonably include inspection and some
14 searches of the person for licensed and
15 registered individuals on the premises.

16 COMMISSIONER MCHUGH: All right.

17 MS. LILLIUS: As a matter of the
18 regulatory regime.

19 COMMISSIONER MCHUGH: Right. Okay.
20 Thank you.

21 MS. LILLIUS: And the other change
22 or addition is in 142.02 subsection 2,
23 which allows the Commission to examine
24 records. The prior version included at the

1 gaming establishment. This version
2 includes or any place where the subject
3 records are maintained. And that is meant
4 to take into consideration remote servers,
5 the cloud, for example. These would be
6 records continued to belong to the gaming
7 establishment but in the event that they
8 are actually not under the physical roof.

9 So with those changes, we are
10 asking, consistent with 141, the
11 surveillance reg, that the Commission vote
12 to put those to a formal comment period.

13 COMMISSIONER MCHUGH: Does the
14 latter change, would the latter change
15 include records stored impermissibly in
16 somebody's basement?

17 MS. LILLIUS: I think it is viewed
18 that these would be records in the
19 possession of the gaming establishment.

20 COMMISSIONER MCHUGH: That's an
21 interesting question. We can revisit that
22 at the end if we need to. All right.
23 Other questions? All right. Somebody want
24 to make a motion to put it out for formal

1 comment.

2 COMMISSIONER STEBBINS: Mr. Chair,
3 I move that the Commission approve draft
4 regulations 205 CMR 141 and 205 CMR 142 for
5 the purposes of initiating the public
6 comment phase of the regulatory process.

7 COMMISSIONER MCHUGH: Is there a
8 second for that?

9 COMMISSIONER CAMERON: Second.

10 COMMISSIONER MCHUGH: All in favor?

11 COMMISSIONER STEBBINS: Aye.

12 COMMISSIONER MCHUGH: Aye.

13 COMMISSIONER ZUNIGA: Aye.

14 COMMISSIONER CAMERON: Aye.

15 COMMISSIONER MCHUGH: The ayes have
16 it unanimously. Thank you very much.

17 DIRECTOR WELLS: Thank you very
18 much.

19 COMMISSIONER MCHUGH: All right.

20 Ms. Blue.

21 MS. BLUE: Item 8 before you today
22 is a request by the City of Chelsea for a
23 hearing to vacate the arbitrator's award
24 selecting the applicant Wynn Mass., LLC's

1 best and final offer as a surrounding
2 community agreement between Wynn and
3 Chelsea. Chelsea's petition to vacate is
4 included in today's Commission package.
5 That petition to vacate also includes a
6 copy of the arbitrator's decision, and the
7 arbitrator's decision has an attachment,
8 the best and final offer.

9 Wynn and Chelsea were unable to
10 finalize a surrounding community agreement.
11 Pursuant to the Commission's regulations,
12 the parties went to arbitration. The
13 regulations provide that a party to
14 arbitration may file objections to the best
15 and final offer submitted by the other
16 party. 205 CMR 125.01 states that if a
17 party does not file an objection to the
18 best and final offer, the decision of the
19 arbitrator becomes final and shall not be
20 subject to further review.

21 Chelsea did not file objections to
22 Wynn's best and final offer, Wynn filed
23 objections to Chelsea's best and final
24 offer. On June 9th, the arbitrator issued

1 its decision selecting Wynn's best and
2 final offer. On June 11th, Chelsea filed a
3 petition with the Commission requesting a
4 hearing to vacate the arbitrator's award.

5 The question before the Commission
6 is whether or not to grant a hearing on
7 Chelsea's petition. If the Commission
8 determines that a hearing is appropriate, a
9 hearing on the merits of the petition would
10 be held at a later date. So there is no
11 need to get into a discussion of the merits
12 today.

13 Representatives of the city of
14 Chelsea and Wynn are here today to present
15 their arguments to the Commission as to why
16 the Commission should or should not grant a
17 hearing.

18 Each party has been advised that
19 they have ten minutes to present their
20 argument to the Commission and that
21 briefing material should be submitted.

22 Are there any questions so far?

23 COMMISSIONER CAMERON: No.

24 COMMISSIONER MCHUGH: Not so far.

1 MS. BLUE: All right. If there are
2 no questions, I'd like to ask Attorney Josh
3 Monahan representing Chelsea to come
4 forward and address the Commission.
5 Attorney Monahan will be followed by
6 Attorney Starr, who will address the
7 Commission on behalf of Wynn.

8 COMMISSIONER MCHUGH: Good. Thank
9 you. Mr. Monahan.

10 MR. MONAHAN: Good afternoon,
11 Commission.

12 COMMISSIONER MCHUGH: Good
13 afternoon.

14 COMMISSIONER STEBBINS: Good
15 afternoon.

16 COMMISSIONER MCHUGH: Thank you for
17 your patience in waiting.

18 MR. MONAHAN: It was very
19 informative while I was waiting. As
20 General Counsel Catherine Blue mentioned,
21 my name is Josh Monahan. I'm here on
22 behalf of the City of Chelsea as special
23 counsel by contract with the City of
24 Chelsea.

1 Essentially, the issue with regard
2 to whether or not the Commission grants a
3 hearing, I do concede that within the
4 regulations, as was mentioned, that there
5 is a time period for fundamental
6 inconsistency petitions as objections.

7 Our motion to vacate, the City of
8 Chelsea's motion to vacate, was done so
9 after reading the final report of the
10 arbitrator. We do not take lightly the
11 fact that this is a motion to vacate. We
12 understand that this is a pretty high, high
13 standard in terms of other arbitration
14 procedures, but we do believe that it is
15 within the arbi- -- sorry, the Commission's
16 authority to grant a hearing and we also
17 believe that it's within the Commission's
18 authority to vacate this final report.

19 And the reason why we do this is
20 because we believe fundamentally that the
21 decision as is on a couple of points
22 exceeded the authority of the arbitrator in
23 making this final report.

24 Now, granted we're not here

1 necessarily today to argue the merits of
2 this. We believe that as a backdrop to
3 requesting the hearing, the Commission
4 probably wants to understand if there is
5 any merit at all before granting a hearing.

6 Essentially, the City of Chelsea
7 argues that the arbitrator in fact
8 acknowledges that he did not take into
9 consideration and, in fact, consciously
10 refused to take into consideration a
11 Commission decision. And we refer to the
12 handbook that's provided with regard to
13 binding arbitration which states that among
14 the statutes, the regulations, and the
15 Commission's prior decisions regarding
16 surrounding communities, that those things
17 are what the arbitration process is subject
18 to.

19 The City of Chelsea at the closing
20 arguments provided information and provided
21 a supplemental memo thereafter to the
22 arbitrator regarding what we believed was a
23 decision that should be taken into
24 consideration by the arbitrator.

1 We believe that that decision and
2 the actual deliberations of the Commission
3 during that May 2nd hearing, which was
4 regarding a fundamental inconsistency
5 petition, we believe that the decision and
6 the deliberations would have been
7 informative, if not dispositive, to the
8 arbitrator's decision specifically with
9 regard to what standard should be used when
10 awarding or determining whose best and
11 final offer is fair and reasonable and
12 meets the statutes, the regulations, and is
13 also compliant with prior Commission
14 decisions.

15 Essentially, that decision that was
16 made by the Commission on May 2nd and
17 again, the deliberations, speaks to what we
18 believe is the correct standard of review;
19 or rather not review, but the standard for
20 mitigation, which is that the applicant,
21 the licensee, has an obligation to
22 identify, address, and minimize potential
23 negative consequences of their operations.

24 Now, throughout the arbitration

1 process, there was some discussion back and
2 forth regarding what that standard should
3 be. As you'll note in both the decision by
4 the arbitrator, he admits and concedes the
5 fact that this was something that was of
6 question. But instead of going with the
7 standard of does the best and final offer
8 identify, address, and minimize potential
9 negative offers, the somewhat nebulous
10 phrase of -- almost a totality of the
11 statute, the language of the statutes and
12 the regulations is used to support why he
13 made the decision that he did in his final
14 report. Unfortunately, there's no other
15 language from the statute or the
16 regulations in the final report backing up
17 that decision.

18 In addition to that conscious
19 disregard of the prior Commission decision,
20 the City of Chelsea also argues that there
21 are a few points. One, he also considers
22 positive impacts in his final report as
23 offsetting negative impacts, which
24 explicitly in the handbook for arbitration

1 on the very last page states that in no way
2 should those positive considerations or
3 positive benefits be used to offset
4 negative potential impacts.

5 Additionally, and I would say this
6 one is a major concern for the City of
7 Chelsea, and I think it speaks to potential
8 future issues with reopening provisions and
9 other surrounding community negotiations as
10 well, the arbitor -- arbitrator actually
11 substitutes reopen of regulations and
12 general mitigation fund availability for
13 Wynn's affirmative duty to mitigate
14 negative consequences of their operations.

15 I think that, in essence, when
16 you're allowing such -- allowing to reopen
17 of a provision and allowing the possibility
18 of other funds being available, to somehow
19 negate the duty of an applicant to mitigate
20 these issues, that's beyond the scope of
21 what the arbitrator is there to do.

22 And lastly, because in totality
23 this final report, this binding
24 arbitration, is supposed to result in

1 something that's both fair and reasonable,
2 but also, it's supposed to be consistent
3 with the gaming act, the Commission's
4 regulations, that essentially this final
5 report is not consistent with the gaming
6 act and the regulations.

7 It's -- Again, we don't take this
8 lightly. We greatly respect the work that
9 was done by Judge Neal as the arbitrator.
10 However, the fact that there just seems to
11 be a void of statutory basis in this,
12 that's what piqued our interest and now
13 brings us here today requesting a hearing
14 on those merits so that we might see that
15 -- we can argue at least that the
16 arbitrator did, in fact, exceed his
17 authority in this.

18 Just as a last point, this
19 surrounding community agreement, the final
20 report essentially is becoming the
21 surrounding community agreement. It's
22 going to stand and have impact on the City
23 of Chelsea for years to come potentially.
24 It also -- I think this decision stands to

1 inform future negotiations, future
2 arbitrations, whether or not that's
3 something that's ongoing or future
4 reopenings.

5 If that's the case, I believe that
6 this is an opportune time to reaffirm the
7 fact that the arbitrators are supposed to
8 be held to the statute, supposed to be held
9 to the regulations, and also the guidance
10 that's provided in the handbook.

11 So with that, I thank you for your
12 time. Again, we don't take this lightly.
13 We understand that this would potentially
14 set us up for an additional future
15 arbitration if, in fact, there was a
16 hearing and the result of that hearing was
17 to vacate this decision; but if you do have
18 time to read and you do see that the
19 arbitrator, in fact, exceeded his authority
20 or you believe that there is at least merit
21 in that question, we do argue that there
22 should be a hearing on this matter so that
23 we can proceed. So thank you again for
24 your time.

1 COMMISSIONER MCHUGH: All right,
2 sir. Thank you. What do you -- You didn't
3 mention in your discussion the provision of
4 our regulation that says there's no appeal.

5 MR. MONAHAN: I believe that,
6 again, is in reference -- more or less is
7 in reference to the fundamental
8 inconsistency petition. There is ample law
9 out there with regard to arbitrations for
10 commercial arbitrations, arbitrations for
11 collective bargaining in communities, both
12 federal and uniform commercial arbitration
13 statutes that allow for a court to vacate a
14 decision if it was made by an arbitrator in
15 excess of their authority.

16 COMMISSIONER MCHUGH: Right. But
17 we don't have any such law in the gaming
18 act and we don't have any such law in our
19 regulations. In fact, to the extent we've
20 spoken to the issue at all, albeit in the
21 context you've just described, the
22 regulation says no appeal.

23 MR. MONAHAN: I do believe the
24 backdrop to this has been, again, fairness

1 and reasonableness, and that the agreement
2 is supposed to be fair and reasonable, that
3 this process is supposed result in a fair
4 and reasonable agreement.

5 The process getting to that point
6 also is, again, underneath the statute, the
7 regulations and the handbook, it's supposed
8 to be a fair process. If the City of
9 Chelsea had known from the beginning that
10 the arbitrator could exceed their
11 authority, I would argue that this would
12 have been maybe subject for a lot for
13 questioning before we entered into it, or
14 we would just simply say in the instance of
15 reopening provisions or substituting in
16 some kind of nebulous understanding of what
17 the standard is.

18 What is the value of the
19 arbitration if it's not being held to the
20 statutes, if it's not being held to the
21 regulations. And if, in fact, the
22 Commission has the authority to even
23 supersede that decision and change the end
24 result, change the final report, change

1 what is going to be the surrounding
2 community agreement, then it's also within
3 your authority to vacate if it believes,
4 after a hearing, that the final decision
5 was made, again, when an arbitrator has
6 exceeded their authority.

7 I would concede that in the
8 regulations itself, it does state that this
9 is not subject to further review, but I
10 believe that is with regard to if we
11 haven't filed a fundamental inconsistency
12 petition, which the City of Chelsea did not
13 file.

14 It was only once we received the
15 final report and we realized that the
16 decision was being made in excess of the
17 authority of the arbitrator that we felt it
18 necessary to file this request.

19 COMMISSIONER MCHUGH: In regard to
20 the first -- And I've read your memorandum.
21 We've all read your memorandum. But in
22 regard to the first of the issues that you
23 raise, the arbitrator basically said that
24 in view of his decision, he didn't have to

1 decide whether the dialogue in our prior
2 discussion of the MGM issue was a decision
3 of the Commission or not. Does that square
4 with your understanding what the issue is?

5 MR. MONAHAN: That's my
6 understanding, Your Honor. I do believe
7 that he had the opportunity, because we did
8 file a brief explaining that. In fact,
9 this dialogue was, in fact, the decision.

10 COMMISSIONER MCHUGH: But if
11 there's a question of that kind, doesn't
12 the arbitrator have the power to make a
13 decision one way or another as to whether
14 that's a decision that's binding on him?

15 MR. MONAHAN: Your Honor, I would
16 suggest that the fact that this was, again,
17 and we argued that this was a Commission
18 decision, that we, in fact, checked with
19 the general counsel of the Commission to
20 see whether or not the transcript and vote
21 that was taken in the transcript
22 constituted a vote, constituted a decision
23 by the Commission.

24 COMMISSIONER MCHUGH: That --

1 MR. MONAHAN: That was something
2 that was requested by the arbitrator
3 himself as something to guide the process.
4 The handbook states that this process is
5 subject to prior Commission decisions.
6 That was a prior Commission decision.

7 COMMISSIONER MCHUGH: Yes. But
8 what the prior Commission decision is, is
9 it a written decision? Is it an issue as
10 to which a vote was taken? Is it a
11 consensus conclusion that immerges on a
12 transcript? Is it a failure to act when
13 the Commission could have acted? All those
14 things could be Commission decisions; could
15 they not?

16 MR. MONAHAN: I believe yes, Your
17 Honor. Under 30A, the way that we actually
18 back this up and the way we supported this
19 in our memorandum to the arbitrator himself
20 was that we suggested that because it was
21 quorum, because there was discussion had,
22 all of the procedural standards were met
23 for the Commission, that just as today as
24 you took votes today, what you did in that

1 transcript as the only format available
2 was, in fact, a decision.

3 COMMISSIONER MCHUGH: Right. But
4 doesn't the arbitrator have the power to
5 disagree with you on that? There wasn't a
6 formal vote on that issue. There was a
7 formal vote as to the best and final offer
8 and whether to upset the best and final
9 offer decision of the arbitration panel
10 with the -- in the areas where there was a
11 claimed fundamental inconsistency. But as
12 to whether or not there was a decision,
13 that wasn't a particular -- we didn't
14 decide that that was a Commission decision
15 that bound future arbitration proceedings.

16 MR. MONAHAN: I would suggest that
17 this is a perfect example why there should
18 be a full hearing on the matter.

19 COMMISSIONER MCHUGH: Help me again
20 with that.

21 MR. MONAHAN: I think the fact that
22 this is something that could be, again,
23 supported with the arguments that we had
24 previously made and also submitted copies

1 of to general counsel, this fact that this
2 is a question as to whether or not the
3 decision could be ignored or determined to
4 be not a decision by an arbitrator is part
5 of that, whether or not he's exceeded his
6 authority.

7 COMMISSIONER MCHUGH: All right. I
8 hear you. Okay.

9 MR. MONAHAN: Thank you.

10 COMMISSIONER MCHUGH: Any further
11 questions?

12 COMMISSIONER ZUNIGA: I suspect you
13 just answered it, but I need to in terms
14 of, you know, this all takes us back to the
15 request for a hearing. But help me
16 understand why you think that the
17 arbitrator exceeded his authority? Is it
18 because of that conscious disregard of the
19 decision of the discussions of the
20 Commission relative to the MGM arbitration
21 results?

22 MR. MONAHAN: I believe that's one
23 of the pieces as well as the fact that at
24 times, there are positive benefits used to

1 offset negative benefits, that there is a
2 lack of actual statutory regulatory
3 language to support the decision.

4 I believe also we've outlined that
5 there is also a substitution for the
6 reopening provisions and general tax funded
7 or general funds through the Gaming
8 Commission that there was no evidence
9 whatsoever suggested this is something that
10 was going to be definitively provided to
11 the City of Chelsea used to offset and, in
12 fact, negate the duty, the affirmative
13 duty, of the applicant to, again, address
14 -- identify, address, and minimize the
15 potential negative consequences. That, to
16 me, is at odds with the statute and
17 contradictory to the statute. And as part
18 of the final report, part of the reason we
19 are arguing that this was in excess of the
20 authority of the arbitrator.

21 COMMISSIONER ZUNIGA: All right.

22 Thank you.

23 COMMISSIONER MCHUGH: Any further
24 questions? All right. Thank you very

1 much.

2 MR. MONAHAN: Thank you.

3 COMMISSIONER MCHUGH: All right.

4 Counsel, Mr. Starr.

5 MR. STARR: Thank you, Your Honor.

6 Good afternoon.

7 COMMISSIONER CAMERON: Good

8 afternoon.

9 MR. STARR: Tony Starr on behalf of
10 Wynn, and with me at counsel table is my
11 colleague, Jenny McCarthy, also an attorney
12 at Mintz Levin.

13 Let me start by telling you what
14 did happen. As General Counsel Blue said,
15 Chelsea and Wynn were unable to agree to a
16 surrounding community agreement, and
17 therefore, the arbitration procedure set
18 forth in the regulation was triggered.

19 Chelsea and Wynn agreed to have
20 Judge Neal, who had served on the trial
21 court for many years as a superior court
22 judge and now as a distinguished neutral at
23 JAMS, serve as our sole arbitrator. Once
24 we had Judge Neal in place, we exchanged,

1 as we were required to do, our best and
2 final officers. We exchanged them and
3 submitted them to Judge Neal.

4 Thereafter, Judge Neal had two
5 scheduling conferences during the first
6 couple weeks of May to work with the
7 parties to outline a process for the
8 presentation of evidence, and a hearing was
9 set up. The parties provided Judge Neal,
10 before the hearings actually began, with
11 extensive pretrial briefs, pre-arbitration
12 briefs. We then met with Judge Neal for
13 three full days. Ten witnesses testified
14 understood oath, both direct and
15 cross-examination, 35 exhibits were marked.
16 At the end -- and Judge Neal asked many
17 questions.

18 At the end of the presentation of
19 the evidence, Judge Neal asked the parties
20 to prepare post hearing briefs, which we
21 did. And then he asked for a post hearing
22 oral argument or closing argument, which we
23 had. And then even at the end of the post
24 closing argument, he allowed both parties

1 an opportunity to submit post closing
2 briefs.

3 The issues as to which of the best
4 and final offers best met the statute were
5 clearly presented to the judge, and he
6 issued his decision. Wynn's BAFO was
7 selected and Chelsea's was not.

8 And the reason we're here has
9 nothing to do with whether or not
10 Judge Neal exceeded his authority. It has
11 everything to do that Chelsea failed to
12 persuade Judge Neal that their BAFO was the
13 better choice. This is nothing more than a
14 complaint from a disappointed party to an
15 arbitration.

16 Chelsea's particular motion with
17 that backdrop fails for three principal
18 reasons. I think General Counsel Blue
19 outlined the first one, which is, of
20 course, that under 205 CMR 125.01(6)(c) the
21 arbitrator's report is final and binding.
22 It reads: "In the absence of an objection
23 filed in accordance with 205 CMR
24 125.01(6)(c)(6), the decision of the

1 arbitrator shall" -- that's mandatory
2 language -- "be final and binding and shall
3 not be subject to further review."

4 I don't agree that that language is
5 solely to do with a fundamental
6 inconsistency petition. Of course, that's
7 what would allow you to have something
8 after the arbitrator issued his or her
9 report would be if you filed the
10 fundamental inconsistency petition, but
11 this language is not limited in that sense.
12 The decision of the arbitrator shall be
13 final and binding and shall not be subject
14 to further review.

15 Chelsea did not file the
16 fundamental inconsistency petition,
17 therefore, that report from the arbitrator,
18 under your clear regulations, became final
19 and binding and not subject to any further
20 review by this Commission at that time. As
21 soon as that happened, that's it. It's
22 final and binding by your rules.

23 Chelsea requests a hearing a under
24 Chapter 30A. I took a look at Chapter 30A,

1 section 10, and I will read it, but I know
2 you'll take a look at it later. "When
3 under any provision of any law a hearing is
4 required only upon direction of an agency
5 or upon request made in accordance with
6 such provision by a person entitled to make
7 such requests, the requirements of this
8 chapter governing the conduct of
9 adjudicatory proceedings shall not apply
10 unless and until such direction or request
11 is in fact made."

12 Here, your regulations clearly
13 state that unless a fundamental
14 inconsistency petition is filed, the
15 arbitrator's decision is final and binding.

16 So under the very act that they're
17 asking for you to set up a hearing on,
18 Chapter 30A, because they didn't file the
19 fundamental inconsistency petition, they
20 don't have a right to a Chapter 30A
21 hearing. That's reason one.

22 Reason two, they failed to exhaust
23 their administrative remedies. Again,
24 under your carefully detailed regulatory

1 scheme, they had the ability to file a
2 fundamental inconsistency petition to
3 preserve the ability to come to you in the
4 event their BAFO was not selected and to
5 point out deficiencies or ways in which the
6 Wynn BAFO did not square with the statute
7 and the regulations, was fundamentally
8 inconsistent. They didn't do this.

9 This Commission has had an
10 opportunity the first week of May, your May
11 2 hearing, to talk at some length about
12 what that type of a hearing might look
13 like. On May 2nd, Ombudsman Ziemba
14 explained, and I quote, "This process was
15 not meant as an appeal of an arbitrator's
16 awarded. It was meant to cure the
17 fundamental inconsistencies with the
18 statute." General Counsel Blue added, "If
19 the Commission finds that a provision of
20 the arbitrator's award is fundamentally
21 inconsistent with Chapter 23K, the
22 Commission can modify or amend that
23 provision."

24 Chairman Crosby at page 26 said,

1 "We will stay focused on exactly what this
2 was when it came up, which is a very narrow
3 and specific function, that we are meant to
4 be protecting." And Commissioner McHugh
5 said, "My view is that we have a very
6 narrow standard."

7 Very different, apparently, from
8 what they're asking you to do today, which
9 is to conduct a hearing to set aside the
10 arbitrator's award in its totality.

11 Again, the objection to the final
12 report from my perspective, my client's
13 perspective is simply attempt to get a
14 second bite at the apple. We don't agree
15 at all that Judge Neal exceeded his
16 authority under the act or the regulations.

17 I'm glad that they provided you
18 attached to their motion a copy of Judge
19 Neal's report. Under your regulations you
20 actually don't particularly spell out what
21 the report should or shouldn't have in it.
22 All it really needs to do to be compliant
23 is to select a BAFO, select which one.

24 Judge Neal went further. He shared

1 quite a bit of thoughtful information with
2 the Gaming Commission. He explained the
3 standard which he chose to use, which I
4 believe is right in line with the teachings
5 from some of the statements made by the
6 Commissioners at various times. It lines
7 up squarely with the regs. It lines up
8 squarely with the handbook. And he also
9 detailed for seven and a half pages the
10 evidence as he considered as being
11 probative on the critical issues in the
12 case. He thoughtfully reviews all that and
13 he evaluates it, and at the end of the day,
14 he concludes that Wynn's BAFO is a more
15 fair and reasonable one and better
16 addresses the impacts that were brought to
17 his attention.

18 Again, the problem is that Chelsea
19 didn't meet its burden of proof. It was
20 unable to persuade Judge Neal that the
21 impacts that they wrote about in their BAFO
22 were, in fact, reasonably related to the
23 construction and development of the Wynn
24 facility.

1 The Commission, as I said,
2 addressed this issue in other ways on May
3 2nd, and I think your statements on May 2nd
4 line up right with the standard that Judge
5 Neal articulated.

6 Commissioner McHugh opined at page
7 48, "The clear import of the statute is
8 that there be a clear nexus between impacts
9 of the facility and the remediation costs
10 of those impacts." Judge McHugh again at
11 53, "The thrust of the statute is to
12 mitigate the adverse impacts on the project
13 and not allow somebody, towns,
14 subcontractors with the town, to reap the
15 windfall."

16 And finally with respect to the
17 West Springfield provision, Commissioner
18 McHugh stated, "The moneys to be
19 consistent, not fundamentally inconsistent
20 with the statute, have to be used to
21 mitigate impacts."

22 I think when you think about what
23 several of the Commissioners were saying at
24 that time, it lines up very well with what

1 Judge Neal shared in his decision.

2 The goal of the arbitration is to
3 arrive at a fair and reasonable agreement
4 between the applicant and the surrounding
5 community. That's right from your
6 handbook. The role of the arbitrator is to
7 select the BAFO that is the most fair and
8 reasonable and adequately and reasonably
9 compensates the surrounding community for
10 any adverse impacts.

11 Your handbook sets forth
12 considerations for the arbitrator in
13 arriving at his or her final decision.
14 There are 12 factors in total that they're
15 listed on page 7 and 8. And the
16 arbitrator, in his final report, says
17 reading the statute as a whole and the
18 regulations in the handbook and in light of
19 the statute and considering the evidence
20 and presentation of the parties, the
21 arbitrator concludes that the BAFO selected
22 and incorporated herein satisfies the
23 statutory and regulatory standard.

24 Furthermore, he says in selecting

1 one of the BAFOs submitted, the arbitrator
2 has considered and evaluated factors
3 permitted by Chapter 23K and the
4 Commission's regulations, including, but
5 not limited to, the factors listed in the
6 handbook for binding arbitration at 7 and
7 8.

8 Chelsea apparently comes to you and
9 says just disregard what Judge Neal wrote.
10 He must not mean what he said there.

11 He laid out clearly what he did.
12 He followed your rules to the best of his
13 ability, and Chelsea is saying, oh, no. He
14 didn't. Set it aside.

15 Now, the part about the decision --
16 and Judge McHugh, your questions were right
17 on point. Two things about that. In your
18 handbook, you list 12 factors, one of which
19 is prior Commission decisions on matters
20 relating to surrounding communities. But
21 you say that these 12 factors may be
22 considered by the arbitrator. You don't
23 say must; you say may. You don't say
24 shall; you say may.

1 the question whether or not the full
2 transcript is a decision. That's what he
3 said.

4 From Wynn's position, Chelsea's
5 request that the arbitrator's decision be
6 set aside should not be allowed. Their
7 request for a Chapter 30A hearing should be
8 denied. The idea that this Commission has
9 somewhere in its authority, in its
10 regulatory authority, the right after
11 you've said that the arbitrator's award is
12 final and binding, that you have the right
13 to vacate, with all due respect, that does
14 not appear in your statute or in your
15 regulations.

16 You've set up a careful process
17 that was well adhered to. Both sides were
18 afforded ample opportunity over three full
19 days and ten witnesses, countless exhibits,
20 and multiple briefs to present their cases
21 to the arbitrator. He made his selection.
22 He's well documented it. It should stand,
23 and the request for further action on this
24 should be denied.

1 COMMISSIONER MCHUGH: All right.

2 Mr. Starr, thank you. Questions for Mr.
3 Starr?

4 COMMISSIONER CAMERON: No.

5 COMMISSIONER MCHUGH: All right.
6 Thank you.

7 COMMISSIONER ZUNIGA: Thank you.

8 COMMISSIONER MCHUGH: Thank you
9 very much.

10 All right. As I see it, we have a
11 couple of choices. First of all, we're not
12 deciding an appeal. We're deciding whether
13 there should be a hearing on the
14 objections. And that's a subtle
15 distinction but it's an important one. So
16 we're not deciding -- we're not deciding
17 the substance of the claims that the
18 arbitrator exceeded his authority.

19 The second thing is we have the
20 power to go ahead and deliberate now, or we
21 have the power to think about this until
22 the next public meeting, deliberate then
23 after thinking about it, and come to some
24 conclusion. We are not in an adjudicatory

1 hearing, so we can retire now and
2 contemplate things and talk about it and
3 come up with a decision that we publish
4 later on. We've got to do the deliberative
5 and decision making process in public.

6 So we have the choice as to whether
7 we want to deliberate, want to think about
8 this, read the materials again -- I trust
9 we've all read them once -- but read them
10 again in light of the arguments, or whether
11 we're prepared to move forward. And I
12 think that's the first decision we ought to
13 make.

14 COMMISSIONER CAMERON: I'm prepared
15 to deliberate now and make a decision.

16 COMMISSIONER STEBBINS: I'm
17 comfortable with that.

18 COMMISSIONER ZUNIGA: I'm fine
19 either way. We can make -- we reread them,
20 we can look at transcripts, or we can
21 decide now, as far as I'm concerned.

22 COMMISSIONER MCHUGH: All right.
23 Let me just offer a couple of thoughts, and
24 then we can talk about it and see if we can

1 reach a conclusion.

2 It seems to me that if we start
3 from the proposition that the regulation
4 says that the award of the arbitrator is
5 final and binding, and there is no -- there
6 is no place in the regulations for an
7 appeal. We have a limited right to come to
8 the Commission if something is
9 fundamentally inconsistent. We said when
10 we drafted that, that that was a very
11 narrow escape hatch, from the arbitrator's
12 finality, under a very limited set of
13 circumstances. But apart from that, the
14 arbitrator's award was final and binding.

15 That is consistent in a broad and
16 general way with the way arbitration awards
17 are typically viewed in other contexts.
18 The arbitrator has broad powers, and the
19 arbitrator's decisions are subject to
20 review and displacement, if you will, only
21 in the narrowest of circumstances.

22 Secondly, notwithstanding the
23 absence of any formal authority to review
24 the arbitrator's award in our regulations,

1 it seems to me that there must be some
2 inherent power to look at awards that are
3 egregiously outside the pale of a reasoned
4 approach to problem solving. That just
5 doesn't make sense that you wouldn't have
6 some power to do that.

7 And so the question for me would be
8 whether this award on its face or in any of
9 its aspects met that standard of being
10 egregiously outside the pale of reason
11 decision making. And I must say that I
12 find it nowhere near that standard; that on
13 its face, it is a thoughtful, thorough
14 approach to the problem with which the
15 arbitrator was presented which was which of
16 the two awards -- which of the two best and
17 final offers he was going to accept. And
18 he picked one, as he was required to, and
19 gave reasons for doing so.

20 So to the extent that we do have
21 discretion under the regulation to
22 entertain some kind of a hearing to set
23 aside processes and decision making
24 processes that are egregiously beyond the

1 pale of reasonable decision making, I find
2 that this decision on its face or as
3 explained to us at today's hearing doesn't
4 come close to that standard, and I
5 therefore would be prepared to deny the
6 request for a hearing on the merits that
7 delve further into any issues that may
8 emanate from what the arbitrator did or did
9 not say.

10 COMMISSIONER CAMERON: I would
11 agree. I do not think a hearing is
12 warranted. I have not been persuaded by
13 information today that the arbitrator's
14 award was anything but fair and consistent
15 and its binding.

16 COMMISSIONER ZUNIGA: I agree. You
17 put it very well. I don't think the
18 decision was -- As explained and
19 articulated here, the decision was very
20 much in line with the design of the
21 procedures that there's -- they were
22 designed with -- to pick one or the other,
23 of course, with all the other exhibits and
24 arguments, et cetera, and I think it was

1 followed clearly.

2 COMMISSIONER MCHUGH: So I'm -- Oh,
3 I'm sorry.

4 COMMISSIONER ZUNIGA: No. So I'm
5 not -- I'm very persuaded by your argument
6 and would be inclined as well to deny the
7 petition to vacate or to have a hearing on
8 this matter.

9 COMMISSIONER STEBBINS: I would
10 join the three of you in agreeing with
11 that.

12 COMMISSIONER MCHUGH: All right.
13 Could we have a motion then.

14 COMMISSIONER CAMERON: I move that
15 the City of Chelsea's request to have a
16 hearing with regard to the arbitrator's
17 decision is denied.

18 COMMISSIONER MCHUGH: Second?

19 COMMISSIONER ZUNIGA: Second.

20 COMMISSIONER MCHUGH: All in favor?

21 COMMISSIONER STEBBINS: Aye.

22 COMMISSIONER MCHUGH: Aye.

23 COMMISSIONER ZUNIGA: Aye.

24 COMMISSIONER CAMERON: Aye.

1 COMMISSIONER MCHUGH: The motion is
2 carried unanimously.

3 All right thank you both very much.

4 Now one more motion is in order,
5 and I look forward to the person who will
6 make it.

7 COMMISSIONER CAMERON: I move that
8 we adjourn this meeting.

9 COMMISSIONER STEBBINS: Second.

10 COMMISSIONER MCHUGH: All in favor?

11 COMMISSIONER STEBBINS: Aye.

12 COMMISSIONER ZUNIGA: Aye.

13 COMMISSIONER CAMERON: Aye.

14 COMMISSIONER MCHUGH: Aye. The
15 unanimity continues. We're adjourned.

16

17 (Whereupon the hearing was adjourned at 4:43 p.m.)

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C E R T I F I C A T E

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I, Amie D. Rumbo, an Approved Court Reporter,
do hereby certify that the foregoing is a true and
accurate transcript from the record of the
proceedings.

I, Amie D. Rumbo, further certify that the
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I, Amie D. Rumbo, further certify I neither am
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WITNESS MY HAND this 2nd day of July, 2014.

Amie D. Rumbo, Notary Public

My Commission expires: 10/23/2020