

1 THE COMMONWEALTH OF MASSACHUSETTS
2 MASSACHUSETTS GAMING COMMISSION
3 PUBLIC MEETING #157
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6 CHAIRMAN

7 Stephen P. Crosby
8

9 COMMISSIONERS

10 Gayle Cameron

11 James F. McHugh

12 Bruce W. Stebbins

13 Enrique Zuniga
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19 July 9, 2015 10:30 a.m. - 12:35 p.m.

20 BOSTON CONVENTION AND EXHIBITION CENTER

21 415 Summer Street, Room 107B

22 Boston, Massachusetts
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P R O C E E D I N G S :

CHAIRMAN CROSBY: I think we are ready to call to order the 157 public meeting of the Mass. Gaming Commission at the Convention Center yet again.

We start out as always with the approval of the minutes, Commissioner McHugh.

COMMISSIONER MCHUGH: Mr. Chairman, I move that the Commission approve the minutes of our meeting of June 25, 2015. Those minutes are in the book. I move that they be approved as they exist there with the usual reservation of the right to correct typographical and mechanical errors.

I will make one note that I think is enormously helpful. And that is that the times listed on those minutes on the left-hand side are hyperlinks to the video of our presentations. And they are hyperlinks to the point in the presentation that the minutes refer to. So, that if readers of minutes here or afar are interested in a particular portion of the video, you can simply now and perhaps this has

1 been going on for a little while, but you can
2 click on that time and you can take it to that
3 portion of the video directly and not have to
4 get through the whole video to get to the part
5 you're interested in. It's a great indexing
6 system that our staff has created and grateful
7 that they've been able to do that. I think
8 we're all grateful that they've been able to do
9 that.

10 CHAIRMAN CROSBY: Yes, it's great.
11 I agree. Second?

12 COMMISSIONER ZUNIGA: I would like
13 to point out or suggest that maybe adding a
14 sentence to a particular time in those minutes.
15 At around 2:10 when we started discussion of the
16 RFA-2 process, I asked whether the applicant, KG
17 Urban had submitted all of their business and
18 personal disclosure forms, which is what really
19 precipitated that discussion that ensued until
20 2:56 and ultimately my negative vote.

21 So, I was just wondering if we could
22 insert that sentence. It's not clear just from
23 the --

24 COMMISSIONER MCHUGH: Would you

1 state the sentence, Commissioner?

2 COMMISSIONER ZUNIGA: At around
3 2:10, and I'm sure it is all in the transcript,
4 I asked Counsel Blue if she knew -- Karen Wells
5 wasn't here. -- if she knew whether the
6 applicant had submitted all of the required
7 business and personal disclosure forms.

8 COMMISSIONER MCHUGH: That's the
9 sentence you wish to have inserted?

10 COMMISSIONER ZUNIGA: Yes.

11 COMMISSIONER STEBBINS: I also
12 wanted to make a note at 3:24 we had just gotten
13 to the discussion about veterans. And the next
14 entry has us closing the meeting. But if we
15 could add language in there that proposal of the
16 topic was tabled since we don't show any action
17 being taken on it in the minutes.

18 COMMISSIONER MCHUGH: So, we're
19 adding in the 3:24 paragraph the discussion was
20 -- the issue was tabled pending further
21 exploration by staff and Commission.

22 COMMISSIONER STEBBINS: Correct.

23 CHAIRMAN CROSBY: Anything else?

24 COMMISSIONER MCHUGH: There's no

1 opposition I take it to any of that by anybody?

2 COMMISSIONER CAMERON: I second the
3 motion with those changes.

4 CHAIRMAN CROSBY: Any further
5 discussion? All in favor, aye.

6 COMMISSIONER MCHUGH: Aye.

7 COMMISSIONER CAMERON: Aye.

8 COMMISSIONER ZUNIGA: Aye.

9 COMMISSIONER STEBBINS: Aye.

10 CHAIRMAN CROSBY: Opposed? The ayes
11 have it unanimously.

12 Okay. We are to item three,
13 Executive Director Day.

14 MR. DAY: Good morning Chairman
15 Crosby and members of the Commission. This
16 morning I'm actually going to -- do not have a
17 general update. So, what I would like to do is
18 turn this right over to Derek for him to
19 introduce our consultant that has been helping
20 us develop our internal control and audit
21 regulatory program. Derek.

22 MR. LENNON: Thank you, Rick. Good
23 Mr. Chairman and Commissioners. I'm joined by
24 Caesar Ibarra from Eide Bailly, a contractor off

1 of statewide contract PRF56. They're providing
2 independent accounting and consultation services
3 to us.

4 We engaged with the firm in March of
5 this year with three main goals in place. One
6 to help us review Penn's internal controls
7 especially where it came to cash and accounting
8 procedures; help us develop an audit program
9 which is required of us under Section 65 of
10 Chapter 23K. And then also the third piece is
11 to transition that program over to our own staff
12 so eventually we can take over doing this.

13 Right now, Caesar is going to give
14 us an update on where we are with all of that
15 and what our next steps are going forward.

16 COMMISSIONER MCHUGH: Before that
17 starts just to understand the big picture, is
18 the idea that initially the Eide Bailly will do
19 the first audit? Or is it anticipated that the
20 transition and training for us to do it will
21 occur before that first audit?

22 MR. LENNON: So, there will be audit
23 staff on-site to help us with the first audit.

24 COMMISSIONER MCHUGH: Yes, okay.

1 MR. LENNON: Just for clarification,
2 these aren't GAP audits. They have to have
3 those done anyway. These are more programmatic
4 audits, internal control procedure audits.

5 COMMISSIONER MCHUGH: Good morning.

6 MR. IBARRA: Good morning, Mr.
7 Chairman, Commissioners. My name is Caesar
8 Ibarra. I am a partner with the accounting firm
9 Eide Bailly. As a little bit of background,
10 I've been doing accounting for 16 years and
11 located in Reno, Nevada office. Most of my
12 experience has been in the gaming industry and
13 one of the partner leads for the gaming industry
14 for the firm.

15 So, this morning I'd like to do a
16 quick background on the phases of our
17 engagement, a summary of where we are with that
18 work and some other tasks that we've been asked
19 to perform.

20 Our engagement, we broke down into
21 what we consider three phases. The first one
22 being the internal control audit program
23 drafting. So, this was the procedures focused
24 on the identification and definition of the MGC

1 internal control structure for the gaming
2 properties.

3 During this phase, we would have and
4 we did look at the MGC structure in comparison
5 to the Plainridge Park submissions.

6 The phase two, which Mr.
7 Commissioner you just had a question on, these
8 are going to be the licensee site audits. We
9 anticipate participating in the engagement team
10 helping develop audit structure, audit programs.
11 And then helping the MGC staff through your
12 initial round of audits.

13 And then phase three of our
14 engagement we anticipate that being the
15 knowledge transfer. So, what did we learn
16 during these audits, during the development of
17 the audit process. And assisting in training
18 the MGC staff to take it from there.

19 CHAIRMAN CROSBY: What is the timing
20 of those phases?

21 MR. IBARRA: I have that in two
22 slides.

23 CHAIRMAN CROSBY: Sorry, got it.

24 MR. IBARRA: So, where we stand

1 today. We are essentially in the middle of
2 phase one. We have had the planning meeting and
3 the strategy development both internally within
4 our firm and with the MGC staff. We have had
5 multiple conference calls and discussions around
6 the internal control structure that was
7 submitted from PPC and comments back and forth
8 about our review of those.

9 We've looked at the compliance
10 provisions in comparison to the PPC program.
11 So, the comparison of the MGC regulations
12 against what PPC submitted. And we've assisted
13 with the variations or the questions from the
14 PPC property to MGC.

15 COMMISSIONER MCHUGH: Could you
16 explain that little bit more?

17 MR. IBARRA: Sure. So, the
18 Plainridge Park submitted an internal control
19 structure to MGC.

20 COMMISSIONER MCHUGH: Right.

21 MR. IBARRA: We reviewed that
22 initial structure with the MGC staff, Mr. Lennon
23 and his staff gave our thoughts and our opinions
24 on what we commonly see in the industry. And

1 that MGC responded to Plainridge with approvals,
2 recommendations for changes. And there has been
3 back and forth with variation requests from
4 Plainridge to the MGC.

5 In many of those instances, that has
6 been run by us for our opinion as well. So,
7 we've been participating through the review of
8 their submitted system as well as the
9 variations.

10 COMMISSIONER MCHUGH: So, is this a
11 comparison of their internal control system with
12 industry best practices or a measurement of the
13 delta between what our regulations require and
14 what they provided us or both?

15 MR. IBARRA: The initial comparison
16 is going to be against their internal control
17 structure to the MGC stated structure. Then
18 we've taken that and we've given recommendations
19 on best practices on what we would like to see
20 from the state's perspective.

21 COMMISSIONER MCHUGH: Okay. Thanks.

22 MR. IBARRA: So completing this
23 phase, our overall status is we believe we are
24 on track and on budget, and that this phase will

1 continue likely into 2016.

2 Going forward, as I just mentioned,
3 the phase one or the review of the internal
4 control submission and variations, from a
5 timeline perspective, we believe that will be
6 the remainder of '15 likely iunto 2016.

7 Phase two the licensee site audits,
8 our anticipation is that that will occur in '16
9 potentially into '17. And then phase three
10 where we have that transfer, have that knowledge
11 transfer to the MGC staff and we no longer will
12 participate will likely come in the beginning of
13 '17.

14 COMMISSIONER MCHUGH: So, the site
15 audits, and maybe this should be intuitively
16 obvious, but the site audits will be to
17 determine whether or not they are in fact
18 complying with the protocols and structure that
19 they've submitted to us.

20 MR. IBARRA: Yes, Sir.

21 COMMISSIONER ZUNIGA: Are we
22 anticipating this phase two to be on a yearly
23 basis or more of an ongoing basis?

24 MR. IBARRA: In the initial

1 engagement, we anticipated that the first audit
2 we would participate in and potentially the
3 first audit of each property as you open them.
4 But we have that opened and subject to your
5 guys' request.

6 MR. LENNON: So, we've discussed
7 this. We've discussed it with the IEB. We've
8 discussed it with Eide Bailly. And what we
9 think is it's going to be ongoing. But the
10 statute requires a report on April 15 I think --
11 April 1 of each year requires a report to be
12 sent over to the House and Senate audit
13 committees detailing what audits we've done.

14 So, in the long run it's going to be
15 an ongoing thing. We think that Eide Bailly
16 given their expertise and given the fact that
17 they do audit other facilities, we'll know what
18 the trends are in the industry. We'll know what
19 areas we should be paying attention to in
20 addition to what our own measures are.

21 But there's also a requirement that
22 we have to do this in accordance with the
23 American Institute of Certified Public
24 Accountant standards for our audits. We don't

1 have a certified auditor on staff.

2 So, to some extent we're going to
3 need expertise for the first few years until we
4 can either develop that in-house expertise or
5 figure out what the right level is of crossover
6 with a public accounting firm.

7 COMMISSIONER MCHUGH: In that
8 regard, are we planning to build on the audits
9 that are already done through other regulatory
10 processes in areas where we can?

11 MR. LENNON: Correct. As I said
12 before, we are not doing a GAP audit. We have
13 to have that done anyways. That's part of the
14 regular requirements. This will be more of the
15 programs controls, internal controls of their
16 operation. We are making sure we're staying
17 away from duplicating anything.

18 COMMISSIONER MCHUGH: Right. Great.

19 CHAIRMAN CROSBY: I didn't get part
20 of the answer to Commissioner Zuniga's question.
21 Is this done on an annual basis? Is this done
22 once?

23 MR. LENNON: No, it's a rolling
24 process.

1 CHAIRMAN CROSBY: It's a rolling
2 process.

3 MR. LENNON: It's a rolling process.
4 So, we may be going in and looking at cage
5 operations. So, we'll get an engagement letter,
6 this is what we are doing. This is what we will
7 be looking at. This is the documentation we
8 need to have this ready for. This is what our
9 process will be, how long you can expect us to
10 be in there, what we'll be specifically looking
11 for.

12 It's going to be a very structured
13 audit protocol. That may last for a month. And
14 then we may come back and review those results.
15 And there may be another area we go in and
16 audit. And at the end of the year, we'll have
17 to report on all of those audits and what our
18 findings were. So, it could be a rolling
19 process for the IEB financial investigators
20 team.

21 COMMISSIONER ZUNIGA: So, it's
22 probably fair to say that where phase one
23 describes a number of those things like variance
24 requests, etc., there's a spillover to them into

1 phase two?

2 MR. LENNON: Correct. And those
3 will change from year to year, whatever is
4 happening in the industry whatever area of
5 weakness identify that. And if there are
6 reports that turn up any weaknesses that maybe
7 something we want to take a look into further.

8 COMMISSIONER ZUNIGA: Yes.

9 MR. IBARRA: One more comment on the
10 timeline and the phases. To date it's been a
11 very fluid process. So, it hasn't been a hard
12 timeline, nor do we think it will continue to be
13 a hard timeline that it will be '15 or will be
14 2016.

15 As you guys have requests, we're
16 here to help. And we'll jump in starting the
17 audit process or the phase two process as soon
18 as the MGC is ready.

19 COMMISSIONER ZUNIGA: On that note,
20 I mentioned this to Director Lennon, but I'll
21 mention it here as well. From my perspective,
22 the phase three, even though it clearly has to
23 be thought of as phase three, knowledge transfer
24 starts to occur on day one. It's ramping up.

1 I know that you've been involved and
2 others at IEB, Burke and Monica, Bruce are
3 intimately involved with those procedures and
4 from my perspective were absorbing the knowledge
5 from day one.

6 CHAIRMAN CROSBY: It seemed like a
7 long time for the knowledge transfer to take
8 place. I should've brought this up with you
9 independently, Derek, but to have two years to
10 learn whatever it is given the expertise that we
11 do have, is that the right timeline? Should we
12 be getting able to do this ourselves sooner?

13 I mean I know you don't think so.
14 So, that was a rhetorical question. How do you
15 look at that? How do you come up with two years
16 as a process for learning how to do this?

17 MR. LENNON: This is one of the
18 areas we looked at as far as even -- The pricing
19 is public information. We are paying \$60,000 in
20 I think '16 and maybe \$70,000 in '17 for these
21 services. That's what the quote was.

22 To hire an in-house certified
23 auditor would cost a lot more than that to
24 develop these standards. We would have to pay

1 their fringe benefits on top of that. So,
2 training someone, getting them to keep up with
3 professional certifications, I don't think this
4 is a long time period compared to having someone
5 on staff to do this. And add that on as another
6 certification for a team that's trying to do
7 background investigations, trying to do regular
8 reviews.

9 We actually talked about this at
10 length internally with the financial
11 investigative team. Given all the demands on
12 them right now, this seems like the most
13 realistic time period. If we can do it quicker,
14 absolutely we'll try to do it quicker.
15 Understand your concern. We spent quite a few
16 hours over this topic.

17 COMMISSIONER MCHUGH: But the
18 overall goal is to have somebody who's already
19 on staff be trained and have the certifications
20 that otherwise we would have to go out and add a
21 new person to the staff who has it.

22 MR. LENNON: Either that or we keep
23 an independent accounting firm to give us
24 consultation. It may not be to the level that

1 we are using them right now, but that's
2 something that we have to evaluate after this
3 first year of actually doing the audits and see
4 what the requirements are.

5 COMMISSIONER MCHUGH: Right.

6 CHAIRMAN CROSBY: Okay. Anything
7 else?

8 MR. IBARRA: Yes, just one more
9 update. In addition to the initial engagement,
10 the three phases that I mentioned, we were also
11 asked to develop and prepare a training program
12 for some of the audit staff and various other
13 personnel, state personnel.

14 We did end up with three and a half
15 days of training. Some of that being on-site
16 out at Plainridge. And we felt that that was a
17 successful program and feedback has been that it
18 was helpful with the knowledge. Just as an
19 update that was aside from the initial
20 engagement.

21 MR. LENNON: And that training was
22 focused on cage operations for the gaming
23 agents, what they can expect to see based on the
24 internal controls that were submitted. Because

1 Penn didn't have staff on at that point, so we
2 can't train without staff out there. So, Eide
3 Bailly went out and gave an explanation of what
4 you should see what you shouldn't see.

5 COMMISSIONER CAMERON: Director
6 Lennon, is this training that -- You attended
7 that training yourself, correct?

8 MR. LENNON: I was not able to
9 attend it. I was actually getting training on
10 Bally's accounting system during that time
11 period.

12 COMMISSIONER ZUNIGA: I actually
13 attended the first session of Mr. Ibarra's
14 presentations.

15 COMMISSIONER CAMERON: I just made
16 note of how knowledgeable you were with cage
17 operations during the test period. So, whatever
18 training you did attend, it was apparent to me
19 that you really understood our obligations and
20 had total oversight.

21 MR. LENNON: Caesar and I were
22 talking about this, Penn's internal control
23 submissions are very clear as far as what needs
24 to happen in the cage. Their cash accounting

1 procedures that very clear. Their forms are
2 very clear. Now it's just training of their
3 staff.

4 Their internal control plan, their
5 forms, their balance sheets are all self-
6 explanatory. If you read through the manual,
7 you could probably walk out there and pick it up
8 and do it. It's cash coming in and cash coming
9 out. You have to have receipts. It's nothing
10 different in a cage than what's happening in a
11 grocery store or bank. So, it's a very good
12 submission from what I saw.

13 COMMISSIONER MCHUGH: Great, that's
14 good to hear too.

15 MR. IBARRA: The final slide I have
16 for you today it's just a graphical
17 representation of our engagement budget and the
18 status of that. So, the phase one, we've used
19 up approximately 50 percent of that budget.
20 Phase two and phase three we have not dipped
21 into that yet.

22 COMMISSIONER MCHUGH: What's the
23 green? That's unlabeled.

24 MR. IBARRA: The green that's yet to

1 come of phase one, yes.

2 COMMISSIONER CAMERON: Thank you.

3 CHAIRMAN CROSBY: Okay. Anything
4 else, anybody?

5 COMMISSIONER ZUNIGA: Very helpful,
6 thank you.

7 CHAIRMAN CROSBY: Director Day.

8 MR. DAY: Mr. Chairman, that just
9 gets us to a brief IEB update on temporary
10 licenses. IEB has granted key gaming licenses,
11 temporary key gaming licenses to Tyler Evan
12 Andrews, the surveillance supervisor, and Ian
13 Scott-Thomas Burrell, player services and Bogdan
14 Magonski, player services supervisor as well.

15 The conclusion IEB reached was these
16 individuals were necessary for the operation of
17 the gaming establishment and reasonably likely
18 to be licensed in the final sequel.

19 With that that gets us to the Region
20 C. Also as long as I'm in this process, I have
21 an update for you from IEB on their status of
22 their licensing with the Region C applicant, KG
23 Urban.

24 As you recall, the Commission set

1 the target date for suitability hearing for
2 September 24. That target date was judged to be
3 feasible based on the compliance with the
4 applicant being able to get its paperwork into
5 IEB to begin the investigation.

6 At this point, the application has
7 been organized into three different sections KG
8 Urban, Foxwoods and GLPI. In summary, the
9 applicant KG Urban is in substantial compliance
10 with the requested documentation by IEB.

11 COMMISSIONER MCHUGH: So, that the
12 9/24 date still looks feasible?

13 MR. DAY: That's correct. At this
14 point, what has been requested has been
15 submitted except for just a few small items.

16 COMMISSIONER MCHUGH: Right. Thank
17 you.

18 MR. DAY: If there's no other
19 questions on the status of the investigation, at
20 the last meeting, in addition to the
21 investigation and suitability hearing discussion
22 that the Commission had, the Commission also set
23 the RFA-2 application deadline to September 30,
24 2015. John is here to take us through how the

1 schedule looks as a result of that date being
2 set.

3 MR. ZIEMBA: Good morning,
4 Commissioners. As Executive Director Day just
5 stated, we established September 30 as the
6 deadline for the RFA-2 application for Region C
7 in our last meeting. Included in the packet at
8 the time was an estimated schedule for some of
9 the key milestones in our licensing process.

10 The documents in your packet today
11 refine slightly the estimated schedule that was
12 discussed. Revisions have been made to more
13 precisely estimate the projected schedule.
14 However, we do note that even this revision is
15 still just an estimate.

16 You'll see two potential outcomes
17 for the schedule on the document entitled 2015-
18 7-6 update, the next Gantt chart. In that
19 chart, we estimate that with no surrounding
20 community or impacted live entertainment venue
21 arbitrations, we could potentially award the
22 Region C license by late January.

23 However, with such arbitrations, the
24 likely date for any award would be the mid-March

1 of 2016. This March date does not include any
2 so-called Flex 14 process that was utilized in
3 Region A. As discussed at the last meeting,
4 there is a possibility that the Commission could
5 award a license even earlier than late January
6 award date for a process involving no
7 arbitrations.

8 The final item that I would like to
9 highlight in this chart is that negotiations of
10 surrounding community agreements and so-called
11 ILEV agreements, impacted live entertainment
12 venue agreements that are not already concluded
13 would occur during the month of December. If
14 the Commission uses the same policy as it used
15 in Regions A and B, the statutory negotiation
16 period would apply to both communities and ILEVs
17 that petition to be designated by the Commission
18 and those that were designated in the RFA-2
19 application but had not reached an agreement by
20 the RFA-2 deadline.

21 What I mean by that is we will work
22 to evaluate all of the surrounding community
23 petitions that we receive. And on the day that
24 we make determinations on the surrounding

1 community petitions, we would also formally
2 designate those communities that were already
3 designated in an applicant's application as
4 surrounding communities. So, what that means is
5 that both of those groups of communities would
6 be on the same 30-day time clock to evaluate --
7 to discuss surrounding community options.

8 We plan to send these charts to
9 communities to enable them to better understand
10 our estimated timetables. And hopefully, that
11 will also make clear to these communities that
12 these indeed are estimates but they are our the
13 best evaluation of the potential dates at this
14 point.

15 CHAIRMAN CROSBY: Are we planning on
16 having the same process with Pinck and team for
17 the review of the RFA-2s? Have you talked about
18 that?

19 MR. DAY: We have briefly talked
20 about that. And at this point that would be the
21 plan. It will largely be dependent ultimately
22 on how the Commission wishes to proceed with
23 each one of their areas.

24 CHAIRMAN CROSBY: Okay.

1 MR. ZIEMBA: Thank you, Mr.
2 Chairman. Commissioners, if I could I would
3 like to take up item (c), the MGM schedule
4 revision update and discussion, out of turn due
5 to a previously scheduled obligation for one of
6 our team members. Jennifer, if you wouldn't
7 mind if you could join us.

8 As the Commission is aware, at its
9 last meeting MGM reported a draft schedule that
10 was impacted by the potential timetable for the
11 I-91 viaduct. Again, also discussed the process
12 for reaching an agreement with the Massachusetts
13 Historical Commission.

14 I will detail the good news on an
15 agreement with the Mass. Historical Commission
16 in just a short few minutes. However, I would
17 like now to just focus on the brief update or
18 the process that we are using to review MGM's
19 schedule and specifically the I-91 viaduct
20 impacts on that schedule.

21 Jennifer Pinck is here today. Frank
22 Tramontozzi from Green International Affiliates
23 unfortunately could not be here today. Jennifer
24 will help answer any of your questions regarding

1 this review.

2 They are part of the consultant team
3 to help the Commission review the schedule. We
4 are also receiving the assistance of HLT
5 Advisory Services, the Commission's financial
6 and gaming consultant and Bill Perry who has
7 been assisting the Commission on Penn National's
8 construction schedule.

9 As currently planned, our review of
10 the schedule is comprised of three separate but
11 related areas of review. The Bill Perry review
12 is primarily focused on determining the
13 reasonableness of MGM's construction timetable
14 analyzing each element of that construction
15 project. Jennifer, if you wouldn't mind giving
16 a little more detail on the types of review that
17 Bill conducts.

18 MS. PINCK: Good morning,
19 Commissioners. Bill Perry's review consists of
20 the thorough review of probably 100-page
21 schedule. You will have seen I think a couple
22 of weeks ago a high level schedule that has all
23 of the activities rolled up into one line, build
24 hotel or build garage.

1 The schedule that MGM has prepared
2 is a Primavera schedule that I haven't seen it
3 for myself personally but I'm sure it's hundreds
4 of pages. And it will have thousands of
5 activities.

6 Bill Perry's review will do a number
7 of things. One that it's sufficiently detailed.
8 It has all of the activities you would expect
9 from foundations and steel and roofing and
10 electrical and windows, etc. That the order of
11 the work is logical and it makes sense. And
12 that it reflects how things actually get built.

13 The durations are reasonable. So,
14 the time it takes to do different elements is
15 reasonable and takes into account factors
16 potentially such as weather because we always
17 have weather in the winter. We have weather
18 year-round but we have harsh weather in the
19 winter. So, he will look and make sure that the
20 durations seem reasonable.

21 He will also understand through the
22 schedule where is the critical path. One of
23 those items which if they are delayed will delay
24 the overall schedule. So, he will look at that

1 and he'll comment on it. People can have some
2 disagreements about what the critical path is.
3 And it may also change as the project evolves.
4 But it's very important to know at the beginning
5 what is the critical path.

6 And he'll understand that
7 dependencies of the activities with each other,
8 which is part of the critical path, and the
9 interrelationships between the parts of the site
10 that will get built.

11 The construction of the site in a
12 sense will be phased. It's not starting on a
13 whole site all at once. It has to start
14 somewhere. So, there probably will be sub
15 phases. So, understanding the interrelations of
16 the phasing so that if one phase accelerates or
17 one phase falls behind what does it do to the
18 overall schedule. So, that is his review. It's
19 very thorough. It's very detailed.

20 MR. ZIEMBA: Thank you, Jennifer.
21 The second portion of our review is focused on
22 the potential traffic impacts cited by MGM
23 resulting from the I-91 viaduct project.

24 In order to determine the potential

1 traffic impacts to the MGM project, we have and
2 plan to meet independently with MGM, the city of
3 Springfield and with Massachusetts Department of
4 Transportation, MassDOT. This information will
5 help us understand the range of the potential
6 impacts to the MGM project.

7 I'd like to note that our focus is
8 on how the traffic may impact the planned
9 success of the MGM project. We know that
10 MassDOT and the city are making tremendous
11 efforts to minimize the impact of the viaduct
12 project on the region, including efforts to
13 reduce what would likely be -- what could be a
14 six-year project to more than half of that time.

15 Obviously, they should be commended
16 for all of their efforts to minimize impacts on
17 the region and impacts on this particular
18 project.

19 COMMISSIONER MCHUGH: I think that's
20 really important. This is not a finger-pointing
21 exercise. And this is a coordination exercise
22 of what is our best judgment as to what time
23 periods are necessary in order to accomplish
24 essential tasks.

1 It's taken for granted that
2 everybody is trying to get this done as quickly
3 as is possible. And I think there's in the past
4 perhaps been a tinge of finger-pointing. So, I
5 think we ought to be crystal clear that that is
6 not any part of our mission. That is not any
7 part of what we are doing. And we recognize
8 that everybody is trying to work just as hard as
9 they can to get this done as quickly as is
10 possible.

11 CHAIRMAN CROSBY: John, it seems to
12 me like there are two issues on this phase of
13 the review. One is when will the viaduct be
14 done and how does that fit with both the
15 original schedules and whatever MGM wants to do.
16 And there are a lot of judgments to be made in
17 that.

18 But there is also the question of
19 whether it can operate successfully without the
20 viaduct. There's been a presumption in a lot of
21 material that we've seen that it can't.

22 Are we going to take an independent
23 systematic look at that trying to make our own
24 judgment?

1 MR. ZIEMBA: That's exactly what
2 we're going to do on both of those aspects.
3 Again, we are always in the business of
4 predicting the future. And you're mostly going
5 to be wrong when you do that.

6 But we're going to use our best
7 judgments to try to determine what is the likely
8 range when the viaduct project will be completed
9 based on the review of the contract documents
10 and based on the project schedule that is put
11 forth by the contractor for the viaduct. That
12 schedule is not yet available.

13 The reviewed schedule is not yet
14 available. We understand that MassDOT is
15 reviewing that schedule currently. And
16 hopefully that will be available in short order.
17 Under the contract, as I understand it, it could
18 be potentially 30 days to 45 days for the review
19 and approval, it maybe shortly after that review
20 and approval of the contractor schedule.

21 But that is an important bit of data
22 for our evaluation.

23 CHAIRMAN CROSBY: Right.

24 MR. ZIEMBA: But you are exactly

1 right, Mr. Chairman, we're taking a look at the
2 reasonableness of both the schedule and the
3 potential impacts. In order to do so, we will
4 take the evaluations that -- We're utilizing
5 Green International, our travel consultant. And
6 then we will take that analysis and work with
7 HLT Advisory in order to make a judgment on the
8 potential impacts to a successful facility.

9 I think that we can see from the
10 Plainridge example, we want to have a great
11 opening day, a great opening week. We know in a
12 lot of the conversations that we've had
13 transportation access, ease of access to the
14 facility is a critical part to an opening day
15 and being a successful facility.

16 We're going to be mindful that MGM
17 is making its judgments based on its desire to
18 have a successful facility as well. So, all of
19 that is going to be taken into context.

20 CHAIRMAN CROSBY: The issue of what
21 date they should hang their hat on as a
22 completion date of the viaduct is one that I
23 think is important for us to weigh in on. It's
24 a tough call because just because the schedule

1 says it's going to get done, when is the last
2 time something got done on schedule? So, that's
3 a tough call. I must say --

4 COMMISSIONER ZUNIGA: Plainridge.

5 CHAIRMAN CROSBY: Yes, good point,
6 but a pretty modest highway project.

7 COMMISSIONER ZUNIGA: Yes.

8 CHAIRMAN CROSBY: But on the issue
9 of whether it's going to obstruct traffic enough
10 to postpone opening is kind of like if
11 Springfield says yes and Wynn says yes, and
12 we're getting all of these letters --

13 COMMISSIONER ZUNIGA: You mean MGM.

14 CHAIRMAN CROSBY: -- I'm sorry MGM
15 says yes, thank you. And we're getting letters
16 supporting that I am not sure who we are to say
17 we disagree. We think traffic will be fine.
18 We're going to override MGM, the city and all of
19 the neighbors.

20 I guess we have a duty to the
21 Commonwealth to get the money rolling as quickly
22 as possible. We have a constituency that the
23 others don't have, but it seems like a hard play
24 for us to override.

1 COMMISSIONER CAMERON: But I think
2 your point about an independent review is
3 important. And listening to Ombudsman Ziemba, I
4 know that we have the correct experts assisting
5 us with that. It's not just us. There's real
6 expertise to help us with that. So, I do think
7 that is our responsibility. And we're taking it
8 seriously.

9 COMMISSIONER MCHUGH: I echo that.
10 I suspect we don't disagree. We need the facts.
11 And if the facts aren't sufficient to override
12 the suggestion of the operator and the city all
13 of the other merchants then we make a judgment
14 based on that, but the facts first.

15 CHAIRMAN CROSBY: Yes, I agree.

16 MR. ZIEMBA: In regard to the
17 timetable for our review, we are trying to work
18 as expeditiously as possible. And we'll come
19 back to the Commission as all elements or at
20 least significant elements of this review are
21 complete. But we are mindful that we need to
22 set a schedule as quickly as we can.

23 Setting a schedule as we previously
24 discussed is also connected to what we are

1 trying to do on our Section 61 Findings, which
2 will be discussed a little bit later today.

3 CHAIRMAN CROSBY: I asked you this
4 earlier, John, and I had forgotten what you
5 said. So, we're not going to make a decision at
6 our next meeting, I would guess. Are we more or
7 less targeting -- Do you have a more or less
8 target when we would make this decision?

9 MR. ZIEMBA: What we've told MGM is
10 we're going to work in two-week chunks. So,
11 we're going to work as hard as we can to meet
12 the next meeting. If we can't meet that next
13 meeting, we're going to try hard to meet the
14 next meeting.

15 Part of it is determined based on
16 the information that we get from our
17 conversations with MGM and the other parties,
18 availability of the schedule. But we are going
19 to continue to work on all elements that we have
20 even in the absence of one particular bit of
21 information.

22 So, hopefully we minimize any
23 delays. And we've made that promise to MGM to
24 get that schedule done as quickly as we can.

1 CHAIRMAN CROSBY: Okay.

2 MR. ZIEMBA: Okay. Jennifer are you
3 going to join us for Mass. Historical or do you
4 need to --

5 MS. PINCK: I will stay for Mass.
6 Historical.

7 MR. ZIEMBA: Okay, great. As I
8 noted, we are pleased to report that we are on
9 the verge of a completed Mass. Historical
10 Commission review. As the Commission is aware,
11 MGM's Massachusetts Environmental Policy Act
12 final certificate required an agreement between
13 the Mass. Gaming Commission, the Mass.
14 Historical Commission and MGM on a number of
15 historical properties within the footprint of
16 the potential facility.

17 That draft MOA is being finalized
18 right now. We have a letter in the packet from
19 the Mass. Historical Commission that anticipates
20 that that will be finalized in a matter of the
21 near few weeks. Once that MOA, the draft MOA
22 is finalized, we are going to bring that to the
23 Commission for its review and hopefully
24 approval.

1 While we plan to provide a lot more
2 detail regarding the MOA and all of the elements
3 of the MOA at a future meeting, my plan today is
4 to ask for the Commission's consideration of one
5 -- of basically the most significant remaining
6 element before an agreement can be reached.

7 That is the creation, the funding for a
8 Springfield Historic Preservation Trust Fund.

9 In Mass. Historical's letter to the Commission,
10 Mass. Historical describes the fund as the last
11 piece of the mitigation to be finalized.

12 The trust fund has been discussed
13 throughout the consultative process before the
14 Mass. Historical Commission. The trust would be
15 used to support the rehabilitation or
16 restoration of historical structures within a
17 half-mile radius of the project area in the city
18 of Springfield.

19 As discussed in these consultations,
20 the trust would help enhance the mitigation
21 efforts off-site because of challenges regarding
22 on-site mitigation. The trust fund will be
23 administered locally including representatives
24 of historical preservation expertise and the

1 city of Springfield.

2 In its proposal to the MHC, MGM
3 proposed to provide \$350,000 to the fund. In
4 order to help the parties reach this significant
5 milestone of an agreement, I joined by Executive
6 Director Day and Jennifer Pinck at the meeting
7 promised that we would ask the Commission if it
8 could contribute to the fund out of the next
9 upcoming community mitigation fund round. I
10 noted that any Commission funding would not
11 likely exceed the contribution from MGM.

12 Under our current guidelines, we
13 require a governmental entity such as a
14 community to apply for community mitigation
15 funding. Although the 2016 CMF funding rules
16 have not yet been set, Springfield has agreed to
17 apply to the fund for \$350,000 for this purpose.

18 Before I ask the Commission to
19 consider the request for funding, I would just
20 like to recognize and thank the Mass. Historical
21 Commission and its Executive Director Brona
22 Simon, the entire MGM team, the city of
23 Springfield, the Springfield Historical
24 Commission and the Springfield Preservation

1 Trust for all of their hard work in order to
2 reach an agreement.

3 In the end, the parties have
4 endeavored to protect and preserve Springfield's
5 rich historical resources while helping
6 Springfield reach the potential of its promising
7 future of the MGM facility.

8 With that as a background, I ask the
9 Commission to consider a request for \$350,000
10 from the 2016 CMF fund for the preservation
11 trust fund and the ability to work with
12 Executive Director Day and General Counsel Blue
13 on language for the draft MOA including this
14 contribution.

15 COMMISSIONER ZUNIGA: I agree. This
16 appears to be really good news if there's a lot
17 of movement in this topic. But can you also
18 just help me understand the nature of that
19 preservation trust? It says in the packet that
20 it will be used in the future for properties
21 within a one and a half mile (SIC) radius of the
22 property?

23 MR. ZIEMBA: That's right. In the
24 meetings, there was discussion of the

1 significant number of historical properties
2 within that one-half-mile radius that they would
3 need some funding source to help rehabilitate or
4 restore. The group, the local group would
5 utilize that funding to help with that
6 restoration.

7 COMMISSIONER ZUNIGA: And the idea
8 of the trust is that it could earn money over
9 time and then make disbursements, etc. It could
10 also grow by additional contributions from other
11 parties.

12 MR. ZIEMBA: That's right.

13 COMMISSIONER ZUNIGA: But just in
14 general, what would be the mechanism for those
15 disbursements?

16 MR. ZIEMBA: So, that would be done
17 by a local board. The composition of that board
18 is still under discussion under the MOA. But it
19 would include those historical representatives,
20 a member of Springfield's redevelopment
21 authority. And those local decisions would be
22 used to disperse the funding amounts.

23 We did not ask for representation on
24 that board as it's been our practice to

1 recognize local control and local decision-
2 making.

3 COMMISSIONER ZUNIGA: Okay.

4 COMMISSIONER STEBBINS: John, I
5 applaud you and the rest of the staff in
6 addition to the folks at Springfield Historical
7 Commission and Mass. Historical Commission for
8 resolving what was a long laundry list of
9 issues.

10 This fund is interesting to me
11 because I think what we are seeing for the first
12 time is somewhat of a focus on creating a
13 positive environment for development in and
14 around a casino. This is an older part of the
15 city, more historical properties some of which
16 within that half-mile radius are already under
17 redevelopment through a lot of good local
18 efforts.

19 So, I think this is something that
20 hopefully someday we can hold up as a model and
21 being able to say the spinoff effect of the
22 casino had this impact on historical properties
23 in and around a casino.

24 I did have one comment. And that is

1 the letter we received from MHC. And I'm sure
2 it's consistent regulatory verbiage that's used
3 by relating to adverse effect. Again, this is
4 my own thought, but every time we keep using
5 that terminology of adverse effect, I think we
6 are changing the narrative about what this
7 project is actually going to mean.

8 Let's keep in mind that there are
9 several historical buildings in this project
10 that are being saved that short of this
11 development probably would languish in some need
12 of repair and rehabilitation in the coming
13 years. And probably at some point find
14 themselves at a point where they couldn't be
15 repaired or reestablished.

16 Again, I know this is more
17 regulatory language, but let's keep the
18 narrative changing, yes some buildings are being
19 lost but others are being saved that probably
20 might not have had that opportunity. I know MHC
21 is aware of that. Springfield Historical, the
22 city of Springfield we're aware of that but as
23 often as we can don't let the regulatory
24 language creep in and not acknowledge the

1 positive narrative that's coming out of this
2 development in relation to the other properties.

3 MR. ZIEMBA: In that regard, I
4 applaud the Mass. Historical Commission for
5 operating under that. There's significant
6 resources within Springfield. It's a place with
7 beautiful buildings that can be preserved within
8 the context of Springfield's future as a result
9 of MGM.

10 And I think that they are looking
11 forward and Springfield Preservation Trust and
12 Springfield Historical Commission are looking
13 forward to that sort of very unique atmosphere
14 of having this tremendous development
15 opportunity and preserving an even greater
16 portion of Springfield's historical resources.

17 COMMISSIONER MCHUGH: I just wanted
18 to say the same thing in a slightly different
19 form that this kind of an agreement can't be
20 reached unless both sides or all sides are
21 really committed to the same objective or
22 outcome, at least in general. Then it becomes a
23 matter of detail.

24 So, from the outset it seems to like

1 everybody has been looking at just what you and
2 Commissioner Stebbins have been talking about,
3 the ability to preserve some of these beautiful
4 buildings and some parts of the buildings, and
5 questions of how you blend that preservation
6 with the needs of the project. I think this has
7 been a remarkable exercise in that blending.

8 I took a look at the drawings that
9 were in some document we received, perhaps maybe
10 that's the document actually that's in the
11 packet, but the amount of energy and care that
12 has to go into taking that dome out of the lobby
13 at 75 State Street and packing it up and
14 preserving it in a heat-controlled area until it
15 can be reassembled in some part of the casino is
16 remarkable.

17 In a lot of other situations, it
18 seems to me, that it'd be difficult to convince
19 people that they ought to do that. So, I am
20 delighted that we've reached this result. I
21 think it's creative. I think it harnesses a lot
22 of energy that is all pointed in the same
23 direction in a very effective way. So, I
24 congratulate you and anybody else who had a role

1 in bringing this about.

2 CHAIRMAN CROSBY: Is there a
3 precedent for this preservation trust concept,
4 this kind of linkage in effect, of payment?

5 MR. ZIEMBA: Yes. There are two
6 precedents that were noted in, not Dearborn,
7 South Dakota, Deadwood, South Dakota where
8 there's a number of gaming facilities. And they
9 created a trust fund to preserve the rich
10 heritage for a number of different buildings.
11 And then also there was a settlement agreement I
12 think related to the Greenbush line in Scituate
13 where they made -- Hingham, excuse me, where
14 they created a trust fund to deal with some of
15 the historical issues.

16 CHAIRMAN CROSBY: Okay.
17 Commissioner Stebbins always makes the point
18 about we don't treat any other companies like we
19 treat these companies. If any other company
20 were coming in offering hundreds of millions of
21 dollars and 10,000 jobs or whatever jobs, we'd
22 be begging and giving them tax breaks.

23 Everybody wants to get a piece of
24 these folks. But I agree that this is a good

1 solution and it's reasonable. Mass. Historical
2 came to the table in good faith, which was
3 great. I think MGM gets tremendous credit for
4 the way they've handled this. I'm astonished at
5 what they've done with historical buildings.
6 And as others have said, you get a lot of credit
7 John for helping to facilitate this thing.

8 MR. ZIEMBA: Thank you.

9 COMMISSIONER MCHUGH: Do you need a
10 motion or do you need just a consensus or what
11 do you need?

12 MR. ZIEMBA: I would like a vote on
13 the creation -- that the Commission would fund,
14 contribute \$350,000 out of the community
15 mitigation fund program in 2016 and authorize
16 Executive Director Day, Counsel Blue and I to
17 draft language regarding that contribution for a
18 draft memorandum of agreement that will then be
19 returned to the Commission for its review and
20 approval.

21 CHAIRMAN CROSBY: Does somebody want
22 to so move?

23 COMMISSIONER MCHUGH: This is a
24 commitment in principle but it is a commitment

1 in principle subject to looking at the terms of
2 the ultimate document that we receive some place
3 down the road? Or is it stronger than that?

4 MR. ZIEMBA: It's a commitment to
5 fund that agreement -- excuse me, a commitment
6 to do the contribution which will be
7 memorialized in the memorandum of agreement that
8 has to be reached by all of the parties that I
9 discussed.

10 That MOA should be before the
11 Commission for its approval including the
12 contribution in a matter of a few weeks.

13 CHAIRMAN CROSBY: But we are
14 committing --

15 COMMISSIONER ZUNIGA: We are
16 committing and the parties understand this level
17 of commitment was acceptable and agreeable, as
18 you mentioned, it is no more than what MGM
19 already contributed and has committed to do.

20 MR. ZIEMBA: That's right.

21 COMMISSIONER ZUNIGA: And the
22 Historical Commission is agreeable to that.

23 COMMISSIONER MCHUGH: So, it's a
24 commitment to the 350 but the wrapper, if you

1 will, the package in which the 350 is delivered
2 is still subject to our ultimate approval?

3 MR. ZIEMBA: That's right.

4 COMMISSIONER ZUNIGA: I'd be happy
5 to make that motion.

6 CHAIRMAN CROSBY: Go for it.

7 COMMISSIONER ZUNIGA: I move that
8 the Commission fund out of the Community
9 Mitigation Fund, make a commitment of funding
10 the Springfield Historical Preservation Trust
11 outlined in the packet and discussed here today.
12 And authorize Director Day, Counsel Blue and
13 Ombudsman Ziemba to memorialize that funding in
14 a memorandum of agreement with the other parties
15 and bring back to the Commission at a later time
16 for final approval.

17 CHAIRMAN CROSBY: Second?

18 COMMISSIONER STEBBINS: Second.

19 CHAIRMAN CROSBY: Any further
20 discussion? All in favor, aye.

21 COMMISSIONER MCHUGH: Aye.

22 COMMISSIONER CAMERON: Aye.

23 COMMISSIONER ZUNIGA: Aye.

24 COMMISSIONER STEBBINS: Aye.

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

3 MR. ZIEMBA: Thank you.

4 COMMISSIONER CAMERON: Thank you,
5 good work.

6 MR. ZIEMBA: Finally, Commissioners,
7 I bring to you recommendations regarding the
8 2015 Community Mitigation Fund. As you know,
9 earlier this year the Commission established
10 \$100,000 reserves for 20 communities that could
11 be utilized for mitigation specific items of
12 construction-related mitigation or for planning
13 purposes, either planning to mitigate potential
14 negative consequences from gaming facilities or
15 to help that community benefit from such
16 facilities.

17 In addition to those reserves
18 totaling \$2.0 million, the Commission preserved
19 the ability of other communities to utilize the
20 reserves in 2016 for other communities we
21 preserve their ability to utilize the reserve
22 should they so apply in 2016.

23 In addition to those reserve
24 requests, the Commission also received requests

1 for specific items of mitigation by the February
2 2 deadline. Those requests are up for
3 consideration today. In addition, we have one
4 request from West Springfield to utilize the
5 reserve that has already been created for it.

6 Before I get into the specific
7 applications, I'd like to just place them in the
8 larger context of the 2015 program, which is the
9 inaugural program of the Community Mitigation
10 Fund. The fund, which currently has \$17.5
11 million, the whole fund will last throughout the
12 terms of the Category 1 licenses.

13 After the MGM Springfield and Wynn
14 Everett facilities are operational, it's
15 estimated that they will contribute
16 approximately \$18 million per year into the
17 fund. Any Region C facility would also put
18 reserves into the fund, put funding into that
19 fund.

20 When the Commission established the
21 2015 guidelines and as of the application
22 deadline, no Category 1 facilities were
23 operational and significant construction was not
24 underway. No Category 2 facility was

1 operational.

2 Thus we noted that it would be
3 difficult for communities to determine
4 significant impacts by the February deadline.
5 We have noted that over time, especially after
6 the Category 1 facilities are operational, the
7 Community Mitigation Fund will need to adapt to
8 needs. What is clear is that impacts today that
9 we don't clearly understand may become much more
10 readily ascertainable in the future.

11 Similarly, an item that is not
12 eligible today may indeed be eligible in future
13 programs. Indeed we are hard at work with the
14 advisory committees established under the Gaming
15 Act to work on refinements and changes to the
16 future programs including the 2016 Community
17 Mitigation Fund program.

18 One inevitable change will be that
19 future programs will include mitigation of
20 operational impacts such as traffic impacts and
21 other concerns. Given the state of projects by
22 the application deadline and still there today,
23 the 2015 guidelines stated that only
24 construction related specific impacts would be

1 considered for this year. This will change.

2 However, some of the applications
3 before us today do not meet the requirements in
4 our guidelines, with that as a context. Now to
5 the specific requests.

6 COMMISSIONER MCHUGH: Could I just
7 make sure I understand this. We've got
8 basically two funding mechanisms goes side-by-
9 side here. We have the reserve mechanism, which
10 allocates \$100,000 potentially. And in order to
11 get that all you have to do is ask for it and
12 then discuss with you what it is that it's
13 needed for.

14 MR. ZIEMBA: And I bring that back
15 to the Commission for its approval.

16 COMMISSIONER MCHUGH: Right. And
17 for that you have to be either -- you have to be
18 a surrounding community.

19 MR. ZIEMBA: You have to be
20 surrounding community, a community that
21 petitioned to be a surrounding community or a
22 community that reached a nearby agreement with a
23 licensee.

24 COMMISSIONER MCHUGH: So, those are

1 the eligibility requirements for that.

2 MR. ZIEMBA: Right.

3 COMMISSIONER MCHUGH: And then
4 there's the broader Community Mitigation Fund,
5 which is an ongoing fund, and the requirements
6 for which will potentially change -- the
7 requirements to draw against that fund will
8 potentially change each year as construction and
9 operation proceed.

10 MR. ZIEMBA: Exactly.

11 COMMISSIONER MCHUGH: And that is
12 not limited to today or likely in the future to
13 surrounding, nearby or petitioning communities.

14 MR. ZIEMBA: That's exactly right.

15 COMMISSIONER MCHUGH: Okay, great.
16 Thank you.

17 MR. ZIEMBA: As to the specific
18 requests, Medford has asked for \$2 million for
19 traffic planning and design funds.

20 While it's understandable that
21 Medford has concerns related to traffic and will
22 likely continue to seek funding for this purpose
23 from the Community Mitigation Fund, this is not
24 a construction related impact that has occurred

1 or is occurring by the application deadline. As
2 such, I do not believe that this application is
3 eligible under the 2015 guidelines.

4 It's likely that operational
5 concerns including traffic will be an eligible
6 request in future years. We do recognize as
7 Medford duly notes that this funding -- that
8 funding in advance of an actual impact may be
9 necessary in certain circumstances especially
10 with projects with long lead times such as
11 transportation items. We applaud them for
12 putting that policy issue squarely before the
13 Commission and before the local committees.

14 However, as that purpose does not
15 meet the eligibility guidelines of the 2015
16 guidelines, I cannot recommend that for funding.
17 However, what I do recommend is that the
18 Ombudsman's office be tasked with working with
19 Medford to see what of that \$2 million request
20 can fit within their \$100,000 reserve.

21 Again, not all of it would be able
22 to fit into that reserve, but at least some
23 portion of it the \$100,000 could definitely be
24 utilized for transportation planning services as

1 that's directly within the anticipated use under
2 the reserve program.

3 CHAIRMAN CROSBY: John there's a
4 subsidiary issue here, which is if we weren't
5 limited in the way that we are, is this work
6 that is not really already being taken care of
7 in surrounding community agreement? I am not
8 quite clear what this is supposed to do as
9 opposed to the \$1.3 million or whatever it is
10 that Medford is getting from Wynn already
11 through the surrounding community agreement.

12 MR. ZIEMBA: If you ask a number of
13 different surrounding communities whatever
14 agreements were reached were subject to
15 negotiation and communities put forward their
16 needs. There's dialogue with developers and
17 they reached an agreement on what they thought
18 was fair and reasonable.

19 We had always anticipated that
20 surrounding communities especially would ask for
21 further funds from the Community Mitigation Fund
22 for these purposes, for other purpose that might
23 not be met at least in the eyes of the
24 communities out of the Community Mitigation

1 Fund.

2 As part of our process in
3 establishing the mitigation fund guidelines, we
4 also built in a process whereby we ask each of
5 the licensees on whether or not they believe
6 that this is a worthwhile expense.

7 In this instance, specifically the
8 Wynn team has noted that it thinks that it is
9 meeting the specific needs of mitigation but it
10 does believe that there are greater needs,
11 greater transportation needs that should be
12 considered for Medford and other communities.

13 CHAIRMAN CROSBY: So, this is going
14 to put us repeatedly in the situation where
15 somebody is saying it's enough and somebody else
16 is saying it's not enough. And we're going to
17 have to make that decision.

18 MR. ZIEMBA: That's exactly right.
19 And that's part of the challenge of going
20 forward. And specifically if we are
21 anticipating an impact, we are trying to make a
22 prediction on whether or not that impact will
23 occur or will not occur. What level of proof
24 would be necessary before we fund such a

1 request.

2 What we're trying to figure out is
3 how to do this within the context that we don't
4 want to spend tremendous amounts of dollars on
5 consultants or otherwise analyzing requests.
6 So, it's a real challenge before us. That's why
7 we're trying to seek the advice of communities
8 and other experts as part of our advisory
9 process.

10 COMMISSIONER ZUNIGA: And I think
11 that's where the guidelines come in very helpful
12 starting with and including that it's mostly or
13 chiefly about construction impacts at this point
14 because that source of funding is now dwindling.

15 There's a lot of time in here.
16 There's a big timing element because the
17 Community Mitigation Fund was funded out of the
18 licensing fee. And that has to take us through
19 all of the construction period until the
20 operations open and the gross gaming revenue
21 starts to come in. That Community Mitigation
22 Fund will continue to be funded.

23 So, it was only reasonable to think
24 about the current state as construction impacts.

1 I think that's something that is very key here.

2 COMMISSIONER MCHUGH: But at the
3 same time, when it comes time to devise the
4 guidelines for succeeding years, it seems to me
5 that this notion that the Chairman has raised
6 needs to be revisited. And perhaps the advice
7 of the advisors can be sought there too.

8 It strikes me that viscerally -- I
9 must say I haven't rethought it in a while. -- I
10 thought of this fund as a fund designed to meet
11 unanticipated adverse impacts and to mitigate
12 them.

13 And that is not entirely consistent
14 with the notion that in a surrounding community
15 after the community and the operator agreed on a
16 surrounding community agreement and based the
17 agreement on projections and the like that any
18 shortfall in meeting the desired needs of the
19 community that they were unable to reach would
20 be funded out of this fund as opposed to things
21 that in their negotiations they hadn't
22 anticipated would be funded out of this. That's
23 a fine line, maybe metaphysical but it seems to
24 me that is -- at least that's the thought that I

1 was proceeding on. Whether or not that's --

2 CHAIRMAN CROSBY: That's totally the
3 way I was thinking too. When I was the
4 Ombudsman, I was repeatedly using the expression
5 that I think you and I then used together about
6 this was meant for anticipated or
7 unanticipatable issues. And it wasn't meant to
8 be a shortfall where surrounding community
9 agreements didn't do the job.

10 I guess when you go to arbitration
11 because of the gamesmanship that goes into that
12 kind of arbitration, I can understand how
13 somebody might walk away with a surrounding
14 community agreement which doesn't actually cover
15 everything. But certainly when they were all
16 negotiated that was the whole point that they
17 would agree to mitigate everything that was
18 anticipated.

19 (A) It's going to be a complicated
20 business, really complicated business if we have
21 to wrestle with every one of those to the ground
22 on those kinds of merits, (A).

23 And (B) we're going to burn through
24 that money pretty fast if every surrounding

1 community is going to claim that their
2 surrounding community agreement doesn't do the
3 job. But there's nothing to do about that yet
4 other than I think as Commissioner McHugh said,
5 like everything else, we're learning as we go
6 here. And maybe we need to rethink somehow or
7 other the standards that we use or the process
8 by which we make determinations or something.

9 COMMISSIONER ZUNIGA: There's
10 complications, potential complications all
11 along. What operates in the health industry,
12 prevention is cheaper than treatment and cure,
13 to some degree operates here as well. And that
14 I think is going to be another level of
15 difficulty.

16 It all fits under the
17 unanticipatable, but the closer we get to
18 certain milestones, the more focused that some
19 of those impacts might start to take place.
20 That's going to be yet another level.

21 MR. ZIEMBA: Significant work
22 remains.

23 COMMISSIONER MCHUGH: But it's sort
24 of academic for today.

1 CHAIRMAN CROSBY: For the
2 Ombudsman's office.

3 COMMISSIONER STEBBINS: Do you want
4 individual motions on these?

5 MR. ZIEMBA: Why don't I go through
6 the whole recommendations, and perhaps we would
7 then take each individual. Or if the Commission
8 so desires, it can take it as a slate. I forget
9 exactly where I was.

10 CHAIRMAN CROSBY: You had finished
11 Medford.

12 MR. ZIEMBA: Revere, that Revere has
13 asked for funding for traffic and land-use
14 impact studies and additional public safety
15 action in an unspecified amount.

16 The history of Revere's application
17 is useful. Revere initially put in an
18 application for the creation of a reserve. But
19 Revere because it is not a surrounding community
20 did not petition to become a surrounding
21 community and never reached a nearby community
22 agreement with the licensee, it was ineligible
23 for the reserve.

24 Then Revere submitted its

1 application for a specific mitigation request.
2 But as we just discussed, the types of
3 activities included in the application, although
4 they would likely be eligible under the reserve
5 fund are not eligible under a specific
6 mitigation fund. So, in that regard I cannot
7 recommend Revere's application.

8 I do note that potentially what the
9 Commission could do and should do in the future
10 is consider whether or not we would expand the
11 use of the reserve for Revere.

12 Revere is currently the only
13 geographically adjacent community that is
14 ineligible for the use of the reserve. When I
15 say geographically adjacent, I do note that we
16 have never stated that just because a community
17 is geographically adjacent that that means that
18 that community is a surrounding community.

19 But given that this is a different
20 context, it's not the context of deciding
21 whether or not a community is a surrounding
22 community, but whether or not planning funds
23 would be useful to that community. I make my
24 recommendation on the use of the reserve in that

1 context.

2 COMMISSIONER MCHUGH: But it could
3 also be that the next year's guidelines change
4 so that we didn't have to continue the reserve
5 piece and broaden the eligibility for the kinds
6 of things. And that broadening would allow
7 Revere to successfully apply for funds.

8 MR. ZIEMBA: That is exactly right.
9 We could include a specific allegation for a
10 plan for future years.

11 COMMISSIONER ZUNIGA: My question is
12 related actually. There is nothing preventing
13 the applicant and the city from reaching a
14 nearby community agreement, correct? The door
15 isn't closed to that.

16 MR. ZIEMBA: No, that's exactly
17 right.

18 CHAIRMAN CROSBY: Revere isn't a
19 surrounding community or a nearby community by
20 its own choice. That was a decision they made,
21 right? Because they had a preferred option and
22 they elected not to cooperate with Wynn.

23 MR. ZIEMBA: One thing that I will
24 just make clear is that Revere, as we discussed

1 earlier certainly can apply and should apply if
2 it sees impacts in the future on specific
3 mitigation. This is a question of whether or
4 not it is a reserve community that's sort of a
5 separate question. If it experiences impacts it
6 should apply for use of the fund.

7 COMMISSIONER ZUNIGA: Just like
8 anyone else.

9 CHAIRMAN CROSBY: So, the answer to
10 your question was if Revere wanted to be a
11 nearby community and went to Wynn and requested
12 that status and Wynn agreed they would then have
13 access to the reserve?

14 MR. ZIEMBA: Probably not from a
15 timing perspective because --

16 CHAIRMAN CROSBY: -- too late?

17 MR. ZIEMBA: No, let me not say
18 that. I guess it would have to be they did put
19 in an application to access the reserve. The
20 application was put in at the time of the
21 February deadline. If they were deemed to be a
22 surrounding community within the period of the
23 review 2015, I guess that's an open question of
24 whether or not, even though they became a nearby

1 community agreement after the application
2 deadline, whether or not we can retro back to
3 the application deadline. I think that's an
4 open question.

5 CHAIRMAN CROSBY: That's what I was
6 getting at. So, again there is some flexibility
7 within Revere's control to deal with this issue
8 if they wish to.

9 MR. ZIEMBA: Moving onto Somerville.
10 Somerville after discussion, they've withdrawn
11 their specific mitigation request. Somerville
12 identified a number of different planning needs
13 that are supported by the Wynn licensee and that
14 seemed to meet the eligibility of the reserve
15 account. So, we discussed with them the ability
16 to reformat their application as a reserve fund
17 application. And they are proceeding in that
18 regard. I'll continue to work with them to
19 refine their application and put that forth to
20 the Commission.

21 CHAIRMAN CROSBY: Great.

22 MR. ZIEMBA: Springfield,
23 Springfield requested \$160,000 for the casino
24 liaison office and \$71,000 for legal expenses

1 related to their activities under the host
2 community agreement.

3 MGM supports Springfield's request
4 for the casino liaison office. I do note that
5 under the 2015 guidelines, the Community
6 Mitigation Fund is not intended to fund
7 mitigation of specific impacts already being
8 funded in a host or surrounding community
9 agreement.

10 It does appear that Springfield's
11 HCA already addresses both the casino liaison
12 office and legal expenses as detailed in my
13 memorandum. Section 3.4 of the HCA states that
14 the city shall establish and maintain at the
15 city's expense until operation's commencement a
16 casino liaison office.

17 Similarly, section 4.4(b) of the HCA
18 requires MGM to reimburse the city for specific
19 legal expenses. Some or all of legal services
20 that are the subject of the application may be
21 reimbursable by MGM under that provision in the
22 HCA.

23 As both of these items appear to be
24 contemplated in the HCA and as some expenses may

1 be reimbursable by MGM under the HCA, I do not
2 recommend this item in this year.

3 I do note that Springfield should be
4 lauded for the attention to good planning. Good
5 planning has been a hallmark of the Commission's
6 hopes for impacted communities. And within that
7 context, similar to the recommendation we made
8 with Revere, I do recommend that the Commission
9 explore in the future the inclusion of host
10 communities for eligibility for the fund, for
11 the reserve fund. But as noted in that
12 conversation that could be accomplished in other
13 methods going into the future. Host communities
14 are currently not eligible.

15 COMMISSIONER MCHUGH: So, here they
16 are not eligible for the reserve. And there are
17 no construction related impacts for which they
18 are applying for funding. That's the bottom
19 line there, right?

20 MR. ZIEMBA: Well, I think that the
21 impacts of the casino liaison that could be
22 characterized potentially as construction-
23 related impacts because primarily the activities
24 that they are engaged in are construction

1 related. But the portion of the guidelines that
2 relate to whether or not something is
3 anticipated in the HCAs themselves, I believe
4 that that is the marker of the guidelines that
5 would make it difficult to fund Springfield's
6 request.

7 I do know that it is very likely
8 that in future years Springfield will need
9 Community Mitigation funds for many purposes.
10 And the fact that this year's ineligibility
11 seems to get in the way of its request should in
12 no way lead anyone to think that just because
13 Springfield and other host communities have
14 inked host community agreements that they're not
15 going to be eligible for Community Mitigation
16 Fund funds.

17 I think that's absolutely not what
18 we're saying that. That it doesn't seem to fit
19 within the context of the Gaming Act. But this
20 particular year and this particular expense and
21 this relation to the HCA, I don't believe it's
22 recommended.

23 CHAIRMAN CROSBY: But it raises the
24 same point that Commissioner McHugh and I were

1 talking about before. If the host communities
2 didn't get sufficient funds to mitigate the
3 impacts of the casinos what were they doing?

4 Why do you say almost casually that
5 there will be plenty of reasonable applications
6 for mitigation monies for Springfield?

7 MR. ZIEMBA: Undoubtedly at least
8 some impacts will not have been anticipated by
9 the host community agreement. We experience
10 things on an everyday basis that no reasonable
11 folks probably could've anticipated. And it's
12 very likely in the places that will experience
13 the most impacts that there will be impacts that
14 could seek funding out of the Community
15 Mitigation Fund.

16 COMMISSIONER ZUNIGA: We could leave
17 it at that but the same operates the other way,
18 right? It's also statistically probable that
19 some of the impacts anticipated in other areas
20 may have been more than the actual impact,
21 correct?

22 MR. ZIEMBA: That's right.

23 COMMISSIONER MCHUGH: That's why we
24 just have to have the facts in front of us.

1 CHAIRMAN CROSBY: It might be worth,
2 and maybe it isn't, but it might be worth the
3 sort of thinking about either some presumptions
4 or threshold standards or something. Because I
5 can see -- I was not thinking that this money
6 would be utilized -- I had not consciously
7 thought it through, but in the back of my mind,
8 I was not imagining that appreciable monies out
9 of this fund would go to host communities.

10 Maybe I'm wrong, but again if they
11 are, what I was once thinking was a pretty
12 substantial amount of money is looking smaller
13 and smaller as we broaden the access to it by
14 people who I thought were already pretty well
15 taken care of, not totally, but pretty well
16 taken care of. So, I don't know.

17 My mind is that there's sort of a
18 presumption against host communities and
19 surrounding communities for other than quite
20 extraordinary things that were completely out of
21 the blue, but that's just me talking. And I
22 just think we need to think about this. I can
23 see some real big issues coming up.

24 COMMISSIONER CAMERON: As we do with

1 everything, a case-by-case basis look at the
2 facts.

3 MR. ZIEMBA: Right. But I do think
4 that the Legislature intended these funds to be
5 available for host and surrounding communities.
6 And that we should be cognizant of that.

7 CHAIRMAN CROSBY: Is that in the
8 statute already? Where do you get that?

9 MR. ZIEMBA: The creation of the
10 fund is for the purposes for mitigation?

11 CHAIRMAN CROSBY: Does it say host
12 and surrounding communities?

13 MR. ZIEMBA: Yes, I think so but if
14 not.

15 COMMISSIONER ZUNIGA: I think it's
16 assumed.

17 COMMISSIONER MCHUGH: I think
18 everybody is saying the same thing. We need
19 facts, but we also need to figure out how to
20 separate what was taken into account in reaching
21 agreements from what is unexpected.

22 There may be some presumptions that
23 we create to help us do that. There may be
24 other ways to do it. But it's something that

1 needs more thought as we go forward.

2 MR. ZIEMBA: Commissioners, we'll
3 have a number of meetings where we talk about
4 the 2016 Community Mitigation Fund. We hope to
5 have the advice of some significant
6 professionals on this matter and the advice
7 hopefully from most of the communities that are
8 directly impacted. We are working to achieve
9 that and get the best advice to the Commission.

10 Finally, we have a request for
11 \$98,500 for local planning needs out of West
12 Springfield's reserve. This would include
13 specialized legal counsel services to assist in
14 the connection with baseline study process,
15 ongoing negotiations with the developer and
16 related matters. This also includes \$18,500 to
17 cover studies undertaken by GPI on baseline
18 traffic volumes.

19 I recommend this request. I believe
20 that it is within the purposes that we
21 established under the reserve. The reserve was
22 created with the expectation that communities
23 could make determinations on how to best utilize
24 the reserve provided that it is for the purposes

1 under which we have established the reserve.

2 And further, West Springfield has
3 met its obligations to consult with the regional
4 planning agency, Pioneer Valley Planning
5 Commission, and including using GPI which was
6 the traffic consultant at the PVPC utilized when
7 it studied the regional impacts on traffic.

8 West Springfield has also expended
9 very significant town resources on planning
10 related to the MGM facility. And notes that it
11 will continue the need to expend significant
12 planning resources to deal most effectively with
13 its new neighbor. In that regard, I recommend
14 this use of the reserves.

15 CHAIRMAN CROSBY: Okay. I haven't
16 actually heard anybody objecting to any of these
17 recommendations. Maybe we can do it in one
18 motion. Commissioner Zuniga?

19 COMMISSIONER ZUNIGA: Sure. I move
20 that the Commission agree to the recommendations
21 set forth by Ombudsman Ziemba on the community
22 mitigation requests submitted by Medford,
23 Revere, Somerville, Springfield and West
24 Springfield in the manner contained in here the

1 packet.

2 CHAIRMAN CROSBY: Second?

3 COMMISSIONER STEBBINS: Second.

4 MR. ZIEMBA: Commissioners, there is
5 one other item that I did skip. There is a
6 request for the Western Mass. Correctional
7 Alcohol Center this year. They are still in the
8 process of trying to finalize arrangements for a
9 permanent facility. And I recommend that we
10 hold on any action on that application.

11 COMMISSIONER STEBBINS: That doesn't
12 need to be included in the motion.

13 MR. ZIEMBA: No.

14 CHAIRMAN CROSBY: Any further
15 discussion? All in favor, aye.

16 COMMISSIONER MCHUGH: Aye.

17 COMMISSIONER CAMERON: Aye.

18 COMMISSIONER ZUNIGA: Aye.

19 COMMISSIONER STEBBINS: Aye.

20 CHAIRMAN CROSBY: Opposed? The ayes
21 have it unanimously.

22 COMMISSIONER MCHUGH: Could I ask
23 one question before we move onto another topic?
24 Why does the gaming operator have a say in these

1 requests? This money is not coming out of their
2 pocket. And that's the basis for my question.
3 We probably discussed this before and I
4 apologize.

5 MR. ZIEMBA: No problem. We are
6 very interested to see what the opinion of the
7 licensee is. It's similar to what we did under
8 the surrounding community petitions where we
9 asked for their opinion regarding whether or not
10 a community's application would rise to a
11 surrounding community. And that they can
12 provide valuable information regarding the
13 context of the negotiations that they had with
14 each of the communities on items that are
15 included in the surrounding community
16 agreements.

17 COMMISSIONER MCHUGH: The
18 surrounding community status had a direct impact
19 on their pocket, because if the answer was yes
20 the entity, the town, the city was a surrounding
21 community then a surrounding community agreement
22 voluntarily or through arbitration was in the
23 offering. That's not true here.

24 And I can see as we go forward that

1 their information that they provide about what
2 negotiated items were on the table when the
3 surrounding community agreement was reached
4 would be helpful in deciding whether or not this
5 was anticipated or unanticipated. Yet it also
6 seems to me that their incentive to say that it
7 should not be funded is very low. Again, that
8 was the basis for my question.

9 COMMISSIONER ZUNIGA: I wonder if
10 this could be a matter of recourse from the
11 surrounding community if somehow they felt that
12 their application to the Community Mitigation
13 Fund was denied unjustly, could they turn around
14 and go back to the surrounding community
15 agreement and then try to reopen that?

16 COMMISSIONER MCHUGH: I really don't
17 want to open that door.

18 COMMISSIONER ZUNIGA: Perhaps that's
19 an incentive from the applicant to say yes to
20 everything.

21 COMMISSIONER MCHUGH: I guess this
22 is just another aspect of thinking through how
23 this is going to operate down the road rather
24 than trying to deal with abstractions here.

1 We've done enough for today.

2 MR. ZIEMBA: With that I guess I
3 conclude my report.

4 COMMISSIONER CAMERON: Thank you.

5 COMMISSIONER ZUNIGA: Thank you.

6 CHAIRMAN CROSBY: Why don't we take
7 a break.

8

9 (A recess was taken)

10

11 CHAIRMAN CROSBY: We are ready to
12 reconvene Director Day and General Counsel Blue,
13 you are up.

14 MS. BLUE: The first item on your
15 list in this section is an update on the MGM
16 Section 61s. What I would like to do is give
17 you a brief update on the process as we have
18 been putting it together.

19 Executive Director Day and Ombudsman
20 Ziemba and I have been working to set up the
21 process so we can efficiently get the Section
22 61s in place as soon as possible. On the basis
23 of our discussions, and we have had discussions
24 with MGM, the process is set up to go, in

1 general so that each Commissioner who had their
2 evaluation group for the RFA-2 process will be
3 looking at that particular section along with
4 the consultant for that section, and looking at
5 the project as it is now and anything that may
6 have changed or anything that may have been
7 added.

8 So, for example when it comes to
9 traffic, we will ask our traffic consultants to
10 look at how the traffic statistics and the data
11 now how that compares with the Section 61s that
12 were included in the MEPA filings, building and
13 site design similar. HLT will be looking at
14 financial analysis, will be looking at some jobs
15 impacted. The idea would be that each of the
16 consultants reviews those particular areas,
17 meets with the Commissioner that had that area
18 to discuss with them and see if there are any
19 changes.

20 Along the parallel track, we have a
21 draft set of Section 61s. I will be making some
22 changes to those to update those. And we will
23 also include any recommendations that the
24 consultants may have as well.

1 Once those Section 61s are in a good
2 draft form, we will share them with MGM, take
3 comments from MGM. And then we'll bring them to
4 the Commission for their review, discussion and
5 final approval for filing.

6 And if you remember from the
7 Plainridge Section 61s, there is a filing period
8 for roughly two weeks where they go out for
9 public comment. Then they come back to the
10 Commission. The Commission reviews them again.
11 They get incorporated -- They get finalized and
12 incorporated as a condition of licensure.

13 These Section 61 Findings -- all of
14 them are slightly different, but these have two
15 components that are important to remember. The
16 first is that the MOA with Mass. Historic will
17 be incorporated into the Section 61s. So, we
18 will need to have that completed.

19 The second will be that we will
20 incorporate by reference the Section 61s from
21 MassDOT. We are hopeful we will have them
22 before we can finalize the process, but if we
23 don't, we will talk about ways to incorporate
24 them if they come in later.

1 You'll remember from Plainridge we
2 did have them. So, we incorporated them all by
3 reference. So, that's the overview of the
4 process. We will tweak that as we go along. We
5 will get any information that we need.

6 We would like to get these done
7 quickly and efficiently but we are cognizant
8 that we may need information that isn't
9 available yet. So, we may have to wait for some
10 of that. So, that's the general overview of the
11 process.

12 COMMISSIONER MCHUGH: Well, that
13 sounds like an excellent process. Are we going
14 to deal with this in two-week chunks the way
15 Ombudsman Ziemba was talking about before in a
16 related matter?

17 MS. BLUE: I think we will, because
18 some of the information that he's working on is
19 information that we'll need for this process
20 too. It's something of a parallel process
21 between the two. But we will try to get ours
22 moving along as quickly as we can.

23 COMMISSIONER MCHUGH: Yes, I would
24 really like to get this wound up as expeditious

1 as we can, because it's not until then that
2 construction can start. Even if there is a
3 delay in construction for reasons -- not a
4 delay, but even though construction isn't going
5 to start the day after the Section 61s are
6 finalized, it seems to me it'd be useful for
7 everybody to have that piece done and let the
8 rest of the things take their course so that
9 this is not interfering with other plans that
10 are developed as we move forward.

11 CHAIRMAN CROSBY: Other questions or
12 comments?

13 COMMISSIONER CAMERON: Thank you.
14 It sounds like a solid plan.

15 MS. BLUE: Thank you. We have two
16 amendments to regulations that are in your
17 package. What you have in your package are
18 amended small business impact statements.

19 These are amendments to -- the first
20 one is to 205 CMR 134, the licensing and
21 registration of employees. The amendment to
22 this section, it was so we could allow workers
23 from other facilities that are owned by the
24 licensee to come in for a limited period of time

1 to act as mentors to help get things up and
2 running without having to go through our
3 licensing process.

4 So, we have the amended small
5 business impact statement for that. We did hold
6 a hearing. So, all we would need is the
7 Commission to approve us moving this forward to
8 the promulgation process. We'd file it and then
9 get that implemented. And you could probably
10 vote on the both of them together. So, we'll do
11 the two of them together.

12 The second amendment we have is to
13 our regulation 205 five CMI 102. This is our
14 general variance regulation. The only change
15 we're making is to change the numbers of the
16 regulations.

17 So, when we drafted this initially,
18 we said you could grant variances from 205 CMR
19 101 through 131. We have way more than 131 now
20 in terms of regulations. So, we are drafting it
21 to say anything in 205 CMR the Commission can
22 after consideration grant a variance to that.

23 We do have some regulations, and I
24 think I want to just draw this to your

1 attention, we have some regulations that can't
2 be varied. And that comes through language that
3 says the applicant or licensee cannot ask for a
4 variance. And that's particularly true in the
5 credit regulations.

6 So, this will not allow a variance
7 for the credit regulations. Variances cannot be
8 requested to certain sections of the credit
9 regulations. So, that concern was raised to me
10 earlier. This will not impact -- this change
11 will not impact that.

12 COMMISSIONER ZUNIGA: And that
13 variance restriction is embedded in those
14 regulations.

15 MS. BLUE: It is. If you go look at
16 205 CMR 138.43 that's our credit regulation. It
17 has language that actually states in 138.02 it
18 says a gaming licensee may not seek a variance
19 from any provisions of 205 CMR 138.40, to
20 138.47. And that includes all of the credit
21 regulations as well as the ATM regulations.

22 And they can't ask for a temporary
23 variance either. So, there's a separate section
24 that says they can't request a temporary

1 variance.

2 COMMISSIONER MCHUGH: Yes. I think
3 it's really important to emphasize that. We
4 worked very hard with the Attorney General's
5 office and got their advice on those credit
6 regulations. And we want those credit
7 regulations to stay in place.

8 And nothing in this regulation --
9 One could somehow argue that a variance
10 regulation, a broad variance regulation would
11 allow us to grant a variance from the regulation
12 that says you can't get a variance, but that is
13 not what this is doing. And we're not going to
14 interpret it that way. So, that ought to be
15 crystal clear notwithstanding our adoption of
16 this regulation.

17 MS. BLUE: Yes. So, I would ask
18 that the Commission vote to approve both amended
19 small business impact statements and to
20 authorize the legal department to take both of
21 these through the final promulgation process.

22 COMMISSIONER STEBBINS: Mr. Chair, I
23 move that should Commission approve the amended
24 small business impact statement for 205 CMR 134

1 and 205 CMR 102 and authorize the legal
2 department to take the necessary steps in
3 regulatory promulgation processing.

4 CHAIRMAN CROSBY: Second?

5 COMMISSIONER CAMERON: Second.

6 CHAIRMAN CROSBY: Further

7 discussion? All in favor, aye.

8 COMMISSIONER MCHUGH: Aye.

9 COMMISSIONER CAMERON: Aye.

10 COMMISSIONER ZUNIGA: Aye.

11 COMMISSIONER STEBBINS: Aye.

12 CHAIRMAN CROSBY: Opposed? The ayes
13 have it unanimously.

14 MS. BLUE: Thank you. That ends my
15 report.

16 CHAIRMAN CROSBY: Thank you all.
17 Director Day?

18 MR. DAY: That's it.

19 CHAIRMAN CROSBY: Motion to adjourn?

20 COMMISSIONER CAMERON: So moved.

21 CHAIRMAN CROSBY: All in favor, aye.

22 COMMISSIONER MCHUGH: Aye.

23 COMMISSIONER CAMERON: Aye.

24 COMMISSIONER ZUNIGA: Aye.

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COMMISSIONER STEBBINS: Aye.

CHAIRMAN CROSBY: The ayes have it
unanimously.

(Meeting adjourned at 12:25 p.m.)

1 ATTACHMENTS:

- 2
- 3 1. Massachusetts Gaming Commission July 9,
4 2015 Notice of Meeting and Agenda
- 5 2. Massachusetts Gaming Commission June 25,
6 2015 Meeting Minutes
- 7 3. Eide Bailly Presentation - Massachusetts
8 Gaming Commission Executive Briefing
9 Progress Update - Internal Control
10 Consulting July 2015
- 11 4. Massachusetts Gaming Commission July 9,
12 2015 Memorandum Regarding Temporary Key
13 Gaming Employee Licenses Issued
- 14 5. Massachusetts Gaming Commission 7/6/2015
15 Estimated Region C Category 1 Timeline
- 16 6. Massachusetts Gaming Commission July 7,
17 2015 Memorandum Regarding 2015 Community
18 Mitigation Fund Specific Impacts Requests
19 and West Springfield Community Mitigation
20 Reserve Fund Request with attachments
- 21 7. MGM Springfield June 30, 2015 Presentation
22 on Massachusetts Historical Commission
23 with attachments
- 24

1 8. 205 CMR 134 Amended Small Business Impact
2 Statement and 205 CMR 102 Amended Small
3 Business Impact Statement
4

5 GUEST SPEAKERS:

6 Caesar Ibarra, Eide Bailly

7 Jennifer Pinck, Pinck and Company
8

9 MASSACHUSETTS GAMING COMMISSION STAFF:

10 Catherine Blue, General Counsel

11 Richard Day, Executive Director

12 Derek Lennon, CFAO

13 John Ziemba, Ombudsman
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C E R T I F I C A T E

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

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

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

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

WITNESS MY HAND this 14th day of July, 2015.



LAURIE J. JORDAN
Notary Public

My Commission expires:
May 11, 2018