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THE COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION

OPEN MEETING

CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

Gayle Cameron

James F. McHugh

Bruce W. Stebbins

Enrique Zuniga

JULY 10, 2012, 1:00 p.m.

OFFICE OF THE DIVISION OF INSURANCE

First Floor, Hearing Room E

1000 Washington Street

Boston, Massachusetts

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JULY 10, 2012

PROCEEDINGS:

CHAIRMAN CROSBY: Why don't we call Mass. Gaming Commission public meeting number 15 to order on July 10. We will start out with item two with approval of the minutes for July 2. Commissioner McHugh?

COMMISSIONER MCHUGH: I distributed those minutes, Mr. Chairman, late last night. If everybody has had a chance to read them, we can address them now. Otherwise, we can address them next week. Comments welcome.

COMMISSIONER ZUNIGA: I have a comment, Mr. Chairman. On page two towards the middle of the page right after the second motion I would like for consideration that the minutes reflect that Commissioner McHugh asked whether there was any reason to prequalify on the second-highest rank firm to which I responded just the way the paragraph reflects.

In other words, I made a motion to prequalify the second-highest ranked firm. Commissioner McHugh asked the question as to whether there was any reason not to prequalify three firms, which was essentially -- my response is reflected here. It is all correct. But it was prompted by that question, which I

1 believe is relevant for the minutes to reflect.

2 CHAIRMAN CROSBY: Okay.

3 COMMISSIONER STEBBINS: I just have one
4 change on page six. Third paragraph about the Western
5 Mass. forum just spelling correction to Senator Candaras'
6 name.

7 COMMISSIONER MCHUGH: Yes, I've got that
8 one. Thank you.

9 CHAIRMAN CROSBY: Any others?

10 COMMISSIONER CAMERON: No changes.

11 COMMISSIONER MCHUGH: I move that with
12 those corrections, the spelling correction and correction
13 suggested by Commissioner Zuniga that minutes of the July
14 2 meeting be approved.

15 COMMISSIONER CAMERON: Second.

16 CHAIRMAN CROSBY: All in favor? I.

17 COMMISSIONER ZUNIGA: I.

18 COMMISSIONER MCHUGH: I.

19 COMMISSIONER STEBBINS: I.

20 COMMISSIONER CAMERON: I.

21 CHAIRMAN CROSBY: Opposed? Okay, the I's
22 have it. Item number three, administration, the
23 executive search firm update, Commissioner Zuniga?

24 COMMISSIONER ZUNIGA: Thank you, Mr.
25 Chairman. As per last meeting, we approved JuriStaff to

1 help us with the executive search of the Executive
2 Director. We have invited them to come and introduce
3 themselves. Jim and Elizabeth are here, if you wouldn't
4 mind.

5 CHAIRMAN CROSBY: Hello. Do you want to
6 introduce yourselves?

7 MR. LAROSA: Jim Larosa with JuriStaff.

8 MS. RUMAIN: Jennifer Rumin also with
9 JuriStaff.

10 CHAIRMAN CROSBY: Jennifer?

11 MS. RUMAIN: Yes.

12 COMMISSIONER ZUNIGA: Jennifer, I'm sorry.
13 By way of introduction, we had a small conversation
14 relative to inviting them here to introduce themselves,
15 to have an opportunity of this Commission to ask questions
16 or have an opportunity of our consultants to ask questions
17 specifically relative to the next steps for this
18 Commission.

19 CHAIRMAN CROSBY: From my memory, there
20 were a couple of things. One was we were just interested
21 in meeting you and get started talking about the process
22 and have a chance to interact with you in a public format
23 of all of our thoughts.

24 And sort of a subset of that is coincidentally
25 our other consultants, our gaming consultants are here

1 today. If you haven't already had a chance to make
2 connections with them, they are very, very knowledgeable
3 about the industry. They know everybody in the industry.
4 They have volunteered to help get you and us in contact
5 with leads and so forth. Have you met them already?

6 MR. LAROSA: No, we have not.

7 CHAIRMAN CROSBY: They will be introduced.
8 I think they will be real helpful and can help us move the
9 process along.

10 The second issue was to talk about the
11 subcommittee idea, right? Maybe let's start out by
12 getting a quick overview from you on what the process is.
13 And I am sure we all have thoughts to contribute to that.

14 MR. LAROSA: I will start it. First of
15 all, thank you for the opportunity. I think we understand
16 the corresponding priorities of finding the most
17 qualified candidate but also this position is of high
18 importance to you and you would like to move as quickly
19 as possible, keeping in mind that you get the most
20 qualified candidate for the position.

21 In terms of kind of how we kind of proceed,
22 truthfully a lot of that will come from talking to you
23 folks more. The next step for us really is to have an
24 opportunity to learn more about what you envision this
25 position to be. Learn more about what you expect in

1 candidates for this position and a lot of discussions
2 regarding that. Talking about the organizational chart
3 a bit and what the job duties will be and who the Executive
4 Director will oversee in their job functions.

5 Whatever you guys think is the best forum
6 to sit down with either all or some of you or the
7 consultants to learn as much as we can about the position.
8 At that point we would put together a job description that
9 we have put together from talking to you, pass it onto you
10 and have you guys approve it.

11 We don't want to go out to the world and
12 start talking to folks on your behalf without you guys --
13 without the Commission having signed off on what in fact
14 it is you want us to say and how you want us to present
15 this position.

16 Really, at this point I think we would look
17 for an opportunity to get more information about how you
18 envision -- what you envision this position to be. At
19 that point, like I said, we will draft a position
20 description, get approval from the Commission and then
21 from there go out and start to talk to people on your
22 behalf. Jennifer, did I miss anything?

23 MS. RUMAIN: Our hope is to get a better
24 sense as we discussed earlier with Commissioner Zuniga
25 about the organizational structure, the governing

1 structure of the Gaming Commission as well as the
2 interview process.

3 CHAIRMAN CROSBY: Lets all interact with
4 that. I will just throw in this. It is just my own
5 personal thoughts. First of all, there has been a draft
6 job description done already that you've I guess seen. It
7 came from the consultants.

8 There are a number of iterations of
9 organizational charts floating around. They aren't all
10 that difference. They all pretty much look the same.
11 There is one substantive issue, because our legislation
12 has the person in charge of the Bureau of Investigation
13 and Enforcement reporting to the Chair, we have kind of
14 presumptively suggested that I will delegate that back to
15 the Executive Director. But that is the only place where
16 I see a really big substantive question in the job
17 description.

18 You should avail yourselves of the
19 expertise that has already been floating around and don't
20 create this whole cloth.

21 Here is where I'm just speaking for myself.
22 I don't see the need to stand on principle. I think that
23 the people in the industry know what an Executive Director
24 of a regulatory agency in a state does, basically.

25 Yes, we should absolutely fine-tune the job

1 description. We should absolutely fine-tune the written
2 material that is typically behind a search and all of that
3 kind of stuff. But I don't see why we wouldn't start to
4 reach out right away.

5 So, you begin the process of ginning up
6 leads and getting the word out immediately. By the time
7 you get the job description formally approved by us, maybe
8 if we're lucky there will start to be a flow of
9 recommendations and stuff. That is just me speaking, if
10 anyone disagrees with that.

11 MR. LAROSA: In response to that, maybe the
12 formal job description is not as necessary, but I think
13 further conversations just about what you envision this
14 position to be.

15 Again, I understand that in general there
16 are other Executive Director positions within the gaming
17 industry. But typically from our experience, when you
18 have the opportunity to speak to strong candidates for a
19 position, they typically in the first conversation are
20 going to have fairly pointed questions about the position.
21 How big is the staff? What is my budget going to be? What
22 do you envision this -- In two years how will this look?
23 Tell me about the relocation package.

24 Our experience has been the more
25 information we have in that first phone conversation, the

1 better chance we have to keep good candidates in the mix.
2 Our preference is not to have to have an early
3 conversation, not have the answers and then have to go get
4 them and then have to go back to the person.

5 Again, in our experience, sometimes you
6 don't get the person again. We would like to have as much
7 information as we can from the very first conversation.
8 We found typically that is how we get good candidates
9 engaged quickly.

10 CHAIRMAN CROSBY: That is very helpful. I
11 appreciate that. What you are hearing is the tension that
12 we constantly have between moving quickly on the one hand
13 and due deliberations on the other. To the extent that
14 those two things can be combined that you can have people
15 on your behalf like our consultants out tilling the field
16 a little bit, if that's helpful, great. Bottom line is
17 we are asking you to do this job and do it right. Don't
18 let us push you out of the best way to do that.

19 COMMISSIONER CAMERON: Comment, would it
20 be helpful if you provided us with a document of critical
21 information that you think it would be necessary to move
22 forward? And we can as quickly as possible look to get
23 that research done and provide you with answers. Is that
24 the best way to move forward?

25 MR. LAROSA: We can do it that way.

1 Typically, I will tell you how we do it in other searches.
2 If you appoint one person or a couple of people to be the
3 point person to assist us. If that is going to take time,
4 we will bypass that.

5 Typically, it really would just be a
6 telephone call if not a face-to-face meetings with us just
7 sitting down and discussing what the position really --
8 We know the types of questions we are going to get. They
9 may seem really even unimportant at this stage, but for
10 some people it is important.

11 What is my office going to look like? Where
12 are my kids going to go to school? A lot of questions that
13 we know we will get early on. The big question that I
14 would anticipate that we would get in this type of position
15 where we are looking at Executive Directors that maybe in
16 a similar position in another state would be the
17 transferability of benefits.

18 Jennifer has already done some research on
19 Executive Directors at other gaming commissions. It
20 appears that a lot of them have been employed by their
21 particular state for a number of years. They come up
22 through the state system and now they are in an Executive
23 Director position.

24 What we found in the past, one of the driving
25 questions for them right out of the gate is will I be able

1 to bring my pension? We don't like to stumble over those
2 questions. If we can have as much of that information at
3 our fingertips in the beginning will help us.

4 It really could just be a telephone call
5 with whoever you say here is somebody. Call them at 10:00
6 tomorrow morning and ask them all of your questions. Then
7 we can follow it up with an email or however. Just getting
8 a little bit more information than we have right now would
9 really help.

10 COMMISSIONER CAMERON: Mr. Chair, I think
11 this is critical that we move as quickly as we can on this
12 matter. I am again going to recommend that we trust one
13 Commissioner to move forward working with the consultants
14 and provide that information and be the point of contact.
15 And also be the person who works in conjunction with our
16 gaming consultants, who are very, very knowledgeable and
17 frankly, I believe, helpful in identifying strong
18 candidates.

19 I have had the opportunity to work with
20 Commissioner Stebbins in conducting interviews. I
21 thought he was superb. I am just going to throw his name
22 out there to recommend him for this assignment. I didn't
23 get kicked under the table either.

24 COMMISSIONER MCHUGH: I do think we need to
25 move as quickly as is consistent with getting you the

1 information you need to attract substantial candidates
2 for consideration.

3 I think that a thought before we make the
4 final decision about whether we have a single Commissioner
5 or whether we appoint a subcommittee to do that, we need
6 to do a little bit further inquiry.

7 We need to do a little bit further inquiry
8 primarily with respect to the degree to which we can
9 confidently assure unsuccessful candidates who would not
10 enter the pool without an assurance of confidentiality
11 that they will have that confidentiality.

12 If we have a single Commissioner -- This is
13 apart from the desirability of having a single person as
14 opposed to subcommittee of two. If we have a single
15 Commissioner then we have a certain set of principles that
16 applies. Those are basically the principles that flow of
17 Freedom of Information Act.

18 If we have a subcommittee, then we have a
19 different set of principles that apply from the Open
20 Meeting Law and from the protections that are afforded for
21 executive session deliberations under the Open Meeting
22 Law. The question at least in part for me is which
23 provides the stronger guarantee.

24 We have talked with our Counsel about that.
25 We have got an opinion from our Counsel. I would very much

1 like to draw up sort of a profile of the two procedures
2 and then get some advice from state administrators as to
3 what those profiles look like. It would not take very
4 long.

5 And what if anything they can tell us about
6 the guarantees and the extent of the guarantees of
7 confidentiality that would flow from both of those. We
8 can do that very quickly, I think. And while we are doing
9 that we can proceed with the information gathering and
10 delivery of information and do in public session the kind
11 of approvals of the job description that flows out of this
12 and the like over the next week or so and then be set to
13 go with some assurance that we know with a high degree of
14 confidence that we say we can deliver on.

15 So, I would recommend that we delay the
16 decision as to whether we have a single Commissioner or
17 a subcommittee involved in this until we make that
18 determination and get that advice.

19 CHAIRMAN CROSBY: Is there any reason why
20 we can't do both? Couldn't we suggest -- We do want a
21 point person whether we have a subcommittee or not. I
22 would think we want a point person on the Commission to
23 be the contact person. And we want a point person to be
24 responsive to whatever the series of questions are.

25 COMMISSIONER MCHUGH: I'm sorry. I did

1 not mean to negate that.

2 CHAIRMAN CROSBY: So, we could appoint a
3 Commissioner right now to be the point person. Then while
4 the ball is rolling, we can consider whether we add on to
5 him or her a subcommittee.

6 COMMISSIONER MCHUGH: That is perfectly
7 consistent.

8 COMMISSIONER CAMERON: I would just like to
9 caution us that we not take very much time with this
10 decision because Commissioner Zuniga asked me to
11 participate with him in interviewing search firms. And
12 the overarching message was we would need to know that
13 information early because candidates will need to know
14 that right away. They will make a decision.

15 It was the opinion especially of this firm
16 that we would get far fewer candidates, frankly, if that
17 information was subject to indecision about whether or not
18 it would become public information.

19 I just would urge us to make a decision
20 quickly so that the process is not held up.

21 COMMISSIONER MCHUGH: We are not saying
22 different things, Commissioner. I envision this to be a
23 quick process. I do think that we do need to be able to
24 assure ourselves that what we are saying to the candidates
25 is so. And I am not there yet. Until we have that degree

1 of confidence that what we say is what we can deliver on,
2 I think we can't reach out to people and potentially
3 mislead them.

4 MR. LAROSA: A couple of points I would like
5 to address on the issue. First of all, I would agree
6 Commissioner Cameron that it is we think important to be
7 able to let the candidates know that their name will not
8 be released, especially obviously the candidates who are
9 currently working. They would tend not to throw their hat
10 in the ring, so to speak, if the public information would
11 get out.

12 Another point, it doesn't really prevent us
13 from starting talking to people. He can talk to people
14 and let them know. We can start to talk to them and let
15 them know if we don't know at that point, we can say as
16 soon as we can confirm with you that the information will
17 be held, we will pass your name on. But that doesn't
18 prevent us from at least starting to see who is interested.

19 From the perspective, even if it takes you
20 guys a little bit more time than you would like, we will
21 continue to talk to people once we have all of the
22 information.

23 The other point of clarification, I guess,
24 that I would like from the Commission is my understanding
25 in reading the Open Meeting Law is that once you get it

1 down to however many you determine to be a couple of
2 finalists, at that point it does have to come out. That
3 was -- I know I read the information about the University
4 of Massachusetts situation. In that situation they went
5 ahead and made the decision without ever revealing the
6 candidates' names.

7 As much as we can know about that, because
8 at some point even in the preliminary discussions the
9 names will not be released. But at some point if they
10 become a finalist, their name is going to have to be come
11 out and made public. As much as we can learn about that
12 because we want to let the candidates know at what point
13 in the process that will be and what that will entail. So,
14 any information we can get on that would be helpful.

15 COMMISSIONER STEBBINS: Just a quick
16 clarification, you opened by talking about the fact that
17 by not having a concrete process in place somewhat
18 inhibits who you can talk to and whether you re-engage that
19 person or not.

20 But you just kind of followed it up with
21 saying there is some stuff we can do. And that we can
22 begin to talk to people. I'm just balancing those two
23 out.

24 MR. LAROSA: It would be very good for us to
25 have as much information as we can about this position and

1 the things I was talking about, the relocation expenses
2 or benefits and so forth so we can have a discussion.

3 We can have that discussion with someone and
4 say listen at this point the preliminary stages your name
5 may have to be opened in the public. We are hoping it
6 won't be, but what we are doing right now is having a
7 preliminary discussion with you to see once we are sure
8 that your name will be held out of the public until a
9 certain point, we wanted to have a conversation with you
10 first, tell you everything we know about the position to
11 gauge your interest in this opportunity.

12 That way once you give us the green light,
13 yes, we are going to have one Commissioner. It is going
14 to not be public information, we may have a few people
15 already that we can go back to.

16 I still wouldn't want to have that first
17 conversation without a little bit more of the other
18 information that we talked about before. If we have that
19 information about the position itself, we can go talk to
20 people, let them know what the situation is and at least
21 gauge their interest and come back to them when we know
22 definitively.

23 COMMISSIONER STEBBINS: Let me ask your
24 thoughts just quickly on professional advertising of such
25 a position. Obviously, there are industry documents or

1 industry publications. I would imagine there's a certain
2 level of people in the industry aware that Massachusetts
3 passed a law. Then looking for an Executive Director
4 called for in the legislation. Some publicity around
5 your selection as the firm.

6 Tell me where you kind of see advertising
7 or the requirement or need for advertising kind of fitting
8 into your recruitment strategy.

9 MR. LAROSA: I think advertising is
10 something that we typically use all of the time. I would
11 say depending on the search.

12 I'd say in a search like this, probably 50
13 to 75 percent we are probably not going to get the person
14 from an ad. It is going to be from us reaching out.
15 Because the folks that are responding to the ads
16 oftentimes they know -- They are not really sure unless
17 we say something in the ad that it is coming to us directly.
18 There are confidentiality concerns that they have.

19 That being said, we typically will get
20 candidates that are worth talking to. We may find that
21 the candidate you select from that ad. I do think it is
22 a useful tool to do. And it also is a marketing device,
23 in essence, where somebody may not respond to that ad, but
24 if we reach out to them, they are aware of it through the
25 ad.

1 Typically, the way the ad would work would
2 be the information would come to us. And at that point
3 we can tell them whether or not their name was going to
4 be open to public record. Again, we can talk to you about
5 what you want in the ad, any information about whether it
6 would be public or not public at the preliminary stage.
7 I would say that we would definitely want to run the ad
8 and see what we got from the ads.

9 CHAIRMAN CROSBY: Our consulting team I
10 think would have pretty good ideas about whether and where
11 to advertise. You need a nitch.

12 COMMISSIONER ZUNIGA: One of the questions
13 that Jim was asking me prior to this as we were sort of
14 thinking through formalizing our contractual
15 relationship were things that I think should be brought
16 up here and talked about, or maybe we can table them for
17 that point person. A couple of those were relative to the
18 relationship between that Executive Director and the
19 Commission that in this case a full-time Commission that
20 is in start-up mode.

21 Would we be looking for an administrator,
22 somebody who is going to build up an organization? I was
23 confirming that we are all assuming that all policy
24 decisions or the important policy decisions are made at
25 the Commission or affirmatively delegated to that

1 Executive Director.

2 Issues around those questions I think are
3 relevant. If you had additional thoughts on that or
4 anybody else wanted to weigh in.

5 MR. LAROSA: I would just add that was kind
6 of what I was -- Some of the nuances of the position are
7 the questions that we get from candidates. Obviously, in
8 this situation you have five full-time Commissioners that
9 are very involved in driving the agenda.

10 There will be certain candidates that we
11 speak to that will say I really like where I am. But if
12 it was an opportunity where I could go and really be the
13 driving force, set the agenda and so forth then I would
14 really be interested or the opposite.

15 Those are the types of questions that it is
16 good for us to either have the answer to be able to reach
17 out to somebody really quickly and say we have got somebody
18 we are speaking to. They expressed some preliminary
19 interest. But it is really a waste of everybody's time,
20 the candidates and yours, to talk to candidates that in
21 the end is not what they are looking for.

22 The more of that kind of information --
23 another question, I was speaking to Commissioner Zuniga
24 about was we have seen in Executive Director positions
25 some look at it as really looking for someone that is a

1 driver or a leader versus a manager or an administrator.
2 There really are two different types of personalities.
3 And there are two different types of experience levels.

4 If what you are looking for is someone that
5 their main function is going to be a manager and an
6 administrator, someone who has been a driver of
7 initiatives and agendas and really passed that off to
8 someone else would really not be the best fit.

9 So, we would want to know as much about those
10 types of nuances of the position as we can to help you find
11 the best candidate that will in the long-term stay in the
12 position and be the best suited for the position.

13 COMMISSIONER MCHUGH: In other searches,
14 not many, but the few that I have participated in, this
15 process resulted from discussions between the search team
16 and a number of people in the organization, in one case
17 at all levels. Would it be valuable given the constraints
18 of the need to move swiftly, the constraints of the Open
19 Meeting Law to spend some time with each of us and see if
20 there is consistency? And bring to another one of these
21 meetings places where we need decision points and
22 harmonize philosophical approaches to the job and other
23 kinds of things like that

24 MR. LAROSA: To your point, Commissioner
25 McHugh, and I started with saying that I know there really

1 are corresponding or dueling priorities here which is
2 getting the best candidate but also expedience.

3 To your point, Commissioner, typically that
4 is how we do it. We get as much information as we can
5 upfront. And oftentimes it will require almost kind of
6 a sit-down interview with a few people. Something I
7 brought up with Commissioner Zuniga last week was I asked
8 him is there a consensus on certain issues? Because that
9 is where we have seen where time has not been put into the
10 process early, what we have seen happen breakdown is when
11 you get deep into the interview process is the first time
12 that all of the parties that have to make the final
13 decision really discuss what it is we are looking for in
14 this candidate.

15 And you get candidates all of the way to the
16 finish line and you cannot get agreement amongst the
17 parties that have to make the decision because they never
18 really talked about it until that day. And I have seen
19 that happen many times.

20 Our preferred way of doing it is to talk to
21 folks. And we have had situations where we walked away
22 from searches because I felt there wasn't much chance of
23 success because we had a group of people that were so
24 diametrically opposed in what they thought about that
25 candidate in the successful candidate. I said, you guys

1 have got to get back to me when you are all on the same
2 page. What is going to happen is you are going to get into
3 that final decision and you are going to say I need a
4 manager and I need a leader. Or it could be some other
5 issue. And you can't come to a consensus.

6 While it may slow process down or appear to
7 slow the process down at the beginning, doing that heavy
8 lifting upfront oftentimes makes it smoother on the
9 backend. What is really discouraging is to get all of the
10 way to the finish line and not be able to come to a
11 consensus or have two of the five of you or three of the
12 five of you not really on board or feel confident about
13 the decision.

14 Again, you hired us, so we will take our lead
15 from you. You say the most important thing is start
16 talking to people and get people in front of us as soon
17 as possible then that is what we will do. Like I said,
18 the more information we can have on a lot of these -- it
19 will take separate discussions outside of here to kind of
20 nail some issues down. I think in the long run that it
21 will probably be more beneficial.

22 COMMISSIONER ZUNIGA: To that end, both
23 Commissioner McHugh's point and Commissioner Cameron's
24 prior point relative to the information or questions that
25 recruiters may face, could we as the next step have those

1 we are available. It would help us to talk to you folks.
2 So, outside of this meeting, I can set up time whether it
3 be this week or next week and we can do it as soon as
4 possible.

5 It's not significant amount but there is
6 definitely things that we would love to kind of talk. And
7 I think the conversation will help you guys start to think
8 about the position a little bit too and have some internal
9 discussions.

10 Again, we understand you want us to move
11 quickly and we will. We can juggle a few things at once.
12 If you can give us the time either later this week or next
13 week to have conversations whether it be face-to-face or
14 over the phone, it would help a lot.

15 CHAIRMAN CROSBY: We can definitely do
16 that. Personally, if there's anything like this issue of
17 leader or manager question, I would rather have us all talk
18 about it together. Why go through two steps of having to
19 talk to a bunch of people seriatim and then figure out
20 whether you got an issue and then deal with it.

21 I think we will give you a contact person
22 for all of the sort of factual issues. And the other
23 issues like this one, I would suggest that we just talk
24 about them as a group a little bit now if we want to or
25 you tee up the questions and we will do them next week or

1 as soon as we can.

2 COMMISSIONER MCHUGH: I think moving fast
3 is a great idea. But I also think there is some value to
4 having these folks who this is their livelihood spend a
5 little bit of time with each of us and come to some
6 assessment as to where the differences, if any, are. Then
7 come back next week and have a discussion that focuses on
8 places where there may be a fault lines or differences.

9 I think but just thinking about the process
10 that might be a much more productive discussion than
11 having a discussion in which they don't know and haven't
12 had an opportunity to see whether there are any fault lines
13 or any differences. It doesn't slow things down.

14 CHAIRMAN CROSBY: I would say that is up to
15 them. That's fine with me. If you think that is the most
16 constructive way to go about it. Let's do it that way.

17 MR. LAROSA: Okay.

18 CHAIRMAN CROSBY: Presumptively, you will
19 talk to people on an individual basis or at least a
20 selection. And try to be ready this time next week to
21 figure out whether there are issues and discuss as group
22 whatever you all think needs to still be discussed. As
23 much as you want to talk to us independently, we are
24 available.

25 This issue about leader/manager did come up

1 in an earlier meeting. And you can see the notes in the
2 minutes about it. I stepped in and my own feeling is we
3 need a really super manager. None of us is going to do
4 that.

5 The way I see it, this person is going to
6 be driving the operations of the Commission all by him or
7 herself. That's what we need somebody to do big time. It
8 is virtually the entire organization chart.

9 I see the Commissioners driving policy.
10 Obviously, over time that will evolve. But if that is a
11 meaningful distinction to people, I certainly would see
12 that distinction.

13 We are not going to be delegating policy to
14 this person. But we would love to delegate every aspect
15 of operations to this person subject to our overview.

16 So, I think this person really needs
17 tremendous management experience, needs to be a formal
18 manager. Needs to understand the gaming world very well.
19 Needs to understand performance management, performance
20 matrix, performance reviews, personnel policies, etc.
21 That is what I think the long -- inevitably that person
22 will also have leadership skills. If you need to have an
23 emphasis, that is certainly the way I would go.

24 MR. LAROSA: In terms of the people that
25 this Executive Director would be managing starting from

1 day one, what would it look like versus six months and a
2 year from now. In terms of an organizational chart, from
3 what I understand now at least, you have four staff members
4 internally but I guess those are some of questions in terms
5 of management being so important.

6 The more information about who they would
7 be managing right out of the gate and let's look six months
8 and a year down the line. And are there in terms of their
9 experience now or in the past, are there certain criteria
10 that we want them to have managed a team of 10 or 20 or
11 100. Things like that so we can kind of make sure we are
12 getting candidates that have the experience, the past
13 experience that will be most relevant to what they will
14 be doing here.

15 COMMISSIONER ZUNIGA: I will share with you
16 and point to a couple of documents our consultants have
17 already produced for us. There is a critical hires
18 consultant memorandum and a work plan. In addition to the
19 conversations that we are suggesting should take place
20 between you and our consultants could really address a
21 couple of those questions.

22 COMMISSIONER STEBBINS: I think another
23 piece of this is looking at the legislation and how the
24 legislation begins to space things out in terms of
25 licensing requirements, kind of having a document that

1 shows the ins and outs of the bill almost an executive
2 summary would probably be helpful to a candidate because
3 then they know timelines then they know operational
4 expectations going forward.

5 COMMISSIONER CAMERON: I think one of the
6 critical pieces is for the Executive Director is to do a
7 bulk of the hiring. Identifying critical staff.
8 Understanding what it is going to take for each unit to
9 be staffed properly. Understanding all of the functions
10 of which this Commission is responsible.

11 To get back to your point about a clear
12 distinction with leadership and management, I don't see
13 it as that clear of a distinction. I actually think you
14 absolutely need leadership skills.

15 We are talking about 100 or more people in
16 a start of operation, which means getting people to buy
17 into a philosophy. Policy is a different matter. But
18 leadership skills when it comes to supervising personnel
19 and getting them to buy in I think is critical. So, I
20 think very good leaders have strong management skills. I
21 agree with the Chair that the management skills have to
22 be strong. But I actually see it as both and the best have
23 both.

24 COMMISSIONER MCHUGH: I would second that.
25 I too agree with the Chair's description of the management

1 criteria, but I also think that the person we are looking
2 for has to be somebody so well-versed in the industry that
3 he/she can continue to make recommendations that will keep
4 us on the cutting edge.

5 In addition to that, can through leadership
6 skills develop a culture of high-performance and
7 integrity that we all collectively want this Commission
8 to have. That has to be part of the DNA of the
9 organization from my viewpoint. So, having somebody who
10 has the ability to create that kind of an atmosphere and
11 insist on reinforcing it throughout his or her tenure is
12 extremely important to me as well.

13 CHAIRMAN CROSBY: The last thing that I
14 would say is and this goes without saying but I will say
15 it anyway, we will put a very, very high premium on
16 diversity of our candidate pool. It is inconceivable to
17 me that we don't have women and minorities in the world
18 that would be first-rate candidates for us. So, expect
19 that standard to be met.

20 Anything else? So, I would be perfectly
21 happy to go along with Commissioner Cameron's nomination
22 of Commissioner Stebbins as the point person. So, from
23 here on out, he will parcel out questions and probably get
24 help from other staff and so forth. That will become your
25 key point of contact.

1 From now until next Tuesday, you will be
2 invited to talk to you talk to whoever you want to about
3 whatever you want to talk about. And then we will hope
4 you can come back next week with some sense about whether
5 you have a common view of what the job looks like and
6 whether there are any issues that we need to talk about
7 as a group.

8 MR. LAROSA: Great. Commissioner, if you
9 are available tomorrow morning, I will call you bright and
10 early tomorrow morning.

11 COMMISSIONER STEBBINS: Absolutely, if you
12 want to stick around, we can catch up after this.

13 MR. LAROSA: Great.

14 CHAIRMAN CROSBY: Thank you very much. We
15 appreciate it. Welcome aboard.

16 MR. LAROSA: Thank you.

17 CHAIRMAN CROSBY: Additional hires. We
18 announced Heather Fong as our receptionist. She started
19 today. I had the pleasure of announcing another staff
20 person.

21 We have felt for a long time as everybody
22 has heard that we need strong administrative staff
23 support. We have been looking for two or three months for
24 some kind of senior person who can take a big chunk of the
25 administrative role away from us, both running on the

1 couple more in the pipeline, which we hope will be able
2 to talk about soon.

3 Commissioner Zuniga, are there any internal
4 policies that we need to talk about? First, anything
5 else on additional hires?

6 COMMISSIONER MCHUGH: Commissioner
7 Cameron and I have been discussing back and forth on the
8 desirability of getting some legal assistance.

9 Commissioner Cameron is now responsible for
10 various hearings. We will hear more about that later.
11 And findings and conclusions have to be done there. There
12 are a number of other issues on the racing front that will
13 need to be addressed.

14 There are increasing numbers of legal
15 issues that we are going to confront as we move forward
16 with the regulation adoption process. We have able
17 outside counsel, but it would be helpful to have some
18 internal legal assistance as well.

19 So, I have no motion to make at this point,
20 but I think that that is a position that we ought to put
21 on a list of near-term hires. The general counsel piece
22 probably is something we ought to get teed up so when we
23 bring the Executive Director onboard so that he or she can
24 have a say in that. That is not an absolute requirement,
25 but somebody at a lower level who is good, competent and

1 aggressive would be of assistance.

2 CHAIRMAN CROSBY: I agree with that. We
3 have talked about that. As far as I'm concerned, it is
4 totally up to you all to make a recommendation whenever
5 you think the time is right.

6 COMMISSIONER CAMERON: I just want to
7 concur with Commissioner McHugh. I think independently
8 we came to this conclusion that this would be a very good
9 thing for the Commission to consider.

10 I have had a number of issues where it has
11 required some legal assistance. And moving forward, I
12 just see more and more issues that require legal
13 assistance for us to make good decisions for me to make
14 good recommendations to the Commission. I just would
15 concur that is something we should consider in the near
16 future.

17 CHAIRMAN CROSBY: Okay. Because the
18 timeline is what it is. If you can get interns or
19 work-study, that is a little different. But for hires,
20 the process is such if you want to do it soon we need to
21 get -- the sooner the better for a recommendation I think
22 if that's what you want to do.

23 It is interesting. Did we lose JuriStaff?
24 Yes, I guess we lost JuriStaff. We talked about direct
25 reports to the ED. We talked a little bit about maybe the

1 Director of Communications might have sort of a mixed
2 relationship and report a little bit to the Commission.
3 But the general counsel will be another such question that
4 we need to think through. What is that reporting?
5 Because so much of the Commission's work will be the
6 Commissioners work.

7 COMMISSIONER MCHUGH: Right.

8 CHAIRMAN CROSBY: 3C, discussion of MGC
9 internal policies, anything on the table here?

10 COMMISSIONER ZUNIGA: The latest update is
11 I have finished drafting all chapters, the last of the six
12 chapters of the policies. They came from different
13 sources. So, I didn't start from a blank slate.

14 Commissioner McHugh is reviewing the last
15 two for the quality assurance and quality control process
16 that we set for ourselves. So, when he is done with that
17 we will be able to present a six-chapter employee handbook
18 in draft mode to this Commission.

19 COMMISSIONER MCHUGH: Commissioner Zuniga
20 gave me those last week. I have not been able to get to
21 them, but I plan to do that tomorrow or the next day. So,
22 I would hope depending on Commissioner Zuniga
23 availability to incorporate the suggestions, you can have
24 them as early as next week. And then we have a policy
25 manual in place.

1 CHAIRMAN CROSBY: Are you going to suggest
2 that we read it and review it before we adopt it?

3 COMMISSIONER ZUNIGA: Yes.

4 CHAIRMAN CROSBY: That probably makes
5 sense. If it's a six-chapter thing, it is going to take
6 a little time.

7 COMMISSIONER ZUNIGA: It would. In the
8 same venue of what I asked of our own consultants, I will
9 highlight those sections that I think are the most
10 important whereas others may be required by law.

11 CHAIRMAN CROSBY: Do you want to suggest a
12 timeline now? Are you thinking we say have this by Friday
13 so we can have it next Tuesday? Or is that too aggressive
14 or do you want to wait and see?

15 COMMISSIONER MCHUGH: I could certainly be
16 finished with my suggestions tomorrow or the next day. It
17 could be distributed I think Friday. It is long. But we
18 could put on the table for discussion next week and if we
19 are not ready to vote on it, we don't vote on it.

20 CHAIRMAN CROSBY: If we can do that. Let's
21 try to get it distributed by Friday and then we could have
22 the weekend and talk about it Tuesday. If we don't and
23 we slip back, we slip back, but that's worth trying.

24 COMMISSIONER STEBBINS: Could we at least
25 try to tackle half of the sections?

1 COMMISSIONER ZUNIGA: We sure can.

2 CHAIRMAN CROSBY: If that works if you feel
3 there are some that are ready to go, we can do that.

4 COMMISSIONER ZUNIGA: The highlights I'm
5 going to do to, let me mention some that I think are pretty
6 straightforward. I will mention for example benefits.
7 We are receiving them now and it's pretty standard to other
8 agencies. So, I would highlight those sections relative
9 to what I think would be straightforward. I think that
10 is a way to do that.

11 CHAIRMAN CROSBY: I want to go back up to
12 the Executive Search because I don't think we quite closed
13 the loop on the subcommittee conversation. Last week we
14 had talked about having the law firm look into the issue.
15 It sounds like they have, but they weren't ready to come
16 talk about it?

17 COMMISSIONER MCHUGH: They have, Mr.
18 Chairman. They prepared a brief memorandum. In
19 reviewing that memorandum and talking to them lead me to
20 desire more concrete assurances than I think we can get
21 without going to a more authoritative source and getting
22 some reviews.

23 What I thought that I would do would be to
24 draft two scenarios, one involving a single Commissioner
25 acting as the selection person. And one involving a

1 subcommittee with the scenarios that follow from that.
2 And see if I can get some advice from an authoritative
3 source as to the consequences of following both procedures
4 and then come back to you with what I learned on those
5 procedures.

6 CHAIRMAN CROSBY: Is that reasonably next
7 week? You are carrying a lot of water.

8 COMMISSIONER MCHUGH: I would certainly
9 strive to do that by next week, yes. I have no control
10 on a over the outside sources.

11 CHAIRMAN CROSBY: It could be next week but
12 you have got a lot of stuff on your desk. If there is
13 anything else we can rearrange to make sure there is an
14 equitable load here that we need to do.

15 COMMISSIONER MCHUGH: I will see what we
16 can do.

17 CHAIRMAN CROSBY: We will try for next
18 week. If it works great, if it doesn't then we will do
19 it one week after that.

20 3D, Commissioner Zuniga, the project
21 management consultant?

22 COMMISSIONER ZUNIGA: Thank you. We have
23 here Scott Libby and others from PMA. We invited them
24 today, the same venue as our executive search firm. As
25 we are implementing our contracting relationship with

1 them to come and introduce themselves, give little bit of
2 an overview of the tool that we are talking about.

3 CHAIRMAN CROSBY: Before you start, can we
4 take a quick break?

5

6 (A recess was taken)

7

8 CHAIRMAN CROSBY: Okay. Pick up where we
9 left off. I'm sorry. Will you introduce our guests?

10 COMMISSIONER ZUNIGA: Thank you. Scott,
11 could you introduce yourselves for the record and proceed
12 with the overview as we talked about.

13 MR. LIBBY: I am Scott Libby. First of
14 all, on behalf of PMA, we want to thank you the Commission
15 for allowing us to respond to the solicitation for the
16 project management and scheduling services. We are
17 really, really happy to be here.

18 As requested last week, we are here to just
19 give an abbreviated version of a presentation that was
20 given to a few of the Commissioners a few weeks ago. Our
21 presentation as structured today is a real quick scenario
22 of who PMA is, followed by a demonstration of the
23 scheduling tool we have that helps us manage our projects
24 with our owners.

25 I am a principle of PMA and also will be

1 serving as the senior project manager for this assignment.
2 I have with me Eric Lowther and Angel Arvelo will be
3 assisting in the management and scheduling services for
4 this assignment.

5 A quick summary about PMA. We are
6 primarily project and program managers primarily working
7 for public owners. We have been in business for over 40
8 years. We have 180 employees nationally. One of our
9 largest offices is our local in Braintree where we have
10 about 25 employees. We are a certified MBE firm. As
11 noted locally, we dedicate most of our services to working
12 with public owners.

13 Today, some of the tools that I will be
14 having Eric speak to and Angel, we believe are some of the
15 best in class out there. Working directly with owners,
16 helping solve program and project management needs for
17 project inception through completion. We believe this
18 indirect tool is a great way to communicate real-time
19 results, allowing what-if scenarios during live meetings.
20 We believe this is going to be a true benefit to this
21 Commission.

22 Enough of that. I am going to turn to Eric
23 and have him give a quick demonstration of some of these
24 tools.

25 MR. LOWTHER: Thank you, Scott. Again, my

1 name is Eric Lowther. Angel and I will be presenting
2 today schedule. Schedule is our passion and this is
3 really what we do with every day.

4 Whenever you undertake a big complex
5 program like this, it is imperative that you have a
6 complete schedule that really envisions and captures all
7 of the scope. For a management tool it is indispensable.

8 You may have found even this far that what
9 happens is as you engage experts and consultants and
10 development partners they all bring with them their
11 schedules. Generally, their schedules are a great asset.
12 There is a great amount of detail present their expertise
13 and their scope. But often it ends there and there is a
14 handoff, an exchange where they took their work product
15 and hand it to somebody else.

16 The problem though with those independent
17 schedules that are not integrated, if a change happens in
18 one, it doesn't waterfall, it doesn't cascade through the
19 rest of the consultants and the overall project schedule.
20 So, you don't understand the impact if a date moves.

21 So, it is imperative that you have an
22 integrated comprehensive schedule. That is our
23 expertise. To help bring the Commission and the rest of
24 the stakeholders are to this initiate together, get
25 everyone's great ideas into a critical path schedule so

1 that you can manage your project to the deadlines that you
2 would like to establish. So, that is what we do.

3 We facilitate those stakeholder meetings.
4 We host those sessions and invite the stakeholders in and
5 ask those questions about what is that you need to be
6 successful in order to start developing your work product.
7 That is the beginning of the integration.

8 I need the other consultants' deliverable
9 on a certain day in order to move forward. That is the
10 give and take that happens over a series of meetings to
11 actually build that network.

12 The result is a schedule that empowers your
13 decision-making. It prioritizes what you need to be
14 focused on because you identify the critical tasks. And
15 you understand what has some flexibility and some float.
16 And you can delay that decision or that award for a week
17 without impacting the overall program. That makes you a
18 very effective management body to understand those
19 specifics about your project.

20 Obviously, that also is a great
21 communication tool. One of the things that we developed
22 to help with the facilitation process is a software called
23 NetPoint. Angel is going to switch to that tool briefly.

24 One of the roadblocks to good integration
25 and planning is commercially available software is often

1 very complex. There's a very steep learning curve to
2 actually utilize the software. That pushes away
3 stakeholders. They do not become involved in the
4 planning process. And you really need everybody engaged
5 in part of that process. The more engaged all of your
6 stakeholders are the more ownership they have of the plan.
7 Obviously, that's something we want to instill his
8 ownership for people to achieve their dates that were
9 planned.

10 This obviously is NetPoint. This is a
11 very simplistic schedule. A series of activities tied
12 together. This software and other commercially
13 available software is that if you make a change you
14 instantly see what it means to your project end date.

15 What you can see here, this red milestone
16 is a required date with a hypothetical completion date of
17 the project. As you can see now, this network is complete
18 before that. But for example if programming didn't go as
19 planned and went longer, you can instantly see how that
20 affects the overall network. You passed your 5/1 target
21 date. And as a result the critical path in the schedule
22 pops read and you understand you have a problem.

23 Recognizing you have a problem, you can work
24 backwards to figure out how you might modify the overall
25 process to win back some time and achieve your anticipated

1 milestone.

2 I think at the very summary level that is
3 the real advantage of the software as well as our
4 experience in facilitating and understanding the critical
5 path method that really brings quite a bit of power to the
6 process.

7 Angel, if you could switch to a little bit
8 more robust example. This is a little bit more detailed
9 plan. A project of this size, you are going to have
10 stakeholders providing schedules of thousands and
11 thousands of activities. If you print that out on a
12 computer, it is going to look like the Boston phonebook.
13 And you are not going to have time to understand that on
14 a monthly basis what is there.

15 Part of the service we can provide is
16 actually summarizing all of that detail to a more summary
17 level so you can understand when tasks are happening, how
18 it has changed since the last update.

19 If you were to change any of those details
20 in the bars, you can actually see how the summary bars are
21 adjusted upon that as well. It is a pretty neat tool.

22 If you go to the next example. This
23 particular example demonstrates lowering costs to tasks.
24 If you wanted to model how your cash flow is going to be
25 consumed during the life of your project, put your budget

1 on your tasks. At things move around, you can see how that
2 spending is going to happen. It is quite helpful planning
3 -- financially planning for your program.

4 Notice here that one of the peaks actually
5 turn red. That demonstrates for you the functionality of
6 setting limits to how much money you think would be
7 reasonable or that you can support in a given period of
8 time. If your plan has indicated that you are going to
9 exceed that that is good information. You modify your
10 plan and adjust the durations and sequences to actually
11 bring it below what you believe is a reasonable threshold.

12 Just like costs similar functionality with
13 resources. The next example is this particular example
14 is a construction schedule. It is loaded with trades,
15 construction trades. It's very important to anybody
16 involved in the construction industry to understand how
17 many trade people are going to be available and necessary
18 onsite.

19 This is a great tool to forecast when
20 particular trades when particular peaks in you work are
21 going to occur. Often there is an understanding of what
22 the limits of a certain resource might be. If you are
23 forecasting exceeding a particular limit on resources and
24 identify that, adjust your plan to level that out and not
25 exceed the resources.

1 Obviously, a schedule that plans on
2 exceeding resources isn't going to be achieved because
3 those resources aren't going to arrive on your project.
4 They are not going to work on your site and you are going
5 to lose time.

6 In a nutshell that is the tool. We look
7 forward to working with the Commission and the rest of the
8 stakeholders to develop that plan and really lay out that
9 first baseline schedule. The schedule of projects will
10 be measured upon as we move forward through the project.

11 MR. LIBBY: We kept it real brief. That is
12 basically a quick drive through of our product, of our
13 tool. We are more than happy to answer your questions or
14 comments you may have. This was also a much larger
15 presentation a few weeks ago. I think you see the general
16 user-friendly, result-oriented nature.

17 In the industry, what was done was called
18 the black box. Data was taken compressed, compiled, an
19 entry database type system. Go and recalculate, it would
20 spit out the answers. You would go back and say, hey, this
21 isn't going to work.

22 We saw a way to get around that. Now we can
23 do these what-ifs live. Communicating with our clients
24 who may not be a schedule savvy, construction management
25 savvy, this can be used beyond construction projects.

1 Again, program management, managing your own internal
2 resources, your needs, staffing. We see this as setting
3 a wide variety of opportunity. It is a great management
4 tool not only for us but also for our owners.

5 CHAIRMAN CROSBY: You don't have to sell us
6 because A - we already bought it. And I am thrilled. I
7 think that is exactly what we have been talking about. It
8 looks terrific. This is a proprietary tool, right?

9 MR. LIBBY: Correct.

10 CHAIRMAN CROSBY: It is a proprietary tool,
11 which we can take over and operate on our own in due course
12 if we get there?

13 MR. LOWTHER: Absolutely.

14 CHAIRMAN CROSBY: I think our assumption
15 has been and nothing is cast in stone, our assumption has
16 been that we would work with you to get our system loaded.
17 And then train our own people to be able to manage it on
18 an ongoing basis. I just wanted to make sure that -- Like
19 I said, nothing is cast in stone, right? I think that is
20 what our presumption was. I just want to make sure we can
21 do that.

22 MR. LIBBY: Yes.

23 CHAIRMAN CROSBY: I think that's very
24 exciting. We are anxious. This Eileen Glovsky who I
25 just mentioned we made it clear to her this morning that

1 one of her top priorities will be to work with you and with
2 our consultants to pour the project management chart that
3 we already have for much of our work into this and start
4 turning it into a critical path document as well as adding
5 to it all of the other elements of ours that aren't in there
6 yet. We are anxious to get started.

7 MR. LIBBY: That's part of our first kind
8 of kickoff planning working sessions that we will work out
9 with you. We will go through some of the nitty-gritty
10 details and pitfalls and successes just to put some
11 framework around the whole process.

12 CHAIRMAN CROSBY: Do you have a process?
13 We have signed our contract, right?

14 COMMISSIONER ZUNIGA: We will sign it very
15 shortly. We have agreed on all of the terms essentially.

16 CHAIRMAN CROSBY: Is there a process for
17 moving forward starting now?

18 COMMISSIONER ZUNIGA: Yes. It is really
19 up to us and to coordinate our own schedules.

20 One of the thoughts was to make the current
21 schedule that we have from our consultants to help you look
22 at it and see what upload can be done. Also schedule a
23 session with our consultants or Eileen or both to do that
24 kickoff you talked about. One assumption was that we
25 would need a facilitated session. The venue we would

1 still have to figure out. If it is a public meeting like
2 this or not. A session that would help us review all of
3 the initial assumptions.

4 CHAIRMAN CROSBY: Right. I think you are
5 going to end up being our contact person for the next 11
6 days or 12 days at least until Eileen gets onboard. We
7 are ready to start. If you are willing to keep moving that
8 ball forward. Again, the consultants are here. You can
9 make a connection now relative to this first document.

10 COMMISSIONER ZUNIGA: Great.

11 CHAIRMAN CROSBY: Thank you very much. We
12 appreciate it. I forgot a second item that I wanted to
13 ask our consultants. Bob and Guy and Fred, if you
14 wouldn't mind coming back for a couple of minutes. I had
15 mentioned there was one thing I wanted to get some feedback
16 from you all and I forgot to do it. Could you guys just
17 come back for a second?

18 Oh, you haven't come up yet. What am I
19 saying? I was trying to figure out why you looked so
20 dazed. Sorry, sorry, sorry. Talk about senior moments.
21 I am going back on vacation. Sorry.

22 Lets go to item four.

23 COMMISSIONER CAMERON: Thank you, Mr.
24 Chair. I have two tentative decisions to file with the
25 full Commission today. The process will be that I will

1 just give you a brief synopsis of the hearings I held, my
2 recommendations and then there will be a 30-day period in
3 which the appellant will have the opportunity to object
4 to the decisions.

5 Information can be submitted in writing to
6 the full Commission, which we review at the time if there
7 is an objection. And a final decision will be made after
8 the 30-day period.

9 When I present that will be the process we
10 will be using moving forward.

11 These two particular cases, the first one
12 is the matter of Richard Retamoza. The procedural
13 history, I on behalf of the Commission conducted a formal
14 adjudicatory proceeding on June 21. I was the presiding
15 officer. This was due to the appeal of Mr. Retamoza.

16 He was a patron at Suffolk Downs. He was
17 ejected by the State Police on November 17, 2011. He was
18 present at the hearing and he was not represented by
19 counsel. The witnesses in this case were Trooper Winnie
20 Rennie of the State Police and Steward Susan K. Walsh and
21 Mr. Retamoza testified on behalf of himself.

22 The following documents, there was the
23 ejection report, request for appeal and then the notice
24 of the hearing itself were accepted at that point. A bill
25 of sale from a horse and checks showing the sale of the

1 horse were also accepted into evidence.

2 The findings of fact in this matter
3 established beyond a preponderance of the evidence, the
4 appellant was a former horse trainer for Patricia and
5 Daniela Mafford. In 2011 the appellant was working for
6 the Maffords. He had a dispute with the Maffords. He
7 believed that they owed him money.

8 Without proper licensure or authority he
9 sold the horse in New York for \$3000. The appellant is
10 not able to recover the horse. However, on November 12,
11 2011 he agreed to pay the Maffords \$2700 from the proceeds
12 of the sale. He has also been arraigned on criminal
13 charges for selling the horse.

14 To date, the appellant has not repaid the
15 Maffords the \$2700 from the sale as promised. As a result
16 of failing to make the payment, he was ejected from Suffolk
17 Downs by the State Police on November 17.

18 The applicable law in this matter, the
19 Commission or representative, in this case it would have
20 been the State Police, have the right to refuse admission
21 or to eject from the premises any person whose presence
22 is detrimental in the sole judgment of the Commission or
23 the representative in this matter.

24 Based on the finding of fact, the Commission
25 has the jurisdiction to hear this matter. Based on the

1 finding of fact, the appellant's conduct constitutes
2 valid grounds for ejection.

3 Discussion with regard to this matter,
4 undisputed the appellant was not authorized by law or by
5 the owners to seize and sell the horse of his employer.
6 Undisputed that after this sale he agreed to pay his
7 employer, the Maffords, \$2700 from the proceeds and as yet
8 failed to do so.

9 I, on behalf of the Commission, found the
10 ejection under such circumstances was appropriate.
11 Although the appellant may be entitled to certain funds,
12 he did not have the right to take matters into his own
13 hands, legal matters. Whether the criminal charges are
14 appropriate is not within our jurisdiction.

15 But the conduct was dishonest,
16 unprofessional and detrimental to the proper and orderly
17 conduct of a racing meeting.

18 Appropriate sanctions in this circumstance
19 maintain that the exclusion from the race track until the
20 appellant has made restitution of the \$2700 as originally
21 promised. Prior to this being done, the ejection is
22 confirmed and the exclusion shall remain.

23 I recommend that the full Commission uphold
24 the ejection and we would lift the ejection of the
25 appellant upon the State Police receiving satisfactory

1 confirmation that the appellant has repaid the Maffords
2 the \$2700.

3 As I mentioned earlier, this is a tentative
4 decision on behalf of the Commission. The appellant has
5 will be notified in writing. This decision will be sent
6 to him in writing. He has the right to seek
7 reconsideration of this tentative decision by filing
8 written objections within 30 days.

9 At that time the address is provided to him.
10 The Commission will not hold any additional hearings, but
11 the written submission is his opportunity to make any
12 further argument regarding this matter.

13 The Commission will review the matter and
14 any explanation at the receipt from the appellant. After
15 that 30 days whether or not there is an objection, a final
16 decision will be made by the Commission.

17 I am at this time filing this tentative
18 decision with the Commission.

19 CHAIRMAN CROSBY: Do we want to discuss
20 that at all?

21 COMMISSIONER MCHUGH: This is really
22 premature to discuss it, Mr. Chairman. This is just being
23 filed today. Commissioner Cameron is giving us this
24 summary so we know what is being filed.

25 The next step procedurally is the

1 notification that Commissioner Cameron said would go out
2 and the objections and the papers filed by the appellant
3 if the appellant disagrees. Then we have another open
4 discussion of it at which time we make a decision. That's
5 the process now.

6 For the full Commission to begin to
7 deliberate on this before we hear the appeal would be
8 premature.

9 CHAIRMAN CROSBY: Okay.

10 COMMISSIONER ZUNIGA: I have an
11 observation/question. There appears on page two, the
12 findings of fact number three. At the end of that it says
13 three, zero, zero. I believe you noted it was 3000.
14 There may be a zero that is missing.

15 COMMISSIONER CAMERON: It is 3000, yes.
16 We will make that correction. Thank you, Commissioner.

17 The second matter if a tentative decision
18 in the matter of Walter Case. I, on behalf of the
19 Commission, conducted a formal adjudicatory proceeding on
20 June 21, 2012. The matter was held pursuant to an appeal
21 by Walter Case, the appellant, an applicant for a driver's
22 license. The applicant was denied a license by the
23 Plainridge Racecourse judge ruling -- finding that the
24 appellant lacked the requisite integrity.

25 CHAIRMAN CROSBY: Driver's license

1 meaning --

2 COMMISSIONER CAMERON: Yes, in a harness.
3 Yes.

4 The appellant was present at the hearing and
5 represented by counsel. The witnesses that testified
6 were Plainridge Racecourse judge Lawrence Rooney,
7 Plainridge Racecourse judge Sal Panzera and Trooper
8 Joseph Sinkovich of the Massachusetts State Police.

9 Mr. Case testified. A Harold Raymond and
10 a Joseph Fitzgerald testified also. I took
11 administrative notice of the following documents: the
12 ruling number 1001-12 denying the application for the
13 license, a request for appeal from the appellant, and the
14 letter notifying the appellant of the hearing.

15 Numerous pieces, too numerous to mention here were
16 accepted into evidence on both sides of this matter.

17 With regard to a finding of fact, I found
18 by a preponderance of evidence that the predecessor to our
19 Commission, the State Racing Commission previously issued
20 the appellant a license to practice as a driver in the
21 Commonwealth. Specifically, he was licensed in 2008 and
22 prior to that in 2000.

23 In 2004, the appellant was convicted in Ohio
24 of felonious assault against his wife, served
25 approximately four years in prison. The appellant was

1 released on probation, which terminated on or about
2 December 5, 2011.

3 He was suspended from racing in Ohio in 2004
4 after multiple racing related violations. He has been
5 denied a license in Pennsylvania, New York, New Jersey,
6 Maryland. At this time the appellant is not licensed in
7 any jurisdiction.

8 He was licensed in Massachusetts in 2008 by
9 a unanimous decision of the three Plainridge judges. The
10 decision was not reviewed by the State Racing Commission.
11 The decision to issue a license to the appellant in 2008
12 came prior to the completion of the State Police
13 background checks.

14 On April 26, 2012 the appellant's
15 application for a 2012 racing driver's license
16 Massachusetts was denied by a unanimous decision, three
17 Plainridge judges. Of these judges two of the judges --
18 one of the judges who made the decision this time did rule
19 to provide a license in 2008. He was not present. The
20 other two judges who testified were not part of the team
21 that presided over the 2008 matter.

22 The Commission does have discretion to
23 refuse to grant a license and any applicant from a license
24 or to revoke or suspend a license in this matter.

25 Based on the findings of fact the Commission

1 has jurisdiction to hear this matter. Based on a finding
2 of fact the appellant's conduct constitutes valid grounds
3 for denial of a license.

4 Brief discussion of this matter, I, on
5 behalf of the Commission, received evidence and testimony
6 regarding the application for licensure for the
7 appellant. During the hearing the evidence demonstrated
8 that the appellant after multiple racing violations was
9 denied a license from the State of Ohio in 2004, the same
10 year the appellant was convicted of assault of his wife,
11 a four-year prison sentence as well as lengthy probation.

12 Such a serious matter could justify a
13 blanket denial of the appellant's racing license. The
14 Supreme Judicial Court has held that when considering its
15 discretion to deny a license, the Commission must take
16 into account the public interest in determining what
17 action in particular circumstances will conform to the
18 usual standards of public convenience, health, safety,
19 morals, welfare.

20 The appellant did not dispute the facts
21 presented at the hearing nor the serious nature of the
22 criminal and racing background. He instead asked me on
23 behalf of the Commission to take into account mitigating
24 testimony. The fact he was licensed in 2008 after the
25 criminal conviction. He has not engaged in a wrongful

1 conduct since 2004. He raced for just a couple of weeks
2 in 2008. The period of licensure in Massachusetts passed
3 without incident. So, he did not have any violations in
4 those couple of weeks.

5 He moved from Ohio to New York, which did
6 not allow him to leave the state while on probation. So,
7 he has not applied since 2008.

8 Again, I was mindful of the overarching goal
9 of public protection, acting in the best interest of
10 racing. In that end, I took note of the fact that the 2008
11 license as well as the fact that the appellant is not
12 licensed in any other state. As to the previous decision,
13 I found on behalf of the Commission that we are not bound
14 by that 2008 decision made by those judges at Plainridge
15 at the time.

16 The evidence in the record show that a full
17 review of the record was not made in 2008. For example,
18 the decision was made prior to a completion of the State
19 Police background investigation. None of the judges were
20 available to testify. The granting of the license in 2008
21 was not made or reviewed by the State Racing Commission.

22 Although the appellant seeks a license in
23 Massachusetts, it does not appear that he has a long
24 history of racing in Massachusetts. Prior to 2008, he was
25 licensed in 2000. He has been denied in numerous other

1 jurisdictions, again, New York, New Jersey, Maryland,
2 Ohio Pennsylvania.

3 The appellant did testify that some of those
4 states might be willing to reconsider their decisions.
5 To this date, he holds no other licenses. And when
6 questioned as to why he wanted a license in Massachusetts,
7 he testified that he enjoyed his time here. I did not find
8 that to be a credible response.

9 In contrary, it appears that the appellant
10 seeks a license in Massachusetts primarily as a means to
11 get licensure in other states.

12 In reviewing the full record, I recommend
13 to the Commission that the licensure of the appellant in
14 Massachusetts be denied based on the severe nature of the
15 appellant's criminal record, in particular a crime of
16 violence. The record since the conviction although void
17 of any new crimes does not contain any evidence that the
18 appellant has attempted to rehabilitate himself or
19 conduct any charitable acts to mitigate his crimes of the
20 past.

21 All of this is in the record in evidence that
22 the appellant -- It is in evidence that he was a skilled
23 driver. It is such areas of moral character that the
24 Commission must take into consideration with this
25 decision. Again, it appears that he committed violent

1 crimes, served his sentence and now wishes to restart his
2 career here in Massachusetts. Such a decision, however,
3 is not the best interest of racing and is not the best
4 interest of the public health, safety, morals and
5 welfare.

6 In conclusion, I recommend that the
7 Commission uphold the denial of the licensure of the
8 appellant. Again, this is a tentative decision. The
9 appellant will be notified in writing of his right to seek
10 reconsideration of this tentative decision by filing
11 written objections within 30 days at which time the
12 Commission will take this matter. Whether or not an
13 objection is filed, we will make a final decision at that
14 time.

15 Again, no additional hearings, no
16 additional arguments. The sole opportunity is a written
17 objection that the Commission will review at that time
18 before a final decision is made.

19 These are the two decisions I will be filing
20 today with the full Commission.

21 CHAIRMAN CROSBY: So, that's where you have
22 been?

23 COMMISSIONER CAMERON: That is where I have
24 been. There is one final decision where the individual
25 did not appear at the hearing. And I will be reporting

1 out on that next week.

2 CHAIRMAN CROSBY: Great. You're saying it
3 is really not appropriate to discuss it at this point.

4 COMMISSIONER MCHUGH: Yes.

5 CHAIRMAN CROSBY: What about the status of
6 the consultant report? Where is that the pipeline?

7 COMMISSIONER CAMERON: The consultant is
8 preparing a draft report for the full Commission to
9 review. I believe she will be ready as soon as next week
10 to come before the Commission to report on her findings.

11 CHAIRMAN CROSBY: The draft would be ready
12 to be circulated hopefully by the end of the week. So,
13 we could have a chance to have read it?

14 COMMISSIONER CAMERON: Review it before
15 the Commission meeting. That is accurate, Mr. Chair.

16 CHAIRMAN CROSBY: Great. Anything else on
17 racing? What about our field trip.

18 COMMISSIONER CAMERON: I know the Chief of
19 Staff is working on dates. And I know it has been a little
20 difficult with everyone's summer schedules both at the
21 track and with the Commissioners. Chief that is a work
22 in progress?

23 MS. REILLY: A work in progress.

24 CHAIRMAN CROSBY: Item five, project work
25 and work plan. First is the notice of proposed

1 rulemaking. Commissioner McHugh, do you have any say
2 about that?

3 COMMISSIONER MCHUGH: We did as we have
4 discussed at several meetings a notice of proposed
5 rulemaking that we published an end date for the comments
6 was last Saturday. We received a total of six comments,
7 two of which I have circulated for such discussion as is
8 appropriate today.

9 The other four I will circulate to you for
10 your review. They were thoughtful but did not involve the
11 degree -- they were very short. But they were thoughtful
12 and I will circulate them to the rest of the Commission.

13 The two that were received, one from Suffolk
14 Downs interest and the other from the MGM interest are in
15 the meeting packet. The one from DLA Piper on behalf of
16 Sterling Suffolk Racecourse focused on five elements that
17 we have focused on in one way or another that are embodied
18 in -- Perhaps we can discuss it when we hear from the
19 gaming consultants. Focused on first of all, exercising
20 discretion with respect to how deep into the corporate
21 structure the qualifying examinations had to go.

22 That's been a topic that we have discussed
23 with the consultants. The consultants' regulations that
24 they will unveil here today do deal with that in a general
25 sense. We will have an opportunity to look at those

1 regulations and to consider that more as we go forward.

2 The second comment that they made was that
3 they hoped that the Commission would use the multistate
4 application form because the gaming interests are used to
5 that. The sooner the Commission made a decision and
6 announced that decision publicly to use the multistate
7 application, the sooner potential applicants could begin
8 to fill it out.

9 The Commission is going to use the
10 multistate application with a supplement. How we
11 announce that and the like we can consider soon.

12 The third interest or comment considered
13 the need for confidentiality. The suggestion was that we
14 use the Bureau of Investigation and Enforcement to do all
15 of the background checks so as to ensure confidentiality
16 for law enforcement investigatory matters. That doesn't
17 ensure the degree of confidentiality I think that they
18 are seeking. But the regulations that are in draft now
19 do deal with that, both the public records regulations and
20 the other regulations.

21 We are very cognizant of the need for
22 confidentiality. It is a tricky matter. And we will
23 have an opportunity to discuss it more as we discuss the
24 regs. That matter is one that the Commission -- And we
25 have talked about it and will continue to talk about it

1 and the consultants have talked about it. It is high on
2 everybody's radar screen or is in the center of
3 everybody's radar screen.

4 And finally, they voiced a concern that a
5 mechanism be created to allow them to move forward with
6 the developmental permitting pieces while this phase one
7 process was in progress. And we have talked about that
8 at other meetings. I think in one way or another we are
9 conscious of the concerns that they raised and need to
10 remain conscious of those concerns and deal with them as
11 we move forward.

12 The second set of comments came were
13 submitted on behalf of MGM. They really talked about two
14 considerations. One a global bifurcation process. They
15 suggested in these comments that that would add not
16 subtract time from the overall process and recommended
17 against it, against following a bifurcated process.

18 They have spelled out the reasons for their
19 belief that it would add to the length of time. Candidly,
20 we can all look at that and discuss it further, but I am
21 not persuaded by the argument. It seems to be quite clear
22 and we have discussed this. We have discussed it with the
23 consultants and we have been over this ground a number of
24 times. I think the contrary conclusion is manifest from
25 the process that we are going through and the reasons for

1 it.

2 Succinctly we get out, we get these
3 regulations done. We get the regulations out. We get
4 the investigatory process going while we are developing
5 the rest of the regulations rather than waiting until we
6 have got that whole package at the end and then start the
7 process. I can't see how that could possibly extend the
8 time.

9 The second concern that they raised had to
10 do with something I think we discussed at least in a
11 tentative sort of what-if manner last meeting. That is
12 what about staggering the application process so that an
13 unsuccessful bidder in a region where there was
14 competition could file an application in a region where
15 there was no competition. Their suggestion was that that
16 is an unrealistic prospect. You can read what they said
17 and consider what they said and the reasons for it and then
18 make a decision.

19 Those were thoughtful and helpful comments.
20 That is a summary of what they are, but they are all there
21 for everybody could read.

22 CHAIRMAN CROSBY: Great. Any comments on
23 the comments?

24 COMMISSIONER CAMERON: I would just agree
25 with Commissioner McHugh that I do not see where the

1 bifurcated process would slow down the process. I read
2 the document but I think that your comments on the
3 regulations and getting them done, the ones that we need
4 right now, make a lot of sense for us moving forward.

5 CHAIRMAN CROSBY: I agree with that.

6 Okay. Anything else on that topic?

7 COMMISSIONER MCHUGH: No. That is the
8 end. As I say, there are some other comments having to
9 do with the criteria that we should use to judge applicants
10 and the like, some thoughtful, helpful comments, four
11 more. I will circulate them to everybody and we will
12 carefully consider them.

13 COMMISSIONER STEBBINS: Do we somehow
14 acknowledge receipt comments or even just a general thank
15 you for your suggestions?

16 COMMISSIONER MCHUGH: Yes. We will do
17 that now that the comment period has ended. I will ensure
18 that each of the commentors gets a personal thank you and
19 we will take the comments into consideration.

20 CHAIRMAN CROSBY: Great, thank you. Now
21 the consultants, if you want to join us.

22 Why don't you introduce yourselves again
23 for the public in particular. I think this agenda is
24 pretty much yours, in your hands.

25 MR. MICHAEL: Guy Michael, Michael &

1 Carroll.

2 MR. CARROLL: Bob Carroll, Michael &

3 Carroll.

4 MR. MURPHY: Bernie Murphy, Michael &

5 Carroll.

6 MR. GUSHIN: Frederic Gushin, Spectrum

7 Gaming Group.

8 MR. EPPS: Michael Epps, Spectrum Gaming

9 Group.

10 MR. MICHAEL: I guess to get started we will
11 report on progress that has been made since we were here
12 last. We have completed the initial draft as
13 Commissioner McHugh mentioned earlier and you have
14 already discussed, the initial draft of the regulations
15 for phase one.

16 In addition to the specific applicability
17 of those regulations to phase one, it also covers some
18 administrative matters in setting up the Commission in its
19 functioning. They are in the very preliminary stage.
20 They are subject to further review by ourselves and
21 certainly by the Commission. We look forward to
22 tailoring those and being able to tweak them to make them
23 as effective and efficient as possible.

24 In the process, there were a number of areas
25 that came up that we are unable to complete until we get

1 further guidance from the Commission on some policy
2 matters. We will be able to address a couple of those
3 today.

4 I'll take the first one. There was a
5 question we had been considering whether or not there
6 might be some avenue by which the Commission could either
7 provide assistance to or some oversight of the
8 municipalities -- for the municipalities and the initial
9 stages of this entire casino development process wherein
10 they are dealing with potential developers and incurring
11 costs as a result of that. And developers are entering
12 into preliminary agreements with those municipalities to
13 pay them for those costs.

14 An initial idea, which we floated after
15 discussion, is the possibility drafting a regulation by
16 which certain payments by developers to municipalities,
17 payments that we would further refine and define in the
18 regulations would require disclosure by those developers
19 and the municipality to the Commission.

20 Not that these payments would then be either
21 approved or disapproved by the Commission, but the
22 disclosure would serve as somewhat of a disinfectant to
23 the possibility of payments that may not at arms' length.
24 They at the same time if payments were made that were not
25 disclosed, that would be something that could become an

1 issue in the subsequent license investigation should that
2 developer later become an applicant.

3 That is one way we had talked about dealing
4 with that issue. We are obviously open to any suggestions
5 and comments and any other ideas.

6 CHAIRMAN CROSBY: To be clear on this, I
7 think we were particularly concerned about the stage prior
8 to somebody -- prior to a developer becoming an applicant.
9 Because there are people, there are communities and
10 developers that are doing work together now.

11 Communities are incurring funds. These
12 developers may or may not ultimately go on and make a
13 proposal. These communities may or may not become host
14 or surrounding communities.

15 Once you become a host or a surrounding
16 community, that statute is pretty good at making sure that
17 figures out a way to get you covered.

18 But we have been talking in another context
19 about how we can just give technical support and advice
20 to any community that is prospective host or surrounding
21 community.

22 We are going to continue to do that. And
23 we are talking with people who can fulfill this ombudsman
24 role. This is taking back to a step further where we would
25 incorporate that process in our regs.

1 Then the new thought is -- It is sort of a
2 two-step process that we talked about a little bit at a
3 preliminary meeting. One is that we will encourage
4 cities and towns. We will advise cities and towns on how
5 they can get their costs covered, how they might go about
6 doing that. And we will require that if there is any such
7 payment from any developer to any prospective surrounding
8 or host community that that be disclosed to the
9 Commission.

10 That is sort of restating what we talked
11 about.

12 MR. MICHAEL: As a concept, we will be
13 developing language accordingly.

14 COMMISSIONER MCHUGH: Can I put that just
15 in a little bit further context both for primarily for the
16 audience watching.

17 What we are doing right now is trying to --
18 And maybe this is obvious and I don't need to do it. What
19 we are trying to do now is prepare a set of draft
20 regulations for publication through the regulation
21 adoption process so that people can comment publicly on
22 the final draft before the regulations go into effect.

23 When we say adopt as a matter of policy, we
24 are really talking about a policy judgment we are making
25 subject to the re-thinking it during the comment period

1 before the regulations become final.

2 The second piece of this is that the statute
3 does call for -- To put the specific conversation into
4 context. The statute does call for reimbursement of
5 expenses by cities and towns from the application fee that
6 is filed when an applicant becomes an applicant.

7 The issue here is is there a mechanism for
8 cities and towns getting funds with which to engage
9 counsel and developers before the application occurs.
10 This is what this is aimed at. I just thought that is just
11 context for people who are not in the room and at the table.

12 MR. CARROLL: I will do the next one.
13 During the next few weeks we obviously would detail in view
14 of the draft regulations have been submitted and as the
15 Chair and Commissioner McHugh has indicated, the public
16 comment period will also be in the near future.

17 One of the other areas we have talked about
18 is regarding the actual language of certain regulations.
19 We have included some options in the drafts for both a
20 general and specific form of the regulation.

21 There is a balance that we understand that
22 has to be struck from the point of view of the Secretary
23 of State in terms of using regulations that are
24 informative yet concise, not necessarily editorializing
25 but have specific functions and specific directions.

1 Using that as a standard that we are trying
2 to adhere to, but also understanding that we need enough
3 information in these regulations that only applicants but
4 the public can be informed as to the specific function of
5 each regulation, we included alternatives. Those
6 alternatives have in some cases more specificity, all have
7 sufficient specificity to be passed for consideration as
8 they are.

9 But we felt that in some areas because of
10 either the complexity or the interrelationship in other
11 areas that warranted further explanation. You'll find
12 through the document there are a couple of different areas
13 that have alternatives. And we invite your review of
14 those. And certainly the Commission's viewpoints as to
15 what you're most comfortable with in terms of future
16 enacting. Number three?

17 MR. MICHAEL: One of the other issues we
18 came up with where we need guidance is there is Section
19 15.03 in the draft regulations that deals with the
20 investigation by the IBE, the Bureau. There is language
21 in that provision that says the Bureau cease any further
22 review at a certain time and refer the matter to the
23 Commission.

24 We have been struggling with that because
25 it seemed to us that it would be an inefficient process

1 if the Bureau were to cease review of an investigation at
2 mid-investigation and refer individual matters to the
3 Commission on a piecemeal basis. The result could be that
4 the Commission might disagree with the recommendation of
5 the Bureau that this was a disqualifying event and then
6 remanded it back. Then you have spent all that time and
7 it wastes time.

8 So, it was our preference that the Bureau
9 be able to complete its investigation before any report
10 is submitted to the Commission as a whole. We have looked
11 through the statute and the intention of the Legislature.
12 And we believe that despite the language of cease any
13 further review that that language was inserted at a time
14 before this bifurcation process was contemplated.

15 And then as a result what the Legislature
16 meant was that the ceasing of the further review was at
17 the completion of the background portion. So, that then
18 the Commission could review that before it goes onto the
19 developmental portion.

20 That fits perfectly now into this
21 bifurcated process. So, we have drafted the regulations
22 in the alternative. But our preference would be that the
23 Bureau be allowed to complete its background
24 investigation, not have to report that to the Commission
25 every time it finds something it thinks is questionable.

1 And that only on, as I say, the full
2 completion of the background, the Commission make its
3 final determination. Because of the ambiguity of the
4 language, we have also included an alternative draft in
5 which there would be an early denial process, which would
6 be the one I described earlier that maybe less efficient.
7 But it would up to the Commission to decide which of those
8 it preferred.

9 MR. CARROLL: Another area involved the
10 code of ethics. I would like to point out also that the
11 proposed regulations that we submitted are for the phase
12 one, the qualification phase only. They also have in
13 areas of reservation for the inclusion and expansion of
14 other sections that would fit into the overall matrix and
15 would be applicable to the phase two portion of the
16 Commission's overall review of the total application.

17 In addition to that, the code of ethics was
18 originally thought might be included as a subsection of
19 the regulations. Conferences were held with the Attorney
20 General and with Anderson and Kreiger, the legal adviser.
21 After a thorough discussion along with the Commission, it
22 has been concluded that it appears that for the ease of
23 inclusion that it would be best to put the ethics
24 provisions as a separate code and not be simply a
25 Commission regulation.

1 That is being worked on by Anderson and
2 Kreiger. That is being separately submitted. There is
3 a section reserved for it in the regulations. But based
4 on the Attorney General's input and the legal counsel, it
5 appears that that is the best alternative and that is our
6 recommendation.

7 That is being separately submitted to you
8 also.

9 CHAIRMAN CROSBY: Commissioner McHugh
10 agrees with that?

11 COMMISSIONER MCHUGH: Yes. That is going
12 forward, the code is going forward in discussions with the
13 Attorney General, the State Police and the ABCC, the
14 Alcohol and Beverage Control Commission, all of whom along
15 with us are required to have an enhanced code of ethics.
16 That is proceeding on that front.

17 MR. MICHAEL: The other issue is that the
18 regulations now provide for a firm deadline regarding the
19 submission of the application. A complete application
20 has to be submitted as of a date certain. That no
21 applications filed subsequent to that date certain days
22 are would be accepted. And that applicant would have no
23 opportunity for further review.

24 Discussions among us, we have thought it
25 would be fair only to provide you with the opportunity for

1 analysis of whether that is an adequate procedure or
2 whether you as a Commission should be given some authority
3 under the regulation to extend that deadline either on the
4 basis of extraordinary circumstances, a hurricane or
5 earthquake or something, or on the basis of an individual
6 case where there is a slight incompleteness in the
7 application that could be cured in a day or two and not
8 disallow that applicant from being allowed to continue for
9 that maybe insignificance.

10 We have also provided in the regulations a
11 standard for completeness that were criteria to determine
12 whether or not the application is complete when it is
13 filed. It is not an easy determination to make sometimes.
14 It's not like crossing off little tick marks on an outline.
15 So, we provided some standards for completeness.

16 We offer to you for your consideration
17 whether there should be that firm deadline or whether or
18 not you should have the discretion to extend it in the
19 interest of fairness.

20 COMMISSIONER ZUNIGA: I have a question.
21 Is this something we should be talking about each one of
22 them?

23 CHAIRMAN CROSBY: Sure.

24 COMMISSIONER ZUNIGA: That date certain
25 refers to RFA phase one? That is correct?

1 MR. MICHAEL: Yes.

2 COMMISSIONER ZUNIGA: All that we have been
3 talking about is phase one in these regulations.

4 MR. MICHAEL: These regulations cover
5 phase one. There are some minor aspects of them,
6 especially in terms of the structural aspect of the
7 Commission that would also affect phase two, but they are
8 not intended to be applicable to anything but this phase
9 one process.

10 MR. GUSHIN: Just as a point of
11 clarification, remember that prior to the filings, there
12 will be a series of meetings to discuss the scope of
13 licensing, which entities and which individuals will be
14 required to file in conjunction with the application form.

15 When the date of application comes, the
16 applicants involved should have a very clear
17 understanding about who has to file and which entities
18 have the file.

19 COMMISSIONER ZUNIGA: I would be of the
20 opinion and in favor of allowing the flexibility of curing
21 minor pieces with a target date but the ability to cure.
22 These applications will be lengthy. The scope of
23 licensing will determine perhaps any number of iterations
24 for each of the individuals.

25 COMMISSIONER CAMERON: I suspect you have

1 seen this both ways, correct?

2 MR. MICHAEL: Yes.

3 MR. CARROLL: Yes.

4 COMMISSIONER CAMERON: The hard and fast as
5 well as the ability to correct minor issues?

6 MR. MICHAEL: Yes.

7 COMMISSIONER CAMERON: Have you seen that
8 both work well? Do you see one working better than the
9 other?

10 MR. MICHAEL: Flexibility is fairer.
11 Actually, in the administration of almost all of these
12 rules, the Commission's flexibility is an important
13 aspect. You should not hamstring yourselves too tightly
14 in terms of administering this process.

15 The applicants and the people in your
16 jurisdiction need to have guidance as to what kinds of
17 decisions you are going to make. But in the end analysis,
18 those decisions should not be constrained by some set of
19 rules that you preordained. You have to be able to
20 analyze things on a case-by-case basis the best you can.

21 MR. EPPS: It is important to note that you
22 are talking about minor omissions, but not an omission of
23 materiality that someone chose not to include and then
24 later wanted to go back and sell it. You can't leave
25 something out and then get a second chance.

1 If you find things that are minor
2 discrepancies in an application, you give them an
3 opportunity to cure it. You still hold the standard with
4 respect to materiality.

5 COMMISSIONER CAMERON: Thank you.

6 COMMISSIONER MCHUGH: The same would be
7 true of deadline, I take it. You would recommend that for
8 extraordinary circumstance say that the deadlines could
9 be extended, but the circumstances would have to be
10 extraordinary.

11 MR. MICHAEL: Right, not my dog ate it.

12 MS. GUSHIN: It so important under you
13 system when a company becomes an applicant. That
14 designates official status and the clock starts running
15 on the investigation and all of those other things. That
16 is a big deal essentially.

17 MR. CARROLL: In a competitive environment
18 where the others are complying. Yes.

19 COMMISSIONER MCHUGH: Do we have a
20 consensus here now? We might as well knock these things
21 off as we talk about them. The flexibility both with
22 respect to the deadlines, extraordinary circumstances
23 they can be extended and immaterial omissions can be cured
24 ought to be part of the regulatory regime. Do you favor
25 that?

1 COMMISSIONER ZUNIGA: I would agree with
2 that.

3 COMMISSIONER CAMERON: Yes.

4 COMMISSIONER STEBBINS: Yes.

5 CHAIRMAN CROSBY: Yes.

6 MR. CARROLL: A similar issue involves the
7 ability to withdraw, an applicant withdrawing an
8 application. That is practiced different ways in
9 different jurisdictions. I would say the majority or may
10 be a little bit over the halfway point might be that they
11 require the permission of the regulatory agency before an
12 applicant can withdraw.

13 Withdrawal can occur for a lot of reasons.
14 An applicant can lose interest in a project. They can be
15 unable to proceed in a project. But there is also
16 situations where an investigation has continued and
17 reached a certain point where information has been
18 developed that may cause that particular applicant a
19 problem.

20 There are instances where the applicant
21 will choose, I'm probably not going to get a license or
22 there is going to be revelations that are going to be
23 harmful, so I am going to withdraw.

24 This is something that we also want some
25 guidance on. Right now the way the rules are set up, there

1 is no real withdrawal set forth in the statute. It is ripe
2 for regulatory regulation treatment. It would be our
3 recommendation that the Commission withdraw by consensus
4 would be our recommendation -- the approval to withdraw.

5 MR. GUSHIN: The Commission controls the
6 process and any request for withdrawal has to be made to
7 the Commission and the Commission would then have to opine
8 on that. If it is a technical matter, I don't think there
9 would be a feasible objection. But if it is a request to
10 withdraw to avoid a denial that may raise issues and
11 certainly should be subject to Commission review and
12 approval.

13 COMMISSIONER ZUNIGA: In other words, the
14 applicant cannot unilaterally withdraw?

15 MR. MICHAEL: Correct.

16 MR. GUSHIN: Correct.

17 MR. CARROLL: The application fee is
18 nonrefundable either way. In terms of the substance of
19 it, let's say they submitted their forms but things have
20 come up and maybe it is of a business nature and they decide
21 it is not in their best interest. And they notify the
22 Commission that they do not want to participate any
23 further. We believe the authority should stay with you
24 as to you should allow that to happen so you can examine
25 to determine whether it is a legitimate withdrawal or

1 whether there some other reason for the withdrawal.

2 CHAIRMAN CROSBY: What is an illegitimate
3 reason for withdrawal?

4 MR. CARROLL: Avoidance.

5 CHAIRMAN CROSBY: Why is that an
6 illegitimate reason?

7 MR. CARROLL: An example I give you is if
8 let's a company that is in several jurisdictions and they
9 have a licensing investigation in a jurisdiction and they
10 have been notified in that jurisdiction they are going to
11 be revoked. And they have a pending matter here.

12 They may come here and say they want to
13 withdraw. We presume hopefully that they disclose that
14 they have a problem in another jurisdiction. But if they
15 didn't, for example, and you found out through your
16 investigation that the reason they are withdrawing is not
17 because they are having a downturn in business but because
18 they have a regulatory issue that is going to come out and
19 they are going to have a problem as to their integrity and
20 so forth.

21 We don't believe that is a valid reason for
22 withdrawing at this point. And that should be something
23 you should review and thoroughly briefed on the content
24 of the information available and then make a decision.

25 MR. MICHAEL: Also, there is a corollary to

1 the withdrawal rule and that is a bar on re-application.
2 So one of the reasons typically that jurisdictions want
3 to have control of withdrawal is to make sure that someone
4 cannot just come back again six months later.

5 Again, in using the example that Bob had
6 mentioned, if someone goes through an entire
7 investigation. It is discovered they have a serious
8 problem. You have gone through all of this process. You
9 have spent all of your man hours and woman hours doing this
10 and then they say never mind and they go away. Now they've
11 left the jurisdiction. So, you have accomplished that
12 goal.

13 Nothing prevents them from then if you spent
14 all of this time and effort of having no record of it in
15 other jurisdictions, of course the other jurisdictions
16 could come to you and ask you about them, but they don't
17 have a record of denial in their background. And there
18 is no bar on their ability to just turn around and make
19 you expend even more time and effort a year later. There
20 are pros and cons.

21 CHAIRMAN CROSBY: That seems to be a
22 separate issue. The issue of re-applications if you
23 withdraw ore re-applications if you are denied. That
24 seems to me to be one issue.

25 Whether you can withdraw without the

1 Commission's approval is to me a separate issue. There
2 might be a consequence, but you have got to get to this
3 one first. Logically, intuitively, reflexively it feels
4 weird to me. You want to get out, we don't let you out?
5 How do you enforce that? You make them keep giving you
6 the data?

7 MR. EPPS: I think it is clear that you
8 wouldn't unreasonably withhold their ability to withdraw,
9 but what you do is you review every application. And if
10 there is a situation where you think it requires further
11 examination or it should go the distance, you have that
12 ability to say that.

13 CHAIRMAN CROSBY: What would be such a
14 circumstance?

15 COMMISSIONER ZUNIGA: Consider the
16 following scenario: What if there is only one applicant
17 for one of region and that applicant decides to withdraw?
18 That withdrawal may put this Commission in a scenario
19 where we may or may not re-bid for that region. Is that
20 a feasible scenario?

21 MR. EPPS: The heart of the situation is if
22 you have been spending all of your resources and your
23 effort to get to a certain point in an investigation and
24 the investigation is near the end and it looks like it's
25 going to go bad, then they are going to say never mind,

1 d because they anticipate you may have denied. You have
2 a right to conduct your hearing and come to your conclusion
3 if it is going to be a denial, it is going to be a denial.
4 And you should be able to state your findings on the record
5 and make your determination.

6 As opposed to getting close to the finish
7 line and it's not looking good and they say never mind.

8 MR. MICHAEL: What we are pointing up here
9 in this debate is why we haven't drafted the rule yet.
10 There are two sides to this.

11 Our recommendation, I would say it is a
12 tepid one, but it is a recommendation that we recognize
13 the flaws in. Only because we our experience is that in
14 virtually every other jurisdiction this is the practice.
15 It is found to have been worthwhile in most instances.

16 So, we offer it to you as what is the
17 standard practice and what is determined to be the best
18 practice. It is not necessarily the only practice. It
19 is something you can consider and decide on depending on
20 how you come out.

21 COMMISSIONER MCHUGH: The discussion
22 applies not only to gaming licenses but it applies to all
23 licenses. All of the licenses the many licenses that have
24 to be given. It is not a limited kind of thing.

25 The second thing is that there could be a

1 connection, could there not, between the withdrawal and
2 the consequences of the withdrawal. In other words, the
3 regulation could be framed that says if your reason is
4 good, you can withdraw without prejudice. You come back
5 in two weeks and re-apply again if you ran into some
6 unexpected problem.

7 On the other hand, if you are withdrawing
8 to avoid a denial, the Commission might say you can
9 withdraw but you cannot come back for 180 days. You could
10 tailor the consequences of the withdrawal to the decision
11 to allow or deny it.

12 MR. MICHAEL: That's right.

13 COMMISSIONER MCHUGH: It gives the
14 Commission some flexibility -- Doing it that way would
15 give the Commission some flexibility to deal with a
16 variety of situations that might come up where people
17 elected to leave after the Commission had invested a
18 substantial amount of time in the process and people
19 simply wanted to avoid an undesirable result that would
20 have a bar of consequence, for example, a 180-day
21 statutory bar. They want to jump out just before the
22 hammer was about to drop. You could say no, you can
23 withdraw but the hammer is still going to drop.

24 Actually, it gives more flexibility.

25 COMMISSIONER CAMERON: We would have the

1 ability to complete the investigation

2 MR. GUSHIN: That would be one option.

3 CHAIRMAN CROSBY: I am not sold on this.

4 This doesn't make sense to me. For good reason or for bad
5 reason they don't want to be a bidder, for us to say sorry,
6 you have got to be a bidder. We want to find out your
7 reasons. We don't want to tell you our reasons.

8 MR. MICHAEL: No, no.

9 COMMISSIONER ZUNIGA: They already bid.
10 They submitted a bid.

11 CHAIRMAN CROSBY: You cannot withdraw.
12 So, what do they do?

13 MR. GUSHIN: We are only saying you can
14 withdraw with the Commission's approval. And there might
15 be justified reasons in many cases. In an isolated case
16 there may be withdrawal with prejudice for re-filing for
17 a certain period of time. Or in a very isolated case, an
18 investigation maybe done before the Commission. The
19 Commission would have the option to deny a license if there
20 are facts and circumstances, which would justify that.

21 In almost all cases you would be
22 withdrawing. No one wants to expend and waste money
23 conducting a hearing that may not be necessary. But the
24 whole point is it would be under the control of the
25 Commission as opposed to the applicant.

1 CHAIRMAN CROSBY: I understand that. I am
2 not seeing how the public interest is served by reserving
3 that right - A. B - I am not sure how you would enforce
4 it. If you say I want to withdraw and the Commission says
5 why. They say I don't want to tell you. Then what do we
6 say? You have to tell us before you can withdraw?

7 MR. CARROLL: One more basic example would
8 be let's say you have gone through three-quarters of the
9 investigation. And the applicant may have a legitimate
10 reason, so to speak, to withdraw and chooses to withdraw.
11 That particular inquiry has involved extensive
12 investigation, exceeding the amount of money that was
13 paid, for example, in the application fee. It's \$100,000
14 that has been run up in addition to the investigative fees.

15 They turn around and say I'm leaving and
16 turn around and walk away with a fee unpaid, wouldn't you
17 want to retain the authority to say, no, no, no. You have
18 to pay your bill before you go. We may let you out of this,
19 but you also have responsibility to complete your
20 obligations.

21 CHAIRMAN CROSBY: They have a contractual
22 obligation to pay that \$100,000.

23 MR. CARROLL: If they withdraw and they
24 have authority to just withdraw, they would view that as
25 a termination of any legal responsibility they would have.

1 CHAIRMAN CROSBY: You could say yes you can
2 withdraw, but you have to pay whatever is due and owing.

3 MR. CARROLL: That is why we believe the
4 authority should stay with the Commission.

5 COMMISSIONER ZUNIGA: I would characterize
6 some of the other procurements that are done that I was
7 involved in with previous experience. When we request
8 for proposals, the proposals have to be remained in effect
9 for a period of time. That's part of the request.

10 So, nobody is wasting time because they
11 immediately withdraw. We understand we cannot make them
12 do things that they are not willing or able but if you are
13 submitting a proposal, you have to commit to a certain
14 period of time and whatever the terms of that proposal.

15 The bottom line I'm driving at here is
16 submitting a bid that the Commission has the flexibility
17 just like our consultants are saying to allow them to
18 withdraw.

19 COMMISSIONER MCHUGH: The problem here is
20 it is like that. The problem is that this is a situation
21 in which we are not asking for somebody to render services,
22 to supply goods for a certain period of time.

23 We are saying in effect you cannot perform
24 personal services as a consequence of your desire to
25 withdraw. It seems to me -- And that is a difference.

1 It's a lot harder to enforce. You have to run a casino.
2 If you don't want to run a casino, you have to.

3 It seems to me that in 98 percent of the
4 situations in which somebody asks to withdraw and the
5 Commission has the power to say yes or no, the answer is
6 going to be yes with some probably a fair amount of yes
7 but here's the consequences.

8 A couple of no's, you have come very close
9 to this. This is really bad we do not want you coming back
10 here. So, we are going to go ahead with the findings based
11 on the investigation we have already conducted. And we
12 are going to deny you a license. You are going to be out
13 anyway but we are going to deny it on the merits. You
14 cannot just go away and hide. And that maybe a rare
15 situation but there may be situations where that occurs
16 and we want to do that.

17 COMMISSIONER CAMERON: I agree we should
18 retain that ability when it gets that close to the finish
19 line. Are you aware of cases where it came to that?

20 MR. MICHAEL: That is typically the time
21 people try to leave is when, as the Judge says, the ax is
22 about to fall. Some jurisdictions that permit withdrawal
23 unilaterally up to a certain point and then the permission
24 to withdraw is triggered at a further point down the line,
25 usually at the time it goes to hearings or after an

1 objection is filed. When it is clear that there is a
2 problem. If you've gone that far then you're going to
3 have to face the music.

4 COMMISSIONER STEBBINS: I kind of like that
5 approach a little bit better. Timeline to withdraw
6 without any prejudice or you continue going all of the way
7 through to the end and only then do you have to come before
8 the Commission and explain the reasons. I do want to
9 catch the people that are withdrawing for legitimate
10 reason which wouldn't necessarily speak to their
11 operational performance, but dictate -- We obviously want
12 to find the people that we don't want to come back.

13 COMMISSIONER MCHUGH: The timeline would
14 be more helpful.

15 COMMISSIONER STEBBINS: Yes.

16 CHAIRMAN CROSBY: I react to this one from
17 the business part of my life as opposed to the public
18 sector. And it feels counterintuitive. I don't see how
19 it serves the public interest. I don't see how you
20 enforce it constructively.

21 COMMISSIONER CAMERON: You don't see how
22 the public interest if there is very derogatory
23 information, corrupt business practices that we have
24 uncovered and by letting them withdraw that does not come
25 forward.

1 CHAIRMAN CROSBY: If it is a criminal
2 thing, there is a mechanism for dealing with the criminal
3 activity. That is not our job. If an hour before the
4 meeting -- I don't know maybe there's a difference. the
5 report has been written and everything.

6 It seems to me that if you are a business
7 man and you decide you want to apply for something, you
8 ought to be able to apply for it. And if you want to get
9 out of it, you ought to be able to get out of it. If you
10 want to get out of it because if it comes out you are going
11 to look like a jerk --

12 COMMISSIONER CAMERON: You have agreed to
13 that background investigation where you know that they are
14 going to look at those issues. I just think you have an
15 obligation. And at some point that is reasonable, we have
16 the ability to follow through with that investigation

17 MR. CARROLL: As Guy mentioned before, our
18 experience with many operating commissions that we
19 interact with, every agenda is going to have withdrawal
20 of applications, they are rescheduled. They are very
21 perfunctory.

22 The rare one that has a problem is worthy
23 of discussion. Like you said, the Commission also wants
24 the public perception that you are doing your job. And
25 if you have done your job and you have effectively weeded

1 out some entity or some person, if that person wants to
2 conceal that and slither away that should still be your
3 call to allow that to happen.

4 COMMISSIONER STEBBINS: To the Chairman's
5 point, can someone say, I want to withdraw for whatever
6 reason. I understand it would be our intent to find
7 somebody who is going to operate in an above-board manner.
8 Why don't we just say the immediate penalty is being barred
9 from the applying for such a period of time.

10 MR. CARROLL: That is one option.

11 MR. STEBBINS: The oneness goes back under
12 that individual to really clearly think do I withdraw or
13 I am going to see the hammer drop then fine I am good with
14 two years of being barred from reapplying.

15 COMMISSIONER ZUNIGA: If I'm understanding
16 correctly, that's the option we want that is subject to
17 the Commission's determination at that time.

18 CHAIRMAN CROSBY: This would be, you want
19 to withdraw fine, you can withdraw. But the consequence
20 is X. You can't come back for a year or two years or six
21 months or whatever.

22 COMMISSIONER MCHUGH: Suppose somebody has
23 a perfectly legitimate reason for withdrawing?

24 CHAIRMAN CROSBY: If I were doing it this
25 way, I would say the Commission has the option of granting

1 special permission to come back. If you dropped out
2 because there was a hurricane that wiped out your
3 operations.

4 COMMISSIONER MCHUGH: Or your financing
5 dried up and you want to go back and reconstitute, reload
6 your coffers.

7 COMMISSIONER STEBBINS: I guess I am trying
8 to make a simple comparison to say a job applicant. I want
9 to apply for this job. For whatever reason I want to pull
10 my name out of consideration. I wouldn't necessarily bar
11 that person from coming back.

12 MR. MICHAEL: That is where that timeline
13 where there is a period of time where it is clearly
14 unilateral. There's a point at which it falls within your
15 discretion

16 MR. CARROLL: Really, that is what the next
17 couple of weeks are for in terms of your review and
18 internal discussion on that and what -- It is easy enough
19 for us to draft it with any bells and whistles that you
20 feel would be appropriate.

21 CHAIRMAN CROSBY: It feels to me like we
22 have, as you referred to it, as a tepid consensus majority
23 view that we should have there been some kind of Commission
24 control.

25 So, why don't you take a stab at trying to

1 get some kind of a graceful way to do it. And we can keep
2 talking and look at it.

3 COMMISSIONER MCHUGH: Draft a tepid
4 regulation, tepid but graceful

5 MR. MICHAEL: The last one is the
6 application fee. The discussion that has been raised
7 previously and I think has not yet been resolved. We need
8 in order to finalize the regulation is when that
9 application fee must be filed.

10 Is it filed at the point of the receipt of
11 the application? Is it filed at the point of the filing
12 of the application. Is there somewhere in between where
13 it might be filed?

14 We had discussion earlier today.
15 Suggestion was raised that anyone can receive an
16 application but then there be a time period prior to the
17 filing of the application when you're good faith and
18 seriousness has to be demonstrated and you must file the
19 application fee.

20 It gives people the opportunity to review
21 the application and see what it is that is required of them
22 before they write a check. All of those options are open.

23 CHAIRMAN CROSBY: Just to clarify this
24 situation a little bit, because it ties into other things
25 we have been talking about. We have come up with this

1 protocol for interacting with state agencies, which is
2 still in gestation.

3 But we had agreed pretty much that when a
4 company pays its \$400,000 application fee that is when
5 they become an applicant. The question then became when
6 do they pay the \$400,000. Some of us including me, I was
7 thinking that this would be right at the time -- We
8 announce it on say October 15. You come get your
9 application. You give your \$400,000. You are an
10 applicant. And from that time forward whatever the
11 benefits and responsibilities would accrue.

12 But we realized that there really -- This
13 might be in the web. You might be downloading it. So,
14 we hadn't figured out when in the transaction. So,
15 Commissioner McHugh, I think suggested that there could
16 be a period of time. Say again hypothetically October 15
17 we issue the RFA-1. We might say that within 30 days
18 thereafter, some period of time thereafter, the company
19 has to give us a letter saying they will be an applicant
20 and enclose their check.

21 We defeat the purpose from the public sector
22 side. The public sector side does not want to be working
23 with a lot of companies that aren't really going to become
24 an applicant. The longer we postpone the applicant phase
25 of that, we leave them in that position.

1 And from the standpoint of the developers,
2 the developers want to get going. They don't want to have
3 to be limited in talking to state agencies. They want to
4 presumably come as quickly as possible too for the most
5 part. That is where we were.

6 COMMISSIONER MCHUGH: That's where we have
7 been. Suppose we had a situation in which you said that
8 -- taking into account the \$400,000 fee is the sign of
9 seriousness that unlocks the keys under the protocol we
10 have established to extend the discussions with permit
11 granting authorities. Suppose we had a situation in
12 which we said you have to pay the \$400,000 no later than
13 the time you file the phase one application, but at any
14 time before that if you can pay starting tomorrow -- you
15 can pay the \$400,000 along with a certificate that said
16 I intend to file an application as soon as the applications
17 are available to file.

18 I understand this is my application fee.
19 And I understand that it is not refundable. I intend to
20 be an applicant. So, you have an early thing and a late
21 thing. If people want to get their ducks in a row before
22 they put it down, they could get their ducks in a row.
23 People who had their ducks in a row they thought, they had
24 to then take the risk that the regulations would be unhappy
25 regulations by the time it came around. That is the

1 business risk. They could put down the money and sign the
2 certificate and get going.

3 CHAIRMAN CROSBY: It is really up to the
4 developer as to when they become an applicant or not?

5 COMMISSIONER MCHUGH: Right.

6 MR. EPPS: If I understand correctly, at
7 all times they would be deemed an applicant upon paying
8 the \$400,000, nonrefundable \$400,000.

9 CHAIRMAN CROSBY: That continues to be the
10 measure. This puts the control of that date and you could
11 do it the moment you get the RFA.

12 COMMISSIONER MCHUGH: You could do it
13 before you get the RFA. I am just putting out a
14 hypothetically.

15 COMMISSIONER STEBBINS: I plan to file.

16 COMMISSIONER MCHUGH: I plan to file and I
17 will take my risk.

18 COMMISSIONER CAMERON: What is typical in
19 other jurisdictions? What have you seen?

20 MR. MICHAEL: They are an applicant when
21 they file the application. In most cases, there is not
22 this bidding process. If anybody wants to file, they file
23 and become an applicant once they file the application.
24 And they pay their at fee the time they file the
25 application.

1 In Pennsylvania for example where there was
2 a contest there was a date certain when everything had to
3 be filed and it was at that point that you paid your money
4 and then you were an applicant.

5 This would be creative. There's nothing
6 wrong with that. I am trying to think through what the
7 advantages and the disadvantage are of being an applicant
8 at an earlier date. I guess it gets you into being able
9 to see other agencies more often. It also imposes certain
10 restrictions on you under the Act that only applicants
11 have that they wouldn't otherwise have, but that is their
12 choice.

13 COMMISSIONER MCHUGH: Political things and
14 other disqualifications. All of the ethical things kick
15 in.

16 MR. MICHAEL: That is their choice.

17 CHAIRMAN CROSBY: The basic idea of putting
18 the trigger mechanism in the control of the developer I
19 think is a great idea. Whether we are ready to get it --
20 I think the October 15, give or take, the issuance of the
21 RFA-1 regs -- sorry, of the RFA-1 just because it is a date
22 that's out there, we are not really ready yet to have there
23 be applicants tomorrow. We don't have a way to bring in
24 the money and what to do with the money. We are not really
25 set up yet.

1 We have not set up the ombudsman process.
2 Maybe we could do it by September 1 as opposed to October
3 15. It is kind of a clean date to use the issuance of the
4 RFA-1 as the date at which any developer may pay their fee
5 and become an applicant. And no later than the time they
6 actually submit the completed RFA. I think that's a
7 really good solution.

8 MR. MICHAEL: Yes, we can do that.

9 COMMISSIONER CAMERON: Sounds good.

10 CHAIRMAN CROSBY: There was one other -- We
11 need to talk to the state agencies about this because it
12 affects them. I don't think they will have a problem with
13 it. This issue about the exhaustion of staff, is that one
14 we will talk about today? I had noted that I thought we
15 were.

16 MR. MICHAEL: That's fine. That deals
17 with the issue of at what point do applicants and licensees
18 later have the opportunity to go to the Commission to
19 receive determinations on interpretations of the rules.

20 In the phase one process, it will not be that
21 prevalent. There will be some issues that involved in the
22 investigation that the deputy director of the IBE will be
23 making. So, it bears consideration in that regard.

24 For the most part it comes up in the course
25 of operation of the casinos where there will be staff who

1 will be receiving in the first instance requests from the
2 casino floor, revisions of their internal controls or
3 offering a new game or those kind of situations.

4 Do you want to create a procedure whereby
5 either the staff has some authority delegated to it to make
6 final determinations on those questions? Or whether
7 there would be not an appeal process per se but a
8 petitioning process that if the particular casino would
9 be -- the requester is not satisfied with the answer they
10 get from the staff they can request to hearing before you.
11 Not a formal hearing but to be on an agenda and to present
12 their question to you. That is the procedure.

13 It is done differently in different places.
14 You would have a choice. There may be some issues that
15 you may want to completely delegate to staff. It is
16 common that the Commission will create a delegation of
17 authority.

18 We have here in the regulations here
19 delegation of authority to staff. So that is clearly
20 perfunctory -- in fact in withdrawal cases in some
21 instances, you may want to delegate to staff the authority
22 to have the final termination.

23 In more serious instances, you may want to
24 have the ability on the part of the applicants and the
25 licensees to come to you and petition.

1 We had drafted a formal procedure for that
2 called a declaratory ruling. We discussed there with you
3 and the Judge earlier, it is not exactly duplicate of the
4 declaratory judgment procedures in court but it is similar
5 in a sense that it would be a request on the part of a party
6 for determination by you as to what a particular rule means
7 or what a particular proposal on their part is viable.

8 COMMISSIONER MCHUGH: Now as I heard you
9 say that, there are two pieces to that. One piece is a
10 staff decision with which somebody disagrees. And they
11 have an administrative review by the Commission.

12 The second is what does a rule mean. This
13 is ambiguous. I don't understand it. I am not going to
14 go to the staff and see what the staff says. I am going
15 to come to you directly for a declaratory judgment
16 basically as to what the meaning of the rule is.

17 That poses two different considerations at
18 least for me. The first it seems to me we should have
19 an opportunity by somebody who is denied something by the
20 staff and is dissatisfied with it to come to the Commission
21 to get a final ruling in most circumstances. There may
22 be some where we wouldn't want to do it.

23 The second, a declaratory interpretation of
24 a regulation before there is an actual controversy or what
25 is the policy of the Commission on X-hypothetical, it

1 strikes me as more troublesome, frankly. Because it
2 could involve situations in which we are going to be
3 spending time deciding issues that in fact are never going
4 to arise.

5 I would welcome your further discussion on
6 that second part.

7 MR. MICHAEL: I think we contemplate the
8 complete hypothetical situation that would be presented
9 to the Commission. It would be a case or a controversy
10 in legal terminology. There would be some situation in
11 which a casino is confronted and it would be asking for
12 your determination as to whether a particular practice
13 would be permissible, for example.

14 MR. EPPS: Change of technology. If your
15 statute says something has to be submitted in writing on
16 X, Y, Z date when all of the sudden they say, can we submit
17 it electronically? But you don't have an provision that
18 allows for electronic submission. Can they come to you
19 and get a ruling that from this date forward, an electronic
20 summation will be acceptable?

21 COMMISSIONER MCHUGH: Why for that
22 couldn't they just go to the staff, get an answer and then
23 come to us if they didn't like the answer?

24 MR. EPPS: They could do that. That is
25 just one extra step. It is the same process to get a

1 declaration from the Commission that going forward this
2 is allowed.

3 MR. GUSHIN: They would have to be a party
4 in an action.

5 MR. EPPS: It couldn't just be somebody who
6 wanted to do something, so I'm going to call the Commission
7 and get you to say yes, it's okay to be done. It would
8 have to be a party to a process.

9 MR. GUSHIN: One declaratory ruling that
10 had was computer access, which we talked about this
11 morning. Under the original casino control act in New
12 Jersey, there was a requirement that the agents of the
13 State Police have access to all information on the casino
14 floor. As technology changed, did the state have the same
15 access in the computerized format.

16 So, one of the casinos on behalf of all of
17 the other casinos filed a request for a declaratory
18 ruling. That resulted in certain briefs and litigation.
19 And ultimately the Commission made the decision, which
20 essentially preserved the Commission Gaming
21 Enforcement's access to information under the standards
22 set forth in the statute.

23 That is the type of an issue, which may
24 either be a casino specific issue or an industry wide issue
25 that you would not want staff opining on. That is a major

1 policy call that would, at least in my opinion, justify
2 a declaratory ruling by the Commission.

3 COMMISSIONER MCHUGH: That is interesting.

4 MR. EPPS: It is probably not likely to be
5 a weekly occurrence. It is far more rare than that.

6 CHAIRMAN CROSBY: I think for the most part
7 this is stuff that is way down the road for us, right? At
8 the moment I think it seems to me --

9 COMMISSIONER MCHUGH: I am not sure it is
10 way down the road. These questions are going to arise
11 during the RFA-1 process. What does this mean? I am
12 about to file my application. What does this reg. mean?

13 MR. CARROLL: A very likely scenario, will
14 come up immediately which is a company saying who has to
15 file in our company. And there will be some disagreement
16 I'm sure in some company as to how far the qualification
17 be extended. That will be something staff will make a
18 decision on. If they don't like it, then it will be
19 something that will be taken up.

20 If there's a particular class of qualifiers
21 maybe that might be something that would be subject to a
22 declaratory judgment.

23 COMMISSIONER ZUNIGA: I would sort of echo
24 back some of the discussions we were talking about the
25 policy decisions happening at the Commission level and

1 having that flexibility, especially now that we are in
2 startup mode. I would be in favor of that notion to have
3 the flexibility of staff review this, but if there is
4 something that the Commission needs to rule on, if you
5 will, to have that ability.

6 MR. MICHAEL: Maybe we are not explaining
7 it as well as we could. I am not sure we are talking about
8 as the Judge said, two distinct different processes.
9 They may be distinct. There may be a situation where the
10 petition would be made directly to the Commission without
11 any going to staff in the first instance. We are also
12 talking about this procedure as the mechanism to take the
13 staff decision to the commission.

14 COMMISSIONER MCHUGH: I understand that.
15 For me, that one makes good sense. The other one may make
16 good sense too. I had not thought about it before the way
17 you explained it. It seems to me worth writing out a
18 regulation that will allow both and let's take a look at
19 what it looks like concretely. Then come back and discuss
20 it further.

21 MR. EPPS: We can give you a draft for
22 discussion.

23 MR. CARROLL: There is a draft that is
24 declaratory one. We will take a closer look at it for you.

25 CHAIRMAN CROSBY: Are there other things on

1 your agenda?

2 MR. GUSHIN: We would like to give you an
3 update of the strategic plan in a nutshell. We have had
4 meetings internally with Kathy O'Toole. We are
5 proceeding -- The important take away here is we are
6 generally on schedule.

7 We will be circulating first drafts of that
8 probably in September. You received and discussed
9 previously a number of memos and things that are on the
10 chart that will not be memos will be in the strategic plan.

11 CHAIRMAN CROSBY: Great. I had one thing
12 I just wanted to get your views on while we have your
13 expertise at the table. Last week we had a little bit of
14 a conversation about the issue of competition in Eastern
15 Mass. Because of the Globe story that ran it maybe gave
16 the impression that was not in the public interest.

17 It is a puzzle to me only at least, and I
18 don't know what the other Commissioners think, that at
19 this stage of the game our smallest market, Western Mass.,
20 is our most competitive market. There are a number of
21 major players that are expressing interest and have been
22 for quite some time and doing a lot of spadework.

23 In Eastern Mass. we have one and a maybe,
24 which is our biggest market. And sort of presumptively
25 you would think that if you are in this business that would

1 be the place where you would want to be.

2 So, it is not in the public interest if it
3 can be avoided to have only one bidder for reasons we
4 talked about in a meeting last week. Our job is to try
5 to make sure the Commonwealth, the taxpayers get the
6 maximum economic development, the maximum revenue, the
7 maximum access to this entertainment and so forth.

8 I am just wondering from your knowledge of
9 the industry and so forth if you have an explanation?
10 Does it strike you as odd or not? What is your analysis
11 for why this might be?

12 MR. GUSHIN: I think Guy is going to want
13 comment as well. There are a number of variables here.
14 And I guess the most important is the internal assessments
15 that potential companies are making of the market in terms
16 of return our investment, in terms of the cost of
17 construction, in terms of the competition on the East
18 Coast.

19 We certainly always favor more competition
20 rather than a monopoly of a situation. I think all of
21 those factors. There is more competition on the East
22 Coast with the Indian casinos in Connecticut, Rhode Island
23 going with table games. I think there are assessments
24 taking place on the part of the industry.

25 None of us speak for the industry. This is

1 just our own personal opinions on these types of issues
2 that are taking place right now. Those assessments are
3 being made. Some of the larger companies like Las Vegas
4 Sands are clearly leaning towards the Asian market. As
5 you know or you will come to know the center of the gaming
6 universe is now in Asia. Macau is projected to do \$40
7 billion this year. Singapore will do in excess of \$7
8 billion.

9 CHAIRMAN CROSBY: And Las Vegas is what?

10 MR. GUSHIN: Las Vegas strip is about \$5
11 billion. That's the whole strip. That just puts the
12 perspective in place. Companies are always assessing
13 where they can get their biggest bang for their buck. And
14 the reality is Japan is considering the legalization of
15 casinos. There was a referendum on one of the islands in
16 Taiwan that is close to China that passed this week.

17 You are not only competing at the highest
18 end for that market but you're competing with domestically
19 and internationally.

20 CHAIRMAN CROSBY: If anything I would have
21 thought that would have suggested that if you were playing
22 in Massachusetts, you would want play the biggest market.
23 You wouldn't want to play the smallest or the medium. You
24 would want to play in the biggest.

25 MR. MICHAEL: I think like many industries,

1 the casino industry of late has experienced a great deal
2 of consolidation. They are only so many players in the
3 business. They can only go to so many places.

4 They have to pick and choose among the
5 places they go to among that coterie small group of the
6 major names that everybody would recognize.

7 One possibility is that there may be
8 nontraditional gaming companies or nontraditional
9 companies that are not involved in gaming per se that have
10 not really taken a hard look at the possibility of coming
11 to a jurisdiction and either beginning to look at the
12 casino business as a viable business or those who have
13 recently entered the business would look at Massachusetts
14 instead of expecting only in the named big players that
15 those nontraditional companies even totally non-gaming
16 companies could contract with a manager and come into a
17 new jurisdiction with maybe even better financial
18 situation than would some of the traditional gaming
19 companies.

20 Whether or not has occurred to anybody on
21 the outside, I can't say. They are very astute people.
22 That is something that might be considered or pursued.

23 MR. CARROLL: For example, in New Jersey,
24 we have noticed in the racing industry, which has been
25 suffering tremendously in the last few years there has now

1 been essentially outside funding, investments that have
2 taken over the two New Jersey tracks that are owned by the
3 state. In both cases, extended leases were given on very
4 favorable terms.

5 The particular parties that are involved in
6 those projects right now are also very desirous, and have
7 said so publicly, of getting involved in alternative
8 forms of gaming not just horseracing. Slots at the track,
9 sports betting whatever the law may allow as it develops.

10 Guy's point that these are companies that
11 are not casino companies but they are quality companies
12 with decent financial backing where they can attract
13 financing and get them into a market like this. They can
14 hire a gaming professional to run their operations.

15 The attractiveness of a particular
16 jurisdiction, there are so many factors that influence it.
17 But some of the things we've talked about here, there is
18 still to a certain degree some time left before the Indian
19 Gaming issue is going to be decided in the southeastern
20 region. There is some uncertainty in the market as to
21 what that will mean to a pure commercial operation coming
22 in and competing. That clarification hopefully will
23 occur soon as soon as the negotiations are completed
24 regardless of the outcome

25 In addition to that, just in the industry

1 as a whole, the presence you have in the western part,
2 there are different venues that have been mentioned. I
3 know there has been some differentiation beyond the
4 minimum capital investment that is involved.

5 But you have some different players there.
6 You have an Indian nation that is interested in protecting
7 its flanks, so to speak. You have outside -- at least one
8 company that has no prior gaming experience that is
9 looking to be one of these new companies to enter into it.
10 That is healthy.

11 You may find that there is still plenty of
12 time left for that to occur in the southeastern and Boston
13 area in particular.

14 MR. MICHAEL: The Boston area, to the
15 question you asked about why the West. I am no economist,
16 but I would assume that the cost in Boston is going to be
17 much higher in terms of the barrier of entry here, the cost
18 of building a first-class facility could be twice as much
19 in the Boston area as it would be in another area of
20 Massachusetts. When you consider the other costs
21 incumbent upon an applicant here, they all look on return
22 of investment. If the investment is higher that puts
23 added pressure on the company.

24 MR. EPPS: Speaking to return on
25 investment, what makes it bit more difficult in a market

1 like Boston, which has long survived tourism, and things
2 like that given what you already have, a gaming interest
3 would then have to compete with that product.

4 So, the question is how much do I have to
5 build to make myself so desirable that people forgo other
6 things to do this. That is all part of the cost of entry.
7 What is the cost of entry to be the product that people
8 want to come to and how much is that in Boston for the major
9 metropolitan city that already has other competition for
10 your leisure dollar versus maybe for the West where there
11 is not so much competition for the leisure dollar.

12 COMMISSIONER MCHUGH: We are of course
13 looking in all of these markets for new dollars not for
14 shifting dollars. That's part of our licensing criteria
15 is going to be looking at that. But I hear what you're
16 saying.

17 COMMISSIONER STEBBINS: You are talking
18 about cases in New Jersey where you have seen this new
19 development model. And from what I've read, I think what
20 happened in Cleveland and Cincinnati was also this new
21 model of real estate property developer, then in comes the
22 management piece of the casino. Certainly, that seems to
23 be the trend at least here in America.

24 It looks like in Asia, whoever the gaming
25 interest is doing it all by themselves. How do the

1 investment sources look at these types of opportunities?
2 What are the folks on Wall Street saying about this type
3 of model and how are they looking at Massachusetts as a
4 place to back somebody who might be interested in
5 getting --

6 MR. GUSHIN: I can't speak to Massachusetts
7 specifically, but the investment, the private equity, the
8 institutional investors are always looking to maximize
9 their return on investment. They are very coldly
10 objective. They are always looking for opportunities.

11 My recent trip that I just got back from,
12 we met with a lot of investment people in Hong Kong. There
13 is a tremendous thirst for making investment. There is
14 a lot of money on the sidelines right now both the gaming
15 and entertainment and leisure industry, which is going to
16 pick and choose their investments where they can get the
17 most lively and largest return on investment

18 MR. MICHAEL: One example in New Jersey
19 recently, a real estate developer purchased resorts, the
20 first casino Resorts International. No real background
21 in gaming but hired a gaming manager. The attraction in
22 that situation was the price was just very reasonable.
23 Because of the condition of the Atlantic City the prices
24 have gone way down in terms of buying a casino. His
25 financing was based on -- The attractiveness of that

1 investment attracted the financing.

2 COMMISSIONER ZUNIGA: I was thinking about
3 it also in terms of Dodge auction. The reverse option for
4 all the reasons that you stated, barriers to entry cost,
5 but many of the requirements that have been set in the
6 legislation, the bar is such that there is only a number
7 of limited players that are able.

8 And the other piece is relative to the
9 geographic conditions of Massachusetts, which are not
10 necessarily the same in other jurisdictions. There is
11 little land to build especially in the Eastern part that
12 is not contaminated or available frankly. Those could
13 also be factors that are playing themselves out.

14 MR. GUSHIN: In the recent Ohio project, we
15 did that. We learned that Detroit is only two hours from
16 Toledo and when the Toledo casino opened there was an
17 expected negative impact on the three Detroit casinos.

18 The same thing is taking place here with
19 companies who are considering investment. The Western
20 part of the State is not nearly as much saturation as the
21 East Coast

22 MR. CARROLL: Some of those investment
23 houses, as I mentioned before, are on the sidelines right
24 now, we certainly would encourage communication with the
25 Commission at the appropriate time, if for nothing else

1 to introduce them to the product that you have here. That
2 you are going to the investment friendly. That you are
3 trying to set this up.

4 They will listen to that. They will send
5 representatives in. We've been in many of those meetings
6 where they want to hear what is this environment going to
7 be like.

8 Hearing it directly from the Commission and
9 in non-applicant specific scenario just in terms of the
10 availability of money can be helpful in changing some
11 attitudes that in the long run when the applicant, whether
12 it's a new player or a traditional player come forward
13 looking for financing, that door might be open just by an
14 assurance by you all as to the process.

15 CHAIRMAN CROSBY: Who were you talking
16 about that we might talk to?

17 MR. CARROLL: Investment houses.

18 MR. GUSHIN: We don't want to say publicly.
19 There is also on Wall Street investment forums and gaming
20 all of the time. We are not saying you go there to recruit
21 applicants. I don't think that's appropriate. But I
22 think it does help to explain to Wall Street what the
23 opportunity is here and to show that it is going to be
24 investor friendly as possible and what that opportunity
25 is. I think that is something that should be encouraged.

1 CHAIRMAN CROSBY: That's a really helpful
2 thought. If that would be something that would go to
3 helping people who are already identified as potential
4 applicants, get their funding as well as maybe encourage
5 others. It would have an evenhanded effect. That's a
6 really interesting idea. I am glad we talked about that.

7 MR. GUSHIN: We can follow up on that.

8 CHAIRMAN CROSBY: Please, we would like to
9 very much to consider that.

10 CHAIRMAN CROSBY: Thank you. We will have
11 a break.

12

13 (A recess was taken)

14

15 CHAIRMAN CROSBY: We are back.

16 Commissioner Zuniga and I were discussing this idea that
17 the consultants had come up with about the idea of talking
18 with the investment community about the environment here
19 and about what we want to accomplish. And reminded me of
20 what A and F secretaries and the Treasurer's people do,
21 go to Wall Street to talk to rating agencies, to talk to
22 the investors about Massachusetts. And I think that is
23 really interesting idea, particularly given what you have
24 identified as this emerging model where it isn't
25 bankrolled purely by the casino developers for the casino,

1 but other developments use casinos as anchors kind of to
2 encourage other development, which is exactly what we are
3 trying to do is maximize the economic development.

4 I think it is worth thinking about that a
5 little bit. Certainly talking with these folks and
6 getting more ideas. I think that idea -- Maybe even one
7 of our many constituencies, have an introductory meeting,
8 get to know people a little bit. Make a preliminary
9 meeting and then go back every six months or whatever and
10 give them a update. That's a really good idea.

11 Item 5C, technical and other assistance to
12 communities. The ombudsman job description, this we
13 talked about last time. We have a job description. At
14 the end of our meeting we agreed -- At the end of a
15 conversation last week we agreed that I would get comments
16 from Commissioner Stebbins and review/incorporate them.
17 And then we would use that job description. I have taken
18 his comments, bought them all and will circulate that in
19 final form and will post that. We are in the process. We
20 do have a couple of candidates coming in now this week for
21 the ombudsman position. Anything else on the ombudsman?

22 The protocol for interaction with state
23 agencies. That is still being considered.

24 COMMISSIONER MCHUGH: That is in my court
25 Mr. Chairman as is the next one. There are just a couple

1 of minor tweaks that we talked about last week to complete
2 that. I didn't get those done. They will be done for
3 next week.

4 The community advisory was to have a
5 flowchart with it. I expect to have that by next as well.
6 That's in progress. Have that for your consideration
7 here.

8 CHAIRMAN CROSBY: Same thing I said before,
9 you have got a lot on your plate.

10 COMMISSIONER MCHUGH: I may ask for some
11 help on the second one.

12 CHAIRMAN CROSBY: You could get the
13 existing piece out and follow it up with the other if we
14 need to.

15 COMMISSIONER MCHUGH: That's a possibility
16 too.

17 CHAIRMAN CROSBY: Anything else on item C?
18 Charitable gaming, Commissioner.

19 COMMISSIONER MCHUGH: Let me just explain
20 where I am and where I think we will go. I talked with
21 Mr. Zuniga with the Lottery folks. I've been back to the
22 talk to the Lottery folks again to get them to answer some
23 additional questions. I talked with representatives of
24 the Attorney General's office. I talked with
25 representatives of the Treasurer's office and that was a

1 result of those discussions.

2 The basic structure of the situation in a
3 very brief nutshell is this. There are four components
4 to charitable gaming in Massachusetts. There are Beano
5 games, Bingo elsewhere, they are called Beano here.

6 CHAIRMAN CROSBY: Beano games?

7 COMMISSIONER MCHUGH: Yes, that is because
8 they are played with a bean instead of a chip. There are
9 sold at those Beano games something called pull-tabs,
10 which is a special kind of scratch like ticket that is only
11 sold at Beano games. There are Lotteries and there are
12 bazaars. Bazaars are basically the casino nights that
13 charities run.

14 The total gross gambled in all of those
15 areas is \$75 million of which \$18 million winds up in the
16 hands of the charities. The rest is prize money and
17 expense money and taxes. All of that his tax.

18 There are two regulators now. The Lottery
19 regulates Beano and pull-tabs. The Attorney General
20 regulates bazaars and Lotteries with the assistance of the
21 city and town clerks and to a lesser extent the Executive
22 Office of Public Safety.

23 As of July 31, the statute provides that we
24 will regulate bazaars that are not regulated by the
25 Lottery. So, as of July 31 there will three regulators

1 for the same set of games. Our regulation of the bazaars
2 not regulated by the Lottery is that underneath the
3 overarching regulation by the Attorney General of those
4 same bazaars. So, the regulations that are in place, the
5 Attorney General circulation, to the extent there are any
6 regulations.

7 This whole system does not need another
8 regulator, I would submit. And so I have been talking
9 tentatively with the Attorney General and with the
10 Treasurer about how to consolidate regulation. Those
11 discussions are ongoing and are not yet at fruition.

12 What I would plan to do for a variety of
13 reasons and subject to the Commission's approval is this.
14 We committed to make a report Legislature by July 31. I
15 would propose by next week to have a little outline of a
16 draft report was general and necessarily left some blanks
17 in it as to how the consolidation of regulatory authority
18 ultimately will turn out.

19 If that were acceptable to the Commission,
20 if that general outline were acceptable, the following
21 week I would have a draft report of the Legislature ready
22 for the Commission that would talk about where the
23 consolidated regulatory authority would lie.

24 That would be for discussion by the
25 Commission. If the Commission was prepared to approve it

1 then that would be fine. If not, we would have a week more
2 to think about it, approve it modifications that came out
3 of discussions on the 31st and send it off to the
4 Legislature that day. That is what I would propose to do.

5 This sounds it a little looser than I think
6 it is, but I think that in terms of -- in terms of the
7 location of the regulatory authority. -- I think as I say
8 there are discussions going on now. They are informal.
9 We can't approve them, but I think we'll have something
10 in place that will make sense by that time.

11 COMMISSIONER CAMERON: That sounds
12 reasonable.

13 CHAIRMAN CROSBY: The only thing is and
14 this is the third time I've said this, is you have got a
15 lot on your plate and it is a lot of drafting of different
16 things.

17 COMMISSIONER MCHUGH: That fosters
18 succinctness.

19 CHAIRMAN CROSBY: Thank you. Item seven,
20 budget and finance, Commissioner Zuniga?

21 COMMISSIONER ZUNIGA: Yes, thank you. I
22 submitted as part of the packet a report from the MMARS
23 system on accounts paid on the fiscal year 2012. These
24 are all closing that fiscal year that we had since
25 inception.

1 I would submit that there are certain costs
2 because of timing that were incurred in fiscal year '12
3 not reflected in this report because they take time to
4 process. Notably for example, the fringe is only a
5 partial of the payroll figure you see above because fringe
6 comes back he gets assessed slightly later. That is
7 normal. That's par for the course.

8 I would also say that many of these expenses
9 as you will see next week with the draft of a budget that
10 I am preparing will grow in relation to others because this
11 is representative of the very startup couple of months
12 April and May most of June that was part of this initial
13 period. I can take any questions.

14 CHAIRMAN CROSBY: The consultants
15 services, that's Michael & Carroll.

16 COMMISSIONER ZUNIGA: Yes. That does not
17 reflect an invoice from Spectrum yet.

18 CHAIRMAN CROSBY: Which came in --

19 COMMISSIONER ZUNIGA: -- came in since the
20 close of this period. Legal represents only what was paid
21 and processed in the prior fiscal year for Anderson and
22 Kreiger. I have the detail by vendor. We can produce
23 this by any number of iterations.

24 CHAIRMAN CROSBY: That's good. This is
25 probably fastest year-end report any state agency has

1 done.

2 COMMISSIONER MCHUGH: It's great.

3 COMMISSIONER ZUNIGA: Only because it is a
4 partial year.

5 COMMISSIONER STEBBINS: Are there any
6 overlap costs between the educational forums, meeting
7 expenses and then the conference and meetings?

8 COMMISSIONER ZUNIGA: Slightly, yes.
9 What I try to do with this was to apportion most of what
10 I could to the educational forum as a line item. You might
11 see here for example --

12 COMMISSIONER STEBBINS: It is not a big
13 amount of money.

14 COMMISSIONER ZUNIGA: Space rental by the
15 way, conference and meetings, some of that refers to the
16 Convention Center we held a couple of our meetings but
17 we also held the one educational forum. So, I didn't
18 necessarily call those out. If we wanted specific object
19 codes that something we should start thinking about as to
20 how one these being reported or allocated.

21 CHAIRMAN CROSBY: Great. Any other
22 questions?

23 COMMISSIONER CAMERON: Very well done.
24 Thank you.

25 CHAIRMAN CROSBY: Public education,

1 community outreach responses to requests for information.
2 Do we have any anything that we need to talk about
3 Commissioner McHugh?

4 COMMISSIONER MCHUGH: None.

5 CHAIRMAN CROSBY: Report from the Director
6 of Communications and Outreach.

7 MS. DRISCOLL: Hello, everybody. I will
8 actually be really quick today because I know you've all
9 been filled in on this process of branding and website
10 creation and things like that.

11 The good news is that I have already met with
12 a couple of firms. I have a few more meetings this week.
13 By the beginning of next week, we will hopefully have some
14 proposals to review about what that process will look
15 like, what each company suggestion is in terms of how to
16 go about it.

17 The good news is I met with a lot of talented
18 people and have some great ideas. So, I think it will
19 ultimately be a very difficult decision for us, but
20 everybody so far as been confident that they can do these
21 phases in relatively short order, have interesting
22 philosophies on how to go about logo creation and building
23 a brand, which I think will be a great process for the
24 Commission to go through actually.

25 The meetings have all gone very well. I

1 hope to have those proposals soon.

2 CHAIRMAN CROSBY: Have you talked with
3 Commissioner Zuniga about a budget plug?

4 MS. DRISCOLL: We have. We discussed it
5 last week. And I will have more of an idea once I get the
6 proposals back as to exactly what that is going to look
7 like. I've asked that they sort of give it to me in almost
8 a menu style so that we can prioritize and decide what the
9 immediate next steps are.

10 Like I said, all of those things I think will
11 all sort of feed into the establishment of the speakers
12 bureau and things like that, which is well underway. I
13 am hoping to coincide the two because I think they are
14 hand-in-hand.

15 CHAIRMAN CROSBY: The logo branding and
16 especially the website will take a lot longer to set up.

17 MS. DRISCOLL: Based on some of the
18 discussions that I've had, I think too of the website is
19 that we will be able to build it up in phases. I sort of
20 don't want the quest for perfection and completion on it
21 to stall the process.

22 So, if we can get something up that has the
23 ultimate look and feel, but over time we are going to be
24 adding things. When things come up such as when
25 Commissioner McHugh said earlier when you were talking

1 about the prequalification process, will those
2 applications be online? Where are those going to go?
3 How are we going to do that? What the needs will be for
4 those types of things moving forward? What we need
5 online? What don't we need? Ideally what would be
6 there?

7 Those are all of the types of things that
8 as a group, we will have to determine what is going to be
9 made available besides the obvious. Like I said, those
10 conversations are going really well.

11 CHAIRMAN CROSBY: Good.

12 MS. DRISCOLL: I told everyone there is a
13 sense of urgency and everybody understands that.

14 CHAIRMAN CROSBY: Something I've been sort
15 of thinking about and it would be good to talk about with
16 you. This meeting I am having on Thursday with
17 Representative Keiko Orrall and a whole bunch of community
18 leaders from the Taunton, Lakeville, Freetown area has
19 gotten tremendously positive feedbacks. She was
20 tremendously appreciative that the Commission would be
21 willing to reach out. There is a lot of press reaction
22 to it. Lots of people -- It's a three-hour meeting. I
23 can't believe it will really take that long.

24 I wonder whether as part of our effort to
25 be participatory and transparent would it be a good idea

1 to just write a note to all of the reps and senators to
2 say we know they are frequently approached as repositories
3 of information. And we are available to meet with them
4 and their constituents about these issues as best we can.
5 Sort of cushion it a little bit the way we did with Rep.
6 Orrall so that the expectation is set right.

7 I think it would be good legislative
8 relations to make that kind of an offer. It's good for
9 us to be out there talking to people. It gives us an
10 opportunity to talk about things that we care about. It
11 is just one of those efforts to reach out to communities
12 to show that we care and are aware of their issues and
13 concerns and so forth. Do you think that would be a good
14 idea?

15 MS. DRISCOLL: Yes, I like the idea. Like
16 you said, it all folds into the speakers bureau in some
17 ways.

18 CHAIRMAN CROSBY: Right. It gives reps
19 and senators a little bit of a special access to get to
20 our information and to get to us, which I think would be
21 appreciated. I think people think their reps. and
22 senators can do that. So, if we were to volunteer I think
23 that may be a good idea. Anybody else?

24 MS. DRISCOLL: Yes.

25 COMMISSIONER MCHUGH: I think it is a great

1 idea. Even if we offer to have briefing for groups of
2 reps. and senators.

3 CHAIRMAN CROSBY: That's a good point too.
4 We are meeting with Representative Wagner tomorrow. We
5 still have series of meetings coming along, Senator
6 Brewer we are meeting with and there are a bunch of others.
7 That would be a good time too to mention that. That's a
8 good thought.

9 So, we will do that.

10 MS. DRISCOLL: Maybe we can see too once we
11 see how Thursday goes in that format, there will be some
12 decisions in terms of what the format of that would look
13 like. There should be some sort of structure to it.

14 COMMISSIONER ZUNIGA: I just want to
15 mention something that I mentioned to Director Driscoll
16 the last time we spoke a about this notion of the website.
17 As our information starts getting more and more copious,
18 one of the features I really would like to ask about of
19 the companies that can help us do this and look at the
20 alternative of mass.gov is the search function we go to.

21 The arrangement is very important but
22 sometimes visitors come in looking for a particular
23 document and my experience in those searches are not
24 always very helpful. There's different levels of search
25 engines out there. As we had discussions relative to our

1 document management system but also relative to our
2 website that is one in particular attention that I want
3 to bring up.

4 CHAIRMAN CROSBY: That's a great point. I
5 agree with you as a user of such sites.

6 COMMISSIONER ZUNIGA: That makes or breaks
7 your assessment of the ability of getting that information

8 COMMISSIONER CAMERON: Frustration level.

9 MS. DRISCOLL: And we will address that.
10 Right now, I feel like with so much content coming in, we
11 are triaging information basically on a website now, which
12 for right now is okay but with every passing day there is
13 more and more that goes up there.

14 CHAIRMAN CROSBY: Anything else? Great.
15 Thank you.

16 Speaking engagements, I mentioned one on
17 Thursday. This doesn't quite relate, but I have pulled
18 together a meeting I think it is sometime late next week
19 to talk with a bunch of people who have actually
20 proactively spoken to me about their interest in helping
21 us figure out how to implement the affirmative action and
22 diversity requirements within the employee workforce of
23 the casinos and in the vendors.

24 So, I am going to talk to them about whether
25 they think we ought to have a session like we've had, an

1 educational forum or maybe we have people come and speak
2 here. I don't know what. The brainstorm session kind of
3 like you have been doing with some of the tourism groups,
4 Commissioner. Does anyone else got speaking
5 engagements, any more racing trips or anything?

6 COMMISSIONER CAMERON: As a matter of fact,
7 the week after next there is new Racing Commissioner
8 training in Saratoga that both Commissioner McHugh and
9 myself will be attending. A session on model rules, a
10 very aggressive agenda, so looking forward to that.

11 CHAIRMAN CROSBY: That's great.

12 Discussion of Western Mass. forum, Commissioner.

13 COMMISSIONER STEBBINS: We are working
14 with Senator Candaras who has offered to help host this
15 community forum, Commission forum. We are trying to nail
16 it down. We have two dates in August that we are looking,
17 the second or the eighth. We are hoping to have
18 resolution on one of those dates I would like to think in
19 the next 48 hours.

20 Again, the topics we are covering -- We will
21 be partnering with the Pioneer Valley Planning Commission
22 focus on community mitigation issues for Western
23 Massachusetts, tourism and workforce development issues.

24 We are looking at an afternoon session so
25 nobody has to beat it out Springfield early in the morning.

1 Again, Senator Candaras has been very helpful in helping
2 to lead our outreach to the University to host this.

3 CHAIRMAN CROSBY: Aren't we going to go up
4 the night before and you are going to show us the sites?

5 COMMISSIONER STEBBINS: I would be happy
6 to. Hopefully, Elaine and I will be able to bang out a
7 press release for the announcement of the date and the
8 agenda in the next day or so.

9 CHAIRMAN CROSBY: Research agenda, I
10 talked to several times and went back and forth several
11 times with this woman Rachel Volberg who has approached
12 us originally about a project and to whom we have talked
13 about this expanded idea that we have all talked about.

14 I talked with her about the idea of a
15 planning grant a little bit to give us a sense or order
16 of magnitude. She is sort of on hold until we can figure
17 out what the procurement process would be. She is
18 concerned about if she does a planning grant, could her
19 team bid on a big project, etc.

20 I have a lot of thoughts about that, but
21 since I've been away I have not had a chance to talk with
22 you. But I will try and talk with you tomorrow. Because
23 if we can come to agreement, I think people are really teed
24 up.

25 I got a copy or maybe we all did of the

1 proposal that she and others put together for the United
2 Kingdom to do a similar job to what you're talking about,
3 a really soup to nuts socioeconomic study which they
4 ultimately did not fund. The UK did not do it.

5 There is a lot of methodology right there.
6 It's a big fat well-thought-out document. She has talked
7 about this before that this was one jurisdiction, the UK
8 that realized the need, thought about doing it but
9 ultimately didn't get to do it. I hope next by meeting
10 at the latest that I will be able to get moving on that
11 one.

12 COMMISSIONER STEBBINS: Mr. Chairman, as
13 we talked about I took the piece of the memo that you had
14 produced with the different categories and forwarded that
15 out to --

16 CHAIRMAN CROSBY: Categories of things to
17 be assessed?

18 COMMISSIONER STEBBINS: Yes, the economic
19 and the social impact categories and sent that out to the
20 folks that participated in our Worcester forum. I have
21 heard back from I think three of the participants who added
22 some comments, additional topics, maybe just even kind of
23 raised some flags about collecting this type of
24 information you can expect to see X, Y, Z.

25 I will share those comments when they all

1 come in with you and fold them back in. Next week we have
2 two folks that weren't able to participate in the forum
3 in Worcester and coming in to talk at our regular business
4 meeting. Professor McGowan from B.C. and Professor
5 Robert Goodman who is retired who I also think he was on
6 the National Gaming Commission back about 10, 12 years
7 ago. He talks about the research component and a lot of
8 the assessments. They wanted to do it at the national but
9 for a funding shortfall they were not able to do it as well.

10 COMMISSIONER ZUNIGA: Just a quick update.
11 I had a good meeting with people from Salem State College
12 and started talking about this notion of research agenda
13 that we have and everything you have outlined.

14 A thought came out of that conversation
15 relative to if we find ourselves in phase one having
16 requested applications -- request for applications and
17 while we are also doing some of the research projects,
18 would it be conceivable that data from those applicants
19 may serve the research that we are doing or we are
20 attempting to do? It is just a question.

21 Whether those applicants or potential
22 applicants would be willing to give us data that is outside
23 of the scope that we are proposing to be phase one,
24 financial information.

25 This is really just trying to get ahead on

1 the research piece and trying to conceive of what data on
2 the one hand publicly available, but on the other hand
3 where some of the applicants may be willing to provide it
4 for us. Not having to do with the RFP process, but maybe
5 something they would be willing to volunteer.

6 If that was the case, could be write
7 something to that effect in the regulations or in the
8 process of the RFP. This was purely a hypothetical. I
9 don't know that there is a lot of data that they have that
10 is not publicly available. This was just a thought
11 relative -- Or we have to wait until the RFP phase two
12 process to request specific data from our applicants.
13 That was sort of something to consider.

14 CHAIRMAN CROSBY: Off the top of my head,
15 it seems to me that most of the socioeconomic impact
16 baseline data that we are going to want to coming from
17 Massachusetts. It is not going to be outside information
18 and we don't know very much.

19 And if you run through that stuff that list
20 of stuff that was in that memo that I put together that
21 comes from the Canadian consortium, you don't need to
22 vendors' data. But it is still worth thinking about. I
23 think it is worth keeping that idea in mind as the research
24 plan unfolds, and see whether we might want to ask them
25 to stuff. Now is the time to do it. Now is the point of

1 maximum leverage.

2 COMMISSIONER ZUNIGA: The one thought that
3 did come up, which I confirmed with our consultants was
4 could they provide a list of their vendors, let's say or
5 the type of vendors they normally hire locally. Because
6 something like that could really inform the economic
7 impact or workforce development discussion that we are
8 having, help identify perhaps a gap in particular region
9 for some type of businesses or services.

10 That would be real good information. Our
11 consultants seem to think that much of that information
12 is already available publicly but we don't really know for
13 sure. That was one instance.

14 CHAIRMAN CROSBY: That's a good thought.
15 That is a good idea. Lets just keep that in mind. And
16 hopefully within a week or so we will be able to say to
17 somebody let's get moving on a research outline
18 methodology plan and that will be the time we'll start to
19 see whether there is data there. That is a good thought.

20 CHAIRMAN CROSBY: Anything else on
21 research? Any other business unanticipated at the time?

22 Do I have a motion to adjourn?

23 COMMISSIONER MCHUGH: So moved.

24 CHAIRMAN CROSBY: Second?

25 COMMISSIONER ZUNIGA: Second.

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CHAIRMAN CROSBY: All in favor? I.

COMMISSIONER ZUNIGA: I.

COMMISSIONER MCHUGH: I.

COMMISSIONER STEBBINS: I.

COMMISSIONER CAMERON: I.

CHAIRMAN CROSBY: Okay, then we got it.

(Meeting adjourned at 4:24 p.m.)

1 ATTACHMENTS:

2

3 Attachment 1, Agenda

4 Attachment 2, DLA Piper Comments on Proposed Phase 1 of
5 the Gaming License Application Process

6 Attachment 3, MGM Resorts International Bifurcation
7 Comments

8 Attachment 4, Massachusetts Gaming Commission Expenses
9 FY2012

10 SPEAKERS:

11 Elaine Driscoll, Director Communication and
12 Outreach

13

14 James Larosa, JuriStaff

15 Jennifer Romain, JuriStaff

16 Angel Arvelo, PMA Consultants

17 Scott Libby, PMA Consultants

18 Eric Lowther, PMA Consultants

19 Bob Carroll, Michael & Carroll

20 Guy Michael, Michael & Carroll

21 Bernie Murphy, Michael & Carroll

22 Michael Epps, Spectrum Gaming Group

23 Frederic Gushin, Spectrum Gaming Group

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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.

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//Laurie J. Jordan// Date: July 11, 2012

Court Reporter for Office Solutions Plus, LLC

My commission expires: May 11, 2018

//Elizabeth Tice// Date: July 11, 2012

Elizabeth Tice, President, Office Solutions Plus, LLC

My commission expires: August 26, 2016