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THE COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION

OPEN MEETING

CHAIRMAN

Stephen P. Crosby (*present via telephone*)

COMMISSIONERS

Gayle Cameron

James F. McHugh

Bruce W. Stebbins

Enrique Zuniga

JULY 2, 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 2, 2012

PROCEEDINGS:

COMMISSIONER MCHUGH: I call the meeting to order in the absence of the Chair. The first item of business is to say that the Chair is absent. Last week we agreed on as a general proposition the permissibility of remote participation in circumstances where regulations permit it under 940 CMR 29.105E geographic distance, which fits the Chair's circumstances today does permit remote participation. So, we will proceed with your participation by telephone, Mr. Chairman.

If at any time you cannot hear us, please say so. And periodically we'll talk to you so we can make sure you can hear us.

CHAIRMAN CROSBY: Great. Thank you.

COMMISSIONER MCHUGH: The first item of business is approval of the minutes June 18 and June 19. I also distributed late Friday the minutes of June 26. I don't know whether everybody has had an opportunity to read them. If not, we will put approval of those minutes off until next week. Has everybody had a chance to read them or should we put them off until next week?

CHAIRMAN CROSBY: I read them.

COMMISSIONER STEBBINS: I read them.

1 COMMISSIONER CAMERON: I read them also.

2 COMMISSIONER ZUNIGA: Yes.

3 COMMISSIONER MCHUGH: We'll then take up
4 the approval of the minutes of June 18, June 19 and June
5 26. I am going to make a motion to approve all three sets
6 of meetings (SIC) in the fashion in which they are filed.
7 Is there a second to that motion?

8 COMMISSIONER CAMERON: I second.

9 COMMISSIONER MCHUGH: Are there any
10 corrections to the June 18 minutes?

11 COMMISSIONER STEBBINS: Just one spelling
12 correction on page two, final paragraph you talk about
13 city councilor from Springfield. Councilor is C-I-L-O-R
14 instead of S-E-L-O-R. We do not want to denigrate your
15 profession.

16 COMMISSIONER MCHUGH: I understand or
17 uplift it. I'll make that change. Thank you,
18 Commissioner.

19 CHAIRMAN CROSBY: Commissioner McHugh, I
20 couldn't really hear Commissioner Stebbins.

21 COMMISSIONER MCHUGH: That is a warning
22 that we need to keep our voices up. So, let's use the
23 microphone.

24 COMMISSIONER STEBBINS: Mr. Chairman, it
25 is just a correction on page two. We spell out the city

1 councilor from Springfield as counselor with an
2 S-E-L-O-R- instead of C-I-L-O-R.

3 CHAIRMAN CROSBY: Good.

4 COMMISSIONER MCHUGH: We will make that
5 correction. Any corrections to the June 19 minutes?

6 CHAIRMAN CROSBY: On page six,
7 Commissioner, the last paragraph in the third line. It
8 is just a typo. It says in having a form as opposed to
9 a forum.

10 COMMISSIONER MCHUGH: All right. We will
11 make that correction. Any corrections to the June 26
12 minutes?

13 CHAIRMAN CROSBY: I would just say about
14 all of these that this is a lot of work. And they are
15 very good minutes. You don't see very good minutes all
16 that often.

17 COMMISSIONER MCHUGH: We thank you, Mr.
18 Chairman. We start with a good rough draft prepared by
19 our intrepid reporter and some editorial work is done.
20 Between the two of us, we produce the product that you
21 see in front of you. So, thank you.

22 I am going to then ask for a vote to approve
23 the minutes. Because we have participation remotely, we
24 have to do this by roll call. First, Commissioner
25 Stebbins, how do you vote on the motion of approval of

1 three sets of minutes?

2 COMMISSIONER STEBBINS: With
3 corrections, I.

4 COMMISSIONER MCHUGH: Commissioner
5 Cameron?

6 COMMISSIONER CAMERON: I.

7 COMMISSIONER MCHUGH: Commissioner
8 Crosby?

9 CHAIRMAN CROSBY: I.

10 COMMISSIONER MCHUGH: Commissioner
11 Zuniga?

12 COMMISSIONER ZUNIGA: I.

13 COMMISSIONER MCHUGH: And I join the vote
14 to make it unanimous, all three sets of minutes are
15 approved.

16 The next item of business is the executive
17 search firm update. And for that, we will turn to
18 Commissioner Zuniga.

19 COMMISSIONER ZUNIGA: Thank you. I
20 submitted a memorandum relative to my recommendation to
21 select and contract with executive search firms. This
22 is after the result of evaluating the four proposals
23 submitted, and interviewing with all four proponents.

24 My recommendation here is that the
25 Commission accept the proposal submitted by JuriStaff.

1 I have also, by the way, included evaluation score sheets
2 as part of the packet.

3 JuriStaff is ranked the highest with all
4 of the criteria that we stipulated in the RFP. But I also
5 have an additional recommendation, one to include the
6 second-highest ranked firm in the form of prequalifying
7 them for potential future engagements of this sort.

8 The fee arrangement of these firms is
9 customary, is a percentage of the salaries of whoever is
10 being searched for. Under those circumstance and
11 realities relative to fees, my recommendation is one to
12 prequalify them as well. I can take any questions or make
13 any kind of comments.

14 COMMISSIONER STEBBINS: I guess a quick
15 procurement process question. We are accepting or
16 planning to vote on the acceptance of the proposal
17 submitted by JuriStaff and the prequalification. If we
18 select JuriStaff, do they essentially become
19 prequalified for us also?

20 COMMISSIONER ZUNIGA: Correct, yes.

21 COMMISSIONER STEBBINS: How does that
22 change or does it change the bidding process in the future
23 if we go out looking for a search firm's help?

24 COMMISSIONER ZUNIGA: It shortens it. It
25 allows us to take what I am seeing here as the best two

1 and engage with the one that is ranked the highest for
2 what we said we would do, which is the search of the
3 executive director. So, that complies with the
4 procurement rationale from the get-go that we set out to
5 do originally.

6 In addition to that, my recommendation is
7 to include the second-highest ranked firm for a potential
8 procurement -- We may not have one. -- in which both the
9 first and the second would be considered in that future.
10 This would allow us to essentially shorten a potential
11 future procurement, because we would only select from
12 either of the two.

13 COMMISSIONER STEBBINS: Okay. Thank
14 you.

15 CHAIRMAN CROSBY: Commissioner, I had one
16 comment. If I'm understanding this right, JuriStaff did
17 very well. They got 15 points because of the fee
18 arrangement. I look at the lowest ranking SpencerStuart
19 who got three points. That's a difference of 12. If
20 that weren't there if they both got three, JuriStaff would
21 be lower than SpencerStuart.

22 I am wondering whether we want to make this
23 decision fundamentally based on who is the cheapest or
24 else who is not the most expensive. I felt very strongly
25 when we first started this process that yes, we want to

1 be frugal with our money. That is an absolute. There
2 is no question about it. All other things being equal,
3 we should go for the least cost. But I was not
4 anticipating that we would have cost as such a dramatic
5 driver of the decision here. I wonder what other
6 people's thoughts about that are?

7 COMMISSIONER MCHUGH: I, Mr. Chairman,
8 had a question about the same issue for a variety of
9 reasons, because I was interested in what the delta was.
10 Everybody has a cost. What is the difference between the
11 costs that we would incur with the others and the costs
12 that we would incur if we took SpencerStuart? So, it's
13 a question along the same lines.

14 COMMISSIONER ZUNIGA: Before I talk on
15 specific costs, let me mention something which I believe
16 is key to deal with the cost issue in general. The
17 evaluation criteria that weighted experience,
18 familiarity, the response and cost, all of that was set
19 in advance.

20 In other words, we wrote it into the
21 request for proposals before we received the proposals.
22 In that request, we said that cost would amount to 15
23 percent -- actually 15 points out of the 106 that were
24 ultimately going to be evaluated on. We delineated that
25 the way we would parcel that out was in the sliding scale

1 of one through five where five is the most advantageous
2 and one is the least advantageous. So, there is a
3 proportionality of points assigned on that scale.

4 Now the reason that I came up with these
5 15 points was that cost would not be the only driver. It
6 is a consideration, but it is not the only consideration.
7 I just took that to be 15 percent because we needed
8 experience and familiarity with the industry and
9 executive search type firms -- level to be the majority
10 of the experience we were looking.

11 The three other proposals besides
12 SpencerStuart were right around the same level between
13 \$45- to \$55,000, which is why I graded them four and five.
14 Five being the most advantageous that results in 15 points
15 or four that are right around there that we saw in 12
16 points because that is the proportionality.

17 SpencerStuart was at \$120,000, which is
18 essentially double the second highest and that is why I
19 rated them a one because it was the least advantageous
20 proposal when it came to cost.

21 CHAIRMAN CROSBY: The request for
22 JuriStaff is how much?

23 COMMISSIONER ZUNIGA: \$45,000 for
24 JuriStaff, 30 percent of the salary -- of the first-year's
25 salary is the second-highest New Leadership Group. That

1 comes out to a range because we have been exploring a range
2 for the salary of the executive director, but it is in
3 the same neighborhood. It would be \$60,000 if it was the
4 highest range of the last memo that we received from
5 Spectrum and Michael & Carroll and \$55,000 for Isaacson,
6 Miller.

7 By the way, SpencerStuart scored the
8 highest in two of the criteria. That was however not
9 enough to offset also equally high marks of the other
10 firms when it came to experience and recommendations.

11 CHAIRMAN CROSBY: Yes. That is a lot of
12 money. I guess I would be interested in knowing,
13 Commissioner Cameron and also Elaine
14 Driscoll were in the oral interviews with you, right?

15 COMMISSIONER ZUNIGA: Yes.

16 CHAIRMAN CROSBY: If you set money aside,
17 just talking casually for a moment, do you all feel --
18 If you take money out and the money is even--
19 SpencerStuart, if I did my arithmetic right,
20 SpencerStuart and everything is fixed, and if everybody
21 got a three on money, then the three others are a tie at
22 73 and SpencerStuart at 76. So, it is not a huge
23 difference.

24 So, I guess what I am asking is what was
25 your personal reaction? Setting money aside, do you feel

1 we are getting very, very good service? Are we doing the
2 right thing here?

3 COMMISSIONER CAMERON: Mr. Chair, I can
4 speak to that. I was part of the interview process. I
5 did not review scoring the resumes, but I did participate
6 in the interview process. And I was very impressed with
7 JuriStaff.

8 The individual who came to see us was
9 extremely well prepared, did his homework on the
10 Commission to the extent that no one else did. And very
11 anxious and gave us some good strategy on proceeding with
12 our input. Their interview was the most impressive to
13 me.

14 Everyone interviewed well, I thought, but
15 this particular firm impressed me the most. We did have
16 those discussions after. SpencerStuart was excellent
17 also. What really impressed me was they really would
18 like to have a book of business in government and were
19 willing to roll up their sleeves and work, very, very hard
20 over the summer months, which the other firms all
21 cautioned us that that would be a problem. It would slow
22 down the process. This particular company said, look,
23 it's a little harder, but we are willing to work harder.
24 We are persuasive in their ability to do this for us in
25 a timely manner but yet do it very, very well.

1 CHAIRMAN CROSBY: Okay. And
2 Commissioner Zuniga, I assume you felt the same way. I
3 am happy with this outcome under those conditions.

4 COMMISSIONER MCHUGH: Can I just put that
5 in perspective, because the way we set this up is about
6 three or four meetings ago.

7 We designated, the Commission designated
8 Commissioner Zuniga to be in charge of this procurement
9 and to rely to such extent at he deemed appropriate on
10 the advice of others at whatever stages he thought that
11 advice might be helpful.

12 The result is that he did and handled the
13 entire procurement and the entire scoring but brought in
14 for the interview processes to give advice, feedback and
15 act as a sounding board, Commissioner Cameron and
16 Director Driscoll. That is the context in which all of
17 that occurred. I'm sorry, did you --

18 COMMISSIONER ZUNIGA: No. That is very
19 relevant clarification for the record. I also want to
20 highlight other pieces that ended up factoring into the
21 higher scoring here, which is again is something we had
22 designated prior to the RFR being put out, that was three
23 additional points for participation in the small business
24 partnership purchasing program, and three additional
25 points for being minority certified or women certified

1 business enterprise.

2 Even though they are seemingly small or a
3 few points, they end up making a difference when firms
4 are close in their ability to do the work and the
5 responsiveness of their technical proposal. So, that is
6 another piece that goes for both JuriStaff and the New
7 Leadership Group in ranking or obtaining a bit of an edge,
8 if you will.

9 COMMISSIONER MCHUGH: I noticed that even
10 if you back those out, you still have JuriStaff number
11 one and New Leadership number two. I think it is the
12 right thing to do. It's good. I am glad we did it, but
13 as a practical matter, those points don't seem to change
14 the score in the bottom line.

15 COMMISSIONER ZUNIGA: They do change if
16 you take out the cost as well. I don't know if that's
17 what you meant.

18 CHAIRMAN CROSBY: Right, not with the
19 cost also, I just meant as a stand-alone. I am
20 comfortable with this recommendation.

21 COMMISSIONER MCHUGH: Any further
22 discussion by anybody on that before we have a motion from
23 Commissioner Zuniga? Let's have a motion from
24 Commissioner Zuniga.

25 COMMISSIONER ZUNIGA: Thank you. I think

1 with your permission, I will make two motions because I
2 have two recommendations, if that is okay. One relating
3 to the procurement and selecting JuriStaff as the highest
4 ranked firm to help us conduct the executive search for
5 the executive director as presented in the memorandum.

6 COMMISSIONER CAMERON: I second the
7 motion.

8 CHAIRMAN CROSBY: Again, we are going by
9 roll call. Commissioner Stebbins?

10 COMMISSIONER STEBBINS: I.

11 COMMISSIONER MCHUGH: I should have asked
12 if there was any further discussion. So, I will
13 interject that question at the moment, and I hear none.
14 So, Commissioner Stebbins, your vote stands.
15 Commissioner Cameron?

16 COMMISSIONER CAMERON: I.

17 COMMISSIONER MCHUGH: Commissioner
18 Zuniga?

19 COMMISSIONER ZUNIGA: I.

20 COMMISSIONER MCHUGH: Mr. Chairman?

21 CHAIRMAN CROSBY: I.

22 COMMISSIONER MCHUGH: And I join. So,
23 the motion is carried unanimously.

24 COMMISSIONER ZUNIGA: I with your
25 permission will make an additional recommendation. This

1 has to do with my recommendation to prequalify the
2 second-highest ranked firm, the New Leadership Group in
3 the event that the Commission should need and decide for
4 additional support for an executive search firm or
5 executive search tasks.

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

8 CHAIRMAN CROSBY: Second.

9 COMMISSIONER MCHUGH: Discussion, let me
10 ask a question. If for some reason JuriStaff -- this is
11 I know an extreme hypothetical -- JuriStaff were unable
12 to complete its task, does this motion mean that the next
13 firm would automatically succeed to its role?

14 COMMISSIONER ZUNIGA: I wouldn't
15 characterize it as automatically, but that is an option
16 for this Commission that we could entertain at that time.

17 COMMISSIONER MCHUGH: Would an option for
18 the Commission also be if we approve this motion to reopen
19 the search in the event JuriStaff were unable to complete
20 its role?

21 COMMISSIONER ZUNIGA: Is also certainly
22 another option, yes.

23 COMMISSIONER MCHUGH: Okay.

24 CHAIRMAN CROSBY: Did I understand
25 correctly, Commissioner Stebbins was asking that this

1 would mean, Commissioner Zuniga, we would be able to pick
2 from two prequalified firms if we need help or have other
3 searches or other kinds of HR help?

4 COMMISSIONER ZUNIGA: That is correct as
5 well.

6 CHAIRMAN CROSBY: Okay.

7 COMMISSIONER MCHUGH: Any further
8 discussion? Anything you want to add, Commissioner?

9 COMMISSIONER ZUNIGA: On that note in
10 terms of options, if we want to discuss that we can do
11 that now, we could prequalify not just the second
12 highest-ranking but the third-highest ranking as well as
13 the second-highest ranking. It may be prequalifying a
14 lot of people, but in terms of options, that is also
15 another option.

16 COMMISSIONER MCHUGH: Is there any harm to
17 prequalifying the top three?

18 COMMISSIONER ZUNIGA: There is not.
19 There is additional options.

20 COMMISSIONER STEBBINS: That would have
21 to make the process somewhat easier because then we'd have
22 three prequalified people we could go out and solicit bids
23 from. I am assuming a lot of the search work we are going
24 to do after the executive director slot, the budgeted
25 amount for the search will not be as high.

1 COMMISSIONER ZUNIGA: Yes, that is
2 effectively it.

3 COMMISSIONER STEBBINS: Based on their
4 formulas or kind of what their projections were for this
5 position, everything would probably be below the \$50,000
6 threshold.

7 COMMISSIONER ZUNIGA: Correct.

8 COMMISSIONER MCHUGH: There maybe minima
9 in there though. In other words, some firms may say we
10 are not going to do it for less than X.

11 COMMISSIONER ZUNIGA: That's correct.

12 COMMISSIONER MCHUGH: That is their
13 option.

14 COMMISSIONER ZUNIGA: That is their
15 option.

16 COMMISSIONER MCHUGH: Would you accept an
17 amendment to your motion, Commissioner, to prequalify
18 both the second firm and the third firm?

19 COMMISSIONER ZUNIGA: That's totally
20 fine.

21 COMMISSIONER MCHUGH: And their names,
22 just so the record will be clear?

23 COMMISSIONER ZUNIGA: Yes. The
24 third-highest ranking firm is Isaacson, Miller as per the
25 evaluation score sheets here.

1 COMMISSIONER MCHUGH: Commissioner
2 Cameron?

3 COMMISSIONER CAMERON: I have no comment.
4 Do we need a second on that amended motion?

5 COMMISSIONER MCHUGH: Yes.

6 COMMISSIONER CAMERON: I second the
7 amended motion.

8 COMMISSIONER MCHUGH: Any further
9 discussion on the motion, which as reformulated is to
10 prequalify Isaacson, Miller and New Leadership Group for
11 search assistance to the Commission at some future date?

12 CHAIRMAN CROSBY: As well as JuriStaff.

13 COMMISSIONER MCHUGH: JuriStaff was the
14 subject of the first motion and they were already
15 designated to undertake the search for --

16 CHAIRMAN CROSBY: And to do subsequent
17 work if we wanted them to.

18 COMMISSIONER MCHUGH: That's right.
19 That was the subject of first motion. Okay.

20 As reformulated now this is to also qualify
21 those other two firms -- prequalify those other two firms.
22 It's been seconded. Any further discussion?

23 Commissioner Stebbins how do you vote on
24 that?

25 COMMISSIONER STEBBINS: I.

1 COMMISSIONER MCHUGH: Commissioner
2 Cameron?

3 COMMISSIONER CAMERON: I.

4 COMMISSIONER MCHUGH: Mr. Chairman?

5 CHAIRMAN CROSBY: I.

6 COMMISSIONER MCHUGH: Commissioner
7 Zuniga?

8 COMMISSIONER ZUNIGA: I.

9 COMMISSIONER MCHUGH: And I join, so that
10 motion likewise carries unanimously.

11 That brings us to three, a discussion of
12 the subcommittee structure. Let me take that one for a
13 second, if I might. Last week we talked a little bit
14 about what the search process would look like. And I
15 don't have any formal proposal for today.

16 CHAIRMAN CROSBY: Commissioner, could I
17 interrupt for one second? I'm sorry. This may just be
18 me, but the streaming video has frozen. I don't know
19 whether that is me or the video, but can someone
20 double-check?

21 COMMISSIONER MCHUGH: I have gotten an
22 authoritative it is you from the technician.

23 CHAIRMAN CROSBY: Thank you.

24 COMMISSIONER MCHUGH: Hit refresh and you
25 will be streaming again.

1 CHAIRMAN CROSBY: Thank you.

2 COMMISSIONER MCHUGH: So, I do not have a
3 formal proposal for today but the framework that we
4 discussed -- that I discussed and we discussed a little
5 bit last week for the search itself would essentially look
6 like this or I would propose for you thinking that it look
7 like this.

8 That once we engage and finish the
9 contractual work that we need to do with the search firm
10 itself, that we do as much of the infrastructure work with
11 that firm at a public meeting. By infrastructure work,
12 I mean the creation of the job description, creation of
13 the timeline, creation of a discussion of what the process
14 will look like and that. That we do that in a public
15 meeting.

16 Then that we designate a group of us, fewer
17 than three to act as a subcommittee to conduct the actual
18 interviews. And that those interviews be conducted in
19 accordance with the requirements of the open meeting law,
20 which permit if it is necessary to do so, that those
21 interviews be conducted in executive session.

22 Then that subcommittee bring back after
23 the process is completed to the Commission for its
24 consideration in a public session the finalists for the
25 position. That is what I would propose to do.

1 I've asked if we agree that in general is
2 a proposal and an approach worth considering? I have
3 asked our counsel, Anderson and Kreiger, to put together
4 an outline of the mechanism that we would use to effect
5 that and ensure that we could go forward in that fashion.

6 I think it is worthwhile just discussing
7 that at a high-level without detail, discussing it in
8 principle, if you will, so that we can get them to work
9 on -- get Anderson and Kreiger to work on that approach
10 and have a proposal to put before the Commission next week
11 so we can get this process started.

12 COMMISSIONER CAMERON: Commissioner, I
13 would like to speak to another way of doing this, another
14 possibility. I have real concerns about candidates
15 having positions now and being very, very hesitant -- I
16 mean very strong candidate that we would want to have as
17 part of the process. I think that they would have real
18 reservation of doing that. Any kind of a subcommittee,
19 even in executive session, all of that would have to be
20 public at some point. I just think that will not serve
21 us well as a way to move forward.

22 I think we have had success appointing one
23 Commissioner. I would have a lot of faith in one
24 Commissioner moving forward with the search firm. I
25 think that will help us in a timeliness as well as

1 complying with all of the rules. This is not something
2 we want to do without a process.

3 I just think for the reasons of
4 confidentiality and the reasons of timeliness, I would
5 propose in going forth with one Commissioner working
6 effectively with the search firm and our gaming
7 consultants, by the way, who have volunteered to help us
8 identify strong candidates for the position. I would be
9 comfortable with that method and think it could be very
10 effective for the Commission.

11 COMMISSIONER ZUNIGA: I have a procedural
12 question to what you were commenting on, Commissioner
13 McHugh. In your scenario, a subcommittee will bring back
14 you say a finalist one or finalists plural?

15 COMMISSIONER MCHUGH: We decide that.

16 COMMISSIONER ZUNIGA: We decide that.

17 COMMISSIONER MCHUGH: I would hope there
18 would be more than one that the subcommittee brought back.
19 I'm sorry, Commissioner Stebbins, did you want to say
20 something?

21 COMMISSIONER STEBBINS: No. I
22 appreciate the first piece of this. Obviously, laying
23 out as much as we can to the public in terms of what the
24 process is going to be. I have a similar concern.

25 My experience in being on search

1 committees for superintendent of schools, which
2 certainly depending on the community, draws no less
3 politics into the equation than the executive director
4 of the new Gaming Commission. Being able to work through
5 that process where candidates who did not make it to the
6 second round had that confidentiality protected.

7 Again, we want to make sure we get the
8 biggest pool of the best candidates. And I wouldn't want
9 anybody to feel I don't want my boss to know I'm looking
10 around or in the superintendent's case they didn't want
11 their own community to know.

12 CHAIRMAN CROSBY: Commissioner Stebbins,
13 could you be sure to speak into the mic?

14 COMMISSIONER STEBBINS: Yes, I'm sorry.
15 I will pull it a little closer. Certainly, you don't want
16 a board or a commission or in the case of a superintendent
17 a community knowing that you might be out looking for a
18 next step in your career.

19 So, I am interested in kind of protecting
20 the confidentiality at that earliest standpoint, even
21 though obviously anybody that becomes a finalist is going
22 to need to understand that their name is going to be out
23 there in the public. Outlining the process not only
24 helps the general public, it helps the candidates know
25 what the process is going to be and that we need to adhere

1 by it.

2 I have a question with respect to our
3 practice kind of going forward that we have not announced
4 candidates for employment until they have gone through
5 a thorough background check. We are kind of flipping.
6 Do we maintain that? Is it going to get flipped around
7 for this position? We would be subjecting a candidate
8 still kind of in a confidentiality phase to undergo a
9 background check before we present finalists or before
10 we present a finalist?

11 COMMISSIONER MCHUGH: It seems to me that
12 we could certainly think that through. It seems to me
13 that for example you could get to the three finalists,
14 do the background check and then present them here for
15 the final interviews. Or have the final interviews and
16 then do the background check before making the selection.
17 In some way, it seems to me that that is doable.

18 I share the concern about confidentiality
19 to the extent that it impedes qualified applicants and
20 people we would like to get from coming before us. I also
21 have as we all do, a desire to ensure that this process
22 gets us to the end safely and in conformity with the
23 restrictions that govern the process.

24 It is the most important decision we have
25 made thus far. That is why I have asked our counsel to

1 take a look at all aspects of it and particularly when
2 does the confidentiality piece of it evaporate so that
3 people can be assured if they otherwise would be reluctant
4 to apply that their application won't lead to a revelation
5 of their names contemporaneously or at some point where
6 it might do them harm. I think that it's fair. I think
7 that is a standard in an environment where you are trying
8 to attract the best people you possibly can.

9 I would like the lawyers to pay particular
10 attention to that and to come back to us with an assurance
11 that that can be done. We are not the first group to face
12 that issue. I think careful preparation in the beginning
13 will allow us to proceed through that in a way that assures
14 us that we have thought through the ramifications of what
15 is going on.

16 That is what I propose to do.
17 Commissioner Cameron?

18 COMMISSIONER CAMERON: I still believe
19 that with one Commissioner we can handle that
20 confidentially. That is a huge piece of this. I am just
21 not convinced that a subcommittee can be handled in that
22 manner. And from what I know about the law, it cannot
23 be.

24 So, I don't think our lawyers are going to
25 be able to give us or our candidates that assurance. And

1 in the early process, I think that is paramount to this
2 search. And I think people of high quality with gaming
3 experience will have other jobs that they will not want
4 to jeopardize. And I think that can be said for any one
5 of us. So, I think protecting that process, but handling
6 it. Using the process in a way that makes sense is
7 something we should consider.

8 Again, I get back to the timeliness of this
9 issue. I think it is critical that we move this process
10 along. It will help us with everything else we do as a
11 Commission. And again, I get back to I would be very
12 comfortable with one Commissioner moving forward in the
13 early stages.

14 And I don't think we can dictate the end
15 stages. I think that maybe one or two candidates that
16 really rise above the others, we just don't know. And
17 at that point, we proceed confidentially with background
18 investigations.

19 COMMISSIONER MCHUGH: Mr. Chairman, is
20 there anything you wish to say at this stage?

21 CHAIRMAN CROSBY: Thank you. I think we
22 all agree in principle it seems like. I think everybody
23 agrees that confidentiality needs to be assured in all
24 of the preliminary phases. The question is our belief
25 in the system, confidence in the system. Commissioner

1 Cameron is expressing some concern about that.

2 As a practical matter, even if there is
3 legal protection and we feel comfortable that the names
4 would stay confidential I would still have to think
5 through how would a subcommittee meeting take place?
6 Would we try to sneak people in the back door? It is not
7 merely a legal issue. I think there is also some
8 practical considerations.

9 My suggestion would be that we move forward
10 ASAP with JuriStaff. Get them started on the job
11 description and whatever else they need to get started
12 on. Tell them we want them to come in and we all agree
13 with Commissioner McHugh that all of the infrastructure
14 stuff, the preparation stuff can be as public as possible.
15 Put them on the agenda for next Tuesday.

16 Meanwhile finish up on Anderson and
17 Kreiger looking into this. And have Anderson and Kreiger
18 come to the meeting next Tuesday also where they will
19 explain the legal situation, and we talk through the
20 practical situation and we decide.

21 I don't think postponing a decision on
22 whether or not to have a subcommittee today as opposed
23 to next week slows anything down. We can start ASAP
24 anyway.

25 COMMISSIONER MCHUGH: I only brought the

1 subcommittee idea up today so we can think about it at
2 a high-level. I was not intending to have a vote today.
3 I really do think we need to have a thorough analysis by
4 the lawyers to make sure what it is. So, that sounds
5 good. Commissioner?

6 COMMISSIONER ZUNIGA: In the analysis
7 that the lawyers could help us do relative to the
8 subcommittee, could they also look into this option of
9 appointing one Commissioner for this search and any
10 ramifications that that would have? In other words, have
11 perhaps those two options weighed against each other from
12 their experience and understanding.

13 COMMISSIONER MCHUGH: Surely. We can
14 surely ask them to do that and will.

15 CHAIRMAN CROSBY: We will have both the
16 search firm and the lawyers come in next week?

17 COMMISSIONER MCHUGH: Yes. We certainly
18 can have the search firm if they are available. And I
19 will ask the lawyers to come in next week with a response.

20 I want to assure them and us that they have
21 enough time to give us a high-level and thoughtfully
22 considered opinion. That is the only gating factor
23 there. But actually, we don't have to make that decision
24 next week either because -- we would like to, but we don't
25 have to make that decision.

1 additional hires. Do we have any further information
2 there?

3 COMMISSIONER MCHUGH: I think we will be
4 able to announce a director of administrative services
5 within a day or two, but we can't do it right at this
6 moment. I think that Janice has one new hire to announce.

7 CHAIRMAN CROSBY: Okay, that's your cue.

8 MS. REILLY: Heather Fong starting July 9
9 as our new receptionist. And we have an EA candidate
10 going through background check right now and will be
11 coming on board in another couple of weeks.

12 COMMISSIONER MCHUGH: Ms. Fong has
13 successfully navigated the background investigation and
14 all other prerequisites?

15 MS. REILLY: Yes, she did.

16 COMMISSIONER MCHUGH: Great, that's
17 terrific.

18 CHAIRMAN CROSBY: One other thing on
19 that Commissioner just as a sort of reminder. We had a
20 conversation last week that was a very good one about soon
21 begin or start the search process, whether we use a search
22 firm or not, we haven't decided, but start the search
23 process for other critical hires so that we have some
24 candidates keyed up when the executive director comes on
25 board. We may even have to make some decisions before

1 that. I think that's something we talk a little bit about
2 with JuriStaff, what kind of lead-time do we need and so
3 forth. I think that was a very good point and I want to
4 make sure we don't lose that.

5 COMMISSIONER MCHUGH: All right, Mr.
6 Chairman. Thank you. We will make a note of that and
7 put that on the next agenda. Okay.

8 Gaming Commission internal policies,
9 Commissioner Zuniga?

10 COMMISSIONER ZUNIGA: Thank you. We have
11 drafted and quality reviewed four chapters of the
12 employee manual. I have two more about to be reviewed
13 and forwarded to Commissioner McHugh for that quality
14 review. That would complete what we are envisioning the
15 employee manual to contain at this point.

16 So, I believe in the course of next week
17 or this coming week, even though it is a short week, we
18 could come out of next week with a final draft for
19 consideration by the full Commission on the employee
20 manual.

21 None of these would include the enhanced
22 code of ethics that our outside counsel is currently
23 working on. This has to do with just about everything
24 else relative to employee manual and procedures.

25 COMMISSIONER MCHUGH: All right. You put

1 an enormous amount of work into that. And it is good that
2 it is nearing completion. Is there any other discussions
3 about that? We'll take a look at that.

4 We certainly with that one would need some
5 advanced time before we were ready to vote on it. So,
6 the idea maybe would be have it on the table to maybe ask
7 a few questions about it next week and then maybe vote
8 on it the week after or something like that?

9 COMMISSIONER ZUNIGA: Yes, that could be
10 doable. It makes for a lot of great reading over the
11 holiday weekend or something like that.

12 COMMISSIONER MCHUGH: It's lively, yes.
13 Any further discussion? Hearing none, the project
14 management consultant, again, Commissioner Zuniga?

15 COMMISSIONER ZUNIGA: Yes, thank you.
16 Following up on prior conversations and directive for me
17 to look into project management firms, specifically with
18 somebody who could help us with the scheduling and
19 management of different scenarios as we put out our own
20 RFA phase one and phase two processes.

21 I conducted a small procurement, which
22 consists of requesting three quotes from qualified firms.
23 And I have put that description and those responses
24 summarized here in the memo that you should all have in
25 your packets.

1 These are all firms that normally do a lot
2 of construction and project management. I tried to
3 summarize that they represent a bit of a wide range in
4 their size, but they are all local. And have supplied
5 very comparable quotes, if you will, where one is clearly
6 the most advantageous.

7 PMA Consultants here has an approach
8 combination of project executives and staff people that
9 results in the best and most advantageous quote for what
10 we envision this to be, an 18-month effort on a part-time
11 basis.

12 COMMISSIONER MCHUGH: All right.

13 COMMISSIONER ZUNIGA: I can take any
14 questions to the memo.

15 CHAIRMAN CROSBY: Who all saw the tools
16 that PMA uses? Am I interrupting somebody?

17 COMMISSIONER MCHUGH: No, you were
18 speaking into the quiet.

19 CHAIRMAN CROSBY: The tools that PMA would
20 use, who would have seen that?

21 COMMISSIONER MCHUGH: I saw it. I met
22 with the PMA folks for a demonstration. It is a highly
23 interactive project management tool.

24 It has a lot of the features of the standard
25 Microsoft Project Management tool. But those features

1 are all in the background.

2 And what this tool does most helpfully is
3 allow you in real-time to take chunks of work and
4 milestones and every other facet of the project, move
5 those around chronologically and then have everything
6 else fall into place behind the movement. So that you
7 can tell instantly the effect of extending a deadline for
8 three weeks or missing a deadline by two weeks or
9 advancing a deadline by a month will have on every other
10 facet of the project.

11 It does it graphically and it does it in
12 a way that allows people to get together and actually talk
13 about the consequences of doing one thing or another and
14 having those consequence appear in real-time. Then
15 capturing the results in the form of a PDF that everybody
16 can take away and work from.

17 As we get deeper and deeper into this, it
18 seems to me that the scheduling of the various events that
19 are going to occur with respect to hearings and desired
20 end dates for license awarding and the like are going to
21 take on a level of complexity that really would benefit
22 from this kind of tool to allow us all to collectively
23 to brainstorm in these meetings, if necessary, and see
24 what the consequences are. So, I think that that tool
25 is a terrific device for us.

1 COMMISSIONER ZUNIGA: I want to emphasize
2 something that you said in there, which is what PMA has
3 done. The database behind all three options -- Everybody
4 uses the same database, if you will. But what PMA has
5 done is overlaid this graphic tool that Commissioner
6 McHugh was just describing.

7 In the background, the same database of
8 either something in Primavera or P3 or Project is really
9 at work. But this overlay that interacts with that is
10 what is really intriguing and powerful, especially as it
11 relates to the work of the Commission. Because I think
12 we will need to evaluate different scenarios as we are
13 implementing them. That is very important to have us all
14 understand.

15 CHAIRMAN CROSBY: Is this a proprietary
16 tool, Commissioner?

17 COMMISSIONER ZUNIGA: Yes. The costs
18 they are proposing here includes the licensing for
19 multi-users. In other words, there would be up to five
20 people at the Commission that could log in at any given
21 time, but it could be many more if they are not at the
22 same time.

23 But we obtain all of the database in any
24 form we want it. Meaning we could have all of the
25 dependencies, activities, etc., in Project, in Excel,

1 actually both. So, the data is all ours. It is the
2 overlay that reports in the graphic form that we would
3 get licensed -- that we would pay a license fee.

4 CHAIRMAN CROSBY: We could continue to use
5 that even if they were no longer working for us?

6 COMMISSIONER ZUNIGA: That's correct.
7 That's correct.

8 COMMISSIONER CAMERON: I was not
9 available to see the demonstration. So, if I'm asking
10 questions that I hope you have the answer to.

11 User-friendliness, I know that is a huge
12 piece in a successful software project of any kind. Is
13 that a user-friendly instrument?

14 COMMISSIONER ZUNIGA: Yes, I would
15 characterize it as very user-friendly. The genesis of
16 this tool tells a lot of the story, which is the clients
17 like us at the executive level were being bogged down in
18 too many little activities. And there was this real need
19 to have something that was user-friendly. And I think
20 to a great degree they have accomplished that by
21 summarizing and being able to do this very interactive
22 tool.

23 Just a little caveat, it's still a tool.
24 We could end up, and I hope we don't, putting in too much
25 detail where eventually it becomes less and less

1 manageable.

2 But having used Primavera and Project in
3 the past, I was very encouraged that there was this next
4 generation that I wasn't familiar with, which is this
5 graphic planning method that I believe really can help
6 us.

7 COMMISSIONER MCHUGH: This isn't like
8 Angry Birds. We would all have to have a little training
9 to do it.

10 COMMISSIONER ZUNIGA: That's right.

11 CHAIRMAN CROSBY: Some of us might need a
12 lot of training.

13 COMMISSIONER MCHUGH: Well, that's
14 certainly a possibility. You can move the stuff around.
15 It will work. And we can work it.

16 COMMISSIONER ZUNIGA: What I think is
17 relevant here is that this is a step further into having
18 people again like us understand the real inner workings
19 of a schedule. Whereas tools like Primavera, there is
20 -- because this is so complex they would end up creating
21 this black box mentality of we need to have somebody who
22 really knows how to manage that and just tell me what the
23 results.

24 I think this tool gets us much further away
25 from that to where we need it, which is one of really

1 understanding what is behind dependencies and dates and
2 milestones.

3 COMMISSIONER MCHUGH: Okay. Any further
4 discussion on the proposal?

5 CHAIRMAN CROSBY: Commissioner, what
6 would be your sort of plan of action? If we approve this,
7 what are the next steps? How do we get moving?

8 COMMISSIONER ZUNIGA: All three firms, by
9 the way, had a similar approach. That is they would
10 envision and this is what we are envisioning really, is
11 a two-week sort of period of initial consultation about
12 key milestones, some of the current thinking. That could
13 be done on a facilitated session as one of our own
14 meetings.

15 But it also could be done by this firm
16 having discussions with our own consultants and our own
17 lawyers who have an understanding of some of the
18 dependencies that we already are working on. This two
19 or three week sort of set up phase I would characterize
20 it would be the next step.

21 COMMISSIONER MCHUGH: During that phase,
22 we could see whether we can automatically import the
23 consultants' work plan into this work plan, which if it
24 is based on Microsoft Project we probably can. And then
25 move forward with an integrated plan.

1 COMMISSIONER ZUNIGA: That's right. We
2 could start discussing what components we want. We don't
3 start from scratch. There is real work already done in
4 Excel, but then we need to start laying out the rest of
5 whatever is not in there.

6 CHAIRMAN CROSBY: I think it would be a
7 great idea to have them come to the meeting next week and
8 show not only us but also everybody else what we are going
9 to be using.

10 COMMISSIONER ZUNIGA: Sure can. The tool
11 can be projected and we have the capabilities here. So,
12 they could actually present it on an overhead projector.

13 COMMISSIONER MCHUGH: All right. Any
14 further discussion? Would you care to make a motion,
15 Commissioner?

16 COMMISSIONER ZUNIGA: Sure. I would like
17 to make a motion to accept the proposal submitted by PMA
18 Consultants as outlined here in the memo that I have
19 submitted as part of the packet and begin negotiations
20 with them relative to timeline and contracting for
21 scheduling management services.

22 COMMISSIONER STEBBINS: Second.

23 COMMISSIONER MCHUGH: Further
24 discussion? All right. Commissioner Stebbins, how do
25 you vote on that motion?

1 COMMISSIONER STEBBINS: I.

2 COMMISSIONER MCHUGH: Commissioner

3 Cameron?

4 COMMISSIONER CAMERON: I.

5 COMMISSIONER MCHUGH: Commissioner

6 Crosby? -- I mean Mr. Chairman?

7 CHAIRMAN CROSBY: I.

8 COMMISSIONER MCHUGH: Commissioner

9 Zuniga?

10 COMMISSIONER ZUNIGA: I.

11 COMMISSIONER MCHUGH: And I join with an
12 affirmative vote.

13 Mr. Chairman, I should have asked you this
14 earlier, but this is a good opportunity. You have been
15 provided with all of the documents that we have referred
16 to thus far in the meeting in advance of the meeting; is
17 that right?

18 CHAIRMAN CROSBY: Yes.

19 COMMISSIONER MCHUGH: Racing division is
20 the fourth item on the agenda. And we're at that fourth
21 item now, so Commissioner Cameron?

22 COMMISSIONER CAMERON: Thank you
23 Commissioner McHugh. At this time, I would like to file
24 a decision document with the full Commission. This is
25 in the matter of Ms. Judy Ray. We are in the process of

1 finalizing our procedures here. This was the first
2 hearing that the Gaming Commission had, the racing
3 division. So, we are finalizing our process.

4 At this time, we would like to reach out
5 and have Ms. Ray sign off on a document that would simply
6 state she had no intention of appealing this decision.
7 At that time, we will have that document. And for next
8 week we could move forward with ratifying this decision.

9 There were three other matters that came
10 before me as the presiding officer of the Gaming
11 Commission with our first adjudicatory proceeding on June
12 21. The other three matters, as I just alluded to, we
13 have some procedural process issues that we are just
14 working out. And I will be prepared at next week's
15 meeting to file those documents.

16 The other thing that I would like to report
17 on is the fact that I was out last Thursday and Friday
18 of last week visiting casino/race tracks, one north of
19 Philadelphia and one south of Philadelphia, Parx and
20 Harrods.

21 I was most interested in looking at the
22 racing regulations, the state-of-the-art facilities.
23 One of them being a brand-new facility, the other being
24 one that was completely refurbished. It was a learning
25 experience to look at the state-of-the-art licensing

1 procedure as well as testing procedures that both of the
2 tracks are now utilizing due to the ability to implement
3 those.

4 We are, as you know, looking at all of our
5 procedures, all of our regulations with regard to racing.
6 And I also met with our racing expert, Ann Allman, during
7 this visit. She is close to completing her project for
8 our Commission. And we will be hearing in the near future
9 from her as far as her recommendations for us moving
10 forward with racing. That concludes my report.

11 COMMISSIONER MCHUGH: I should mention,
12 Commissioner, that with your commission, I signed last
13 week the two ISAs that were necessary with the Department
14 of Public Licensure that were necessary to get us through
15 to the end of fiscal year just concluded. I understand
16 that the ISA that will take us forward is in its final
17 stages.

18 COMMISSIONER CAMERON: Yes, I just signed
19 off on those documents before the meeting today.

20 COMMISSIONER MCHUGH: Great. So, we are
21 all set with going forward as well. Any questions or
22 comments or thoughts about the racing division report?
23 No action items there now. Okay.

24 The project work plan that we'll talk with
25 you, Kathleen O'Toole. Good afternoon.

1 MS. O'TOOLE: Good afternoon,
2 Commissioner, Commissioners.

3 COMMISSIONER MCHUGH: You can start
4 anywhere you like. There are some questions that I think
5 we will have.

6 MS. O'TOOLE: Good afternoon. For the
7 record, I am Kathleen O'Toole. And I am here again to
8 provide an update on the consultants work. I will
9 provide a highlight of the work that occurred during the
10 past week.

11 The two consulting firms both Michael &
12 Carroll and Spectrum participated in several meetings
13 last week with representatives of the Commission and
14 other state agencies. For example, the consultants and
15 Commissioner Cameron met with representatives of the
16 Attorney General's office, the State Police and the
17 Alcoholic Beverage Control Commission to discuss
18 protocols for investigation and enforcement going
19 forward. I understand that those conversations were
20 very productive.

21 There were also meetings with Commission
22 representatives and various personnel from
23 administrative and finance to discuss the Commission's
24 organizational structure. So, all of these discussions
25 continue to help inform the consultants in their

1 development of the Commission's strategic plan.

2 Most noteworthy during this past week is
3 the of progress of regulations. A draft of approximately
4 100 pages of regulations was forwarded by Michael &
5 Carroll to both Spectrum and to the law firm Andersen and
6 Kreiger on Friday afternoon. The consultants and the law
7 firm will iterate this week and make some revisions and
8 then forward those draft regulations to the Commission
9 early next week.

10 The draft regs fall into two different
11 categories. The first category relates to Commission
12 administration. And the second category will be to
13 regulations required for the RFA phase one process.

14 According to the timeframe we all
15 discussed in the past, there will then be a three-week
16 period during which the Commission and the consultants
17 will work to finalize these regulations. If all goes
18 according to plan, the Commission will be able to do that
19 at its meeting on July 31.

20 We could use some guidance I would say in
21 terms of the submission of the draft regulations early
22 next week. I am not sure if the Commission will designate
23 one person to accept those draft regulations for review
24 or whether they'll be a number of Commissioners involved
25 in that process.

1 COMMISSIONER MCHUGH: In the review
2 process, it probably makes sense to have the draft
3 regulations forwarded to the Chairman. Mr. Chairman,
4 what do you think about that?

5 CHAIRMAN CROSBY: To then be distributed.

6 COMMISSIONER MCHUGH: To be distributed,
7 yes.

8 CHAIRMAN CROSBY: Right.

9 COMMISSIONER MCHUGH: That would be the
10 point of entry, I think.

11 MS. O'TOOLE: It is important to note, I
12 would say the draft regulations are in fact draft and in
13 draft form. And over the course of the three weeks, it
14 will require significant discussion between
15 representatives of the Commission and the consultants.

16 CHAIRMAN CROSBY: Kathy, could you speak
17 into the mic? I can't quite hear you.

18 MS. O'TOOLE: I was saying, Chairman that
19 the regulations will be in draft form and over the course
20 of the following three weeks, it will require a
21 significant amount of interaction between
22 representatives of the Commission and the consultants.

23 For instance, in some cases the
24 consultants will offer different options and the
25 Commission will need to make policy decisions as to which

1 options are most appropriate.

2 Again, these will be in rough draft form
3 when you receive them next week and will require
4 additional work during that three-week period leading up
5 to July 31.

6 CHAIRMAN CROSBY: Right.

7 COMMISSIONER MCHUGH: Mr. Chairman --

8 CHAIRMAN CROSBY: Actually, rethinking
9 this, Commissioner McHugh, as a practical matter we have
10 delegated or I guess technically because I am the project
11 manager, but as a practical matter, we delegated that role
12 as kind of the key point of contact to you particularly
13 on something like this, the issuance of regs. So,
14 consistent with that maybe it makes more sense to have
15 the draft sent to you. We also agreed that you would then
16 forward them. I actually think it makes more sense to
17 have you be the initial point of contact.

18 COMMISSIONER MCHUGH: All right and then
19 I will forward them to the other Commissioners. Then
20 we'll figure out how to parcel out the kind of interactive
21 work that needs to be done and what pieces of that
22 interactive work really rises to the level of policy so
23 that we can bring them to Commission meetings, talk about
24 them and have to process move forward.

25 Remembering and everybody watching on the

1 streaming video and for those in the audience, that this
2 is all preliminary to filing a set of proposed regulations
3 with the appropriate authorities and ultimately having
4 a period of public comment and a public hearing on the
5 content of the regulations. So, that we get the public
6 input and the input of all of the interested parties
7 before the regulations become final.

8 This is chronologically not necessarily
9 way ahead, but this is in an earlier incipient stage of
10 the drafting so that we can have something that the
11 Commission is prepared to put out for public comment. It
12 may be that some things are ultimately put out for public
13 that the Commission is not necessarily wedded to, but
14 thinks should be put out for discussion and commentary
15 before making a final decision. So, that there is a lot
16 to be done between now and the time these regulations
17 become final. And we will do all of those things.

18 So, I will get the regulations. I will
19 distribute them and then we'll figure out how to go from
20 there. I'm sorry.

21 COMMISSIONER ZUNIGA: I was actually
22 going to make a comment relative to these reports that
23 I think that what we are thinking about relative to the
24 regulations.

25 It would be very helpful to me but I am sure

1 to the rest of the Commission as well if the consultants
2 could summarize for us -- we don't need necessarily a
3 written report, but the key strategic considerations week
4 to week, if you will that this Commission needs to at least
5 understand that is part of assumptions behind a memo or
6 that may rise to the level of policy decisions sometimes.

7 Regardless of format, if you could
8 highlight for us again in an executive type of summary
9 what to look for when we are reading the amount of memos
10 and paper that is going to come our way. I think it would
11 be most helpful in terms of process and understanding.

12 MS. O'TOOLE: We will definitely do that,
13 Commissioner. We keep a log of all of the memos that have
14 been submitted to the Commission to date. And I had a
15 discussion with Commissioner McHugh about this. Perhaps
16 it would be helpful if we provide a brief synopsis of each
17 one of those so that all of the Commissioners will have
18 them readily available.

19 COMMISSIONER ZUNIGA: Yes. I am less
20 interested in those that were for our information
21 although as that is just fine. I am more interested in
22 those memos that contain what could be a policy question
23 or that you are now waiting for us to weigh in because
24 that has a subsequent implication of another memo. That
25 is what I'm more interested in.

1 Rather than try to blanket -- send you on
2 an executive summarizing mission, I am more interested
3 in what certainly going forward or whatever is needed up
4 until this point need to weigh in or accept that has been
5 vetted or agreed upon by virtue of that summary level.

6 CHAIRMAN CROSBY: Commissioner, would it
7 be accurate to sort of say -- to ask the consultant to
8 basically just give us a heads-up on those issues, those
9 sections of the regs which are really substantive and
10 likely to be policy matters as opposed to a whole bunch
11 of boilerplate that if we are short for time we could just
12 as well skip? Is that basically your point?

13 COMMISSIONER ZUNIGA: Yes, yes, I would
14 agree. I think again if they had put another way, if they
15 are going to draw up a 100-page regulation, if they could
16 highlight for us in yellow what is really important that
17 would be another format.

18 CHAIRMAN CROSBY: Right. Whatever is
19 easy for the consultant to do. They've got a lot of work.
20 I think it's a very good point. It would be helpful to
21 us in whatever way is easier for you to do, Kathy.

22 MS. O'TOOLE: I think that will be
23 efficient -- It will be helpful to everyone.

24 COMMISSIONER MCHUGH: Coming back to the
25 summary memo, while that is not as critical on a going

1 forward basis, an updated sort of summary memo that we
2 just add to as these new memoranda come in I think would
3 be a helpful thing for me and it might be useful for others
4 as well. Just one or two lines about that so that we can
5 remember as you look at that and as we read the regulations
6 as we get deeper into this what we already have in more
7 detail in our library.

8 COMMISSIONER ZUNIGA: Yes, it could help
9 tremendously indexing and then going back and looking in
10 case we need to.

11 COMMISSIONER MCHUGH: That's just two
12 little pieces to pull things together. Any other
13 comments or thoughts?

14 COMMISSIONER MCHUGH: Anything else,
15 Kathy?

16 MS. O'TOOLE: No, Commissioner. That's
17 the highlights for this week.

18 COMMISSIONER MCHUGH: Okay. They are
19 great.

20 CHAIRMAN CROSBY: Excuse me,
21 Commissioner.

22 COMMISSIONER MCHUGH: Mr. Chairman?

23 CHAIRMAN CROSBY: We talked about this the
24 other day. We need to think about whether we are going
25 to need to alter the scope of the existing contract. Are

1 we going to need to go out for some kind of a procurement
2 for other people to help us in the background checking
3 process?

4 I don't know if we are ready to have that
5 discussion, but I think we agreed that we cannot wait very
6 long to figure out where will we be in the process once
7 the existing contract is concluded and the existing
8 committed funds are used? And if we are still in the
9 middle of the process, we still have a lot of work yet
10 to be done, somebody is going to have to help us, whether
11 it is this consultant or somebody else.

12 I just wonder if there are any discussion
13 or thought, Commissioner McHugh or Kathy or Commissioner
14 Zuniga? How do we pick that up and get it on the table?
15 Because if we do need another procurement or an expanded
16 scope, we need to start thinking about it pretty quickly.

17 COMMISSIONER MCHUGH: I have not given
18 that any thought. I have been focused as I think we all
19 have on trying to get this piece of the work done. I think
20 you are absolutely right.

21 I think we ought to take a look at the
22 existing arrangements and refresh our recollection as to
23 the contours they contain. Then figure out and if
24 necessary start an early discussion about where we go
25 next.

1 CHAIRMAN CROSBY: Right. Commissioner
2 Zuniga pointed out technically the contract I think as
3 it runs our 16-week process, but the work product of the
4 flowchart is still coming out come middle of October.
5 And that may well be understood by somebody, but I don't
6 think it is clear to all of us. That too needs to get
7 addressed.

8 COMMISSIONER ZUNIGA: let me speak a
9 little bit about just contractually to try perhaps at the
10 risk of oversimplifying.

11 We engaged our consultants to do a
12 strategic plan, which is what they are working on, and
13 many of the components they are in fact doing. But to
14 the extent that we are by virtue of accelerating the
15 schedule, implementing or having them do work that has
16 to do with implementation of the plan rather than just
17 formulating the plan, prior to that we really need to
18 start thinking about the next procurement piece or how
19 to compensate them for that part of the work that wasn't
20 contracted on.

21 In that venue, we'd like to hear from our
22 consultants later, now or later, when we are approaching,
23 if we are approaching those eventualities of
24 implementation so that we can account for that.

25 COMMISSIONER MCHUGH: Is there anything

1 more we can do on that topic today? Or do we need to
2 simply raise as we have the issue and then go back and
3 regroup and think this through a bit before we go further?
4 I am not suggesting we delay this.

5 CHAIRMAN CROSBY: I think that's right,
6 but maybe formally put it on the agenda with the
7 consultants next week, if by that time we could have all
8 thought it through.

9 COMMISSIONER MCHUGH: All right. Does
10 that make sense or should we talk further before deciding
11 when to put it on the agenda?

12 MS. O'TOOLE: I would defer entirely to
13 the Commission on that. The consultants have made it
14 clear that they are just focusing on the 16-week period
15 in trying to get these regulations produced. But I am
16 sure they would be very interested in discussing the plan
17 going forward.

18 COMMISSIONER MCHUGH: The only reason I
19 raise that question is we really are in a crunch period
20 here with these regulations. We are going to Anderson
21 and Kreiger. There's more stuff going from the
22 consultants to Anderson and Kreiger. Anderson and
23 Kreiger are going to be giving stuff back to them this
24 week.

25 We are on a tight deadline and we need to

1 discuss this, but I wonder if it isn't worthwhile to make
2 the regulations -- getting the regulations out be the
3 absolute top priority. And then we catch up with this
4 very quickly, but not necessarily next week as it would
5 interfere with what else they're doing. What do you
6 think of that, Mr. Chairman?

7 CHAIRMAN CROSBY: I completely agree that
8 if it's going to get in the way of the things that are
9 on the table, then it's a second priority. But I don't
10 think there is really all that much work to be done.

11 I at least would just like to sit down with
12 the consultants and think this through. Sort of talk,
13 get a calendar in front of us and just kind of think this
14 through. If I am wrong about that and it requires work
15 then we can certainly hold it.

16 I think we need to think pretty quickly
17 about whether we need to do a procurement because if we
18 do need to, we have got to get going in order to have the
19 procurement completed in time to the fall at whatever
20 point it is.

21 COMMISSIONER MCHUGH: Okay.

22 MS. O'TOOLE: The consultants will
23 certainly be available to discuss that. In fact, they
24 will be available to present the regulations as well.

25 COMMISSIONER MCHUGH: Next week?

1 MS. O'TOOLE: Yes.

2 COMMISSIONER MCHUGH: Okay, great.

3 Anything further?

4 MS. O'TOOLE: That's it, Commissioner.

5 COMMISSIONER MCHUGH: Thank you very
6 much.

7 The next item on the agenda. The
8 consultants' status report, I think we had -- The
9 subtopics there I think are still items that are awaiting
10 action. The efforts to get the regulations out really
11 has taken precedence over everything else.

12 That brings us to item 5C, technical and
13 other assistance to communities. The first subtopics
14 under there is the ombudsman job description and process.
15 Mr. Chairman, do you want to take the lead on that?

16 CHAIRMAN CROSBY: Yes, thank you. Your
17 packages have the draft job description for the ombudsman
18 role, two-part ombudsman role, and ombudsman with
19 prospective bidders and an ombudsman with communities.
20 I was asked to draft something so we know what we are
21 talking about as we begin to look for this person. I am
22 open to any comments, it's just a draft, so any comments
23 on that.

24 Secondly, we had talked about,
25 Commissioner McHugh particularly made the point that we

1 ought to have some kind of a process for making this
2 happen. We were going to talk about that as well.
3 There's nothing written about that.

4 The concerns that I have and we always have
5 this is we really do need this person quickly. Whoever
6 it is, is going to have to go through a background check
7 and so forth and so on. So, it would be nice if we could
8 move fairly quickly on this.

9 I don't think we know whether or not we are
10 really hiring a permanent person. It is probably a
11 full-time job for a while or close to it, but may have
12 a relatively short life. I was thinking that if it was
13 acceptable maybe we could hope to get it by a consultant
14 that we could procure pretty quickly or a loaned person
15 that we would pay for from the State.

16 What the concern everybody has is we need
17 to move quickly, but we also need to be careful. The
18 process one is on the table to be discussed. First of
19 all, let's look at the job description and see if anybody
20 has any material changes to that.

21 COMMISSIONER ZUNIGA: I have a comment.
22 It's not a material change. It is more like a topic for
23 discussion or clarification, but it is on the job
24 description. In the job description, one of the
25 activities or one of the key constituencies that this

1 person would deal with is at the local level.

2 It says that he or she would respond to all
3 inquiries from communities either host or surrounding
4 communities. And I think or my question is is that
5 essentially the person that deals with all of the
6 inquiries at the local level? And they could come from
7 Board of Selectmen, City Council, but also associations
8 and importantly from citizens in general. That could end
9 up being a lot of people.

10 If we could articulate or think through
11 just what we are thinking about again at the local level.
12 Or if it is really for that person to try to organize a
13 process. At least I just wanted to kind of throw that
14 out there.

15 CHAIRMAN CROSBY: My thought was twofold.
16 One was I was thinking only of official inquiries. This
17 is for the municipalities who will have to deal or may
18 have to deal with developers. If it is just a citizen
19 or a citizens group or a Chamber of Commerce or something
20 else, that may or may not go through this person. I was
21 envisioning that.

22 Secondly, I certainly was meaning that the
23 person is just a facilitator. He does not have to answer
24 every question or do everything. It's just a known,
25 obvious, readily accessible, customer friendly contact

1 who will guide any official inquiry to the appropriate
2 source for an answer.

3 COMMISSIONER MCHUGH: Once this person
4 was on board, if we accepted this job description, then
5 he or she can in conjunction perhaps with Director
6 Driscoll work out a protocol that would be published and
7 let people know what he or she could and would do?

8 CHAIRMAN CROSBY: Exactly.

9 COMMISSIONER CAMERON: Mr. Chair, I just
10 wanted to make a comment that you were explaining this
11 I believe it was last week. And I did not have a full
12 understanding of where you were going with this. This
13 is an excellent description. And I agree with you that
14 this is something we really need and we should facilitate
15 as quickly as possible.

16 CHAIRMAN CROSBY: Anything else on the
17 definition itself? I can certainly put a word in there,
18 Commissioner Zuniga, to make clear that this is a
19 commitment to handle all official inquiries. Then as
20 Commissioner McHugh says, we can work it out later on
21 about where the Chambers of Commerce goes and where the
22 anti-groups go and so forth.

23 COMMISSIONER STEBBINS: Mr. Chairman,
24 looking at the definition, Commissioner Zuniga and I had
25 a meeting last week with the folks at Mass. Development

1 who have just gone through the process of hiring a senior
2 regional real estate development project manager, which
3 I think incorporates a lot of the skills and background
4 and experience with respect to the ombudsman position.
5 And their commentary to us is that because a lot of these
6 private firms have been scaling back on senior people that
7 when they posted their position there was an abundance
8 of resumes that came through the door.

9 So, I think food for thought for us to have
10 in terms of whether we end up posting this position or
11 how we go about recruiting anybody who might be interested
12 in this position.

13 Obviously, I had a follow-up meeting this
14 morning with the folks at the Collins Institute about
15 their scope of services, their interest in entertaining
16 on our behalf to help reach out to local communities.

17 But I had a question with respect to if you
18 look for the protocol for prospective gaming developers'
19 interaction with the State, we make the ombudsman
20 position kind of go away in the post-license award
21 process. I would think -- I've had some rethinking about
22 this. I would almost see that as where that person would
23 still be extremely valuable.

24 The legislation puts an onus back on the
25 community to designate one person to do the permitting

1 at the local level to make sure the process goes through.
2 And when the State is getting to that same point, we are
3 suggesting that the point person who may help them is
4 going away.

5 I certainly see the ombudsman role as kind
6 of having a definitive time period, but we are asking the
7 community to designate a point person for the permitting
8 process. I believe the legislation outlines some
9 penalties --

10 CHAIRMAN CROSBY: Were you finished
11 Commissioner Stebbins?

12 COMMISSIONER STEBBINS: Again, just kind
13 of getting to the point of I think the ombudsman's role
14 may take on even a more important relevance when we get
15 to the application approval process.

16 We don't want to leave a gaming -- I don't
17 want to say we are leaving a gaming developer out there
18 kind of on their own, but I think having a point person
19 to continue to coordinate the interaction with the other
20 state agencies, we're trying to position Massachusetts
21 as a friendly place to do business.

22 CHAIRMAN CROSBY: This one Commissioner,
23 the idea that after a licensee is chosen, there will be
24 a maximum of four of them and maybe fewer over time. The
25 state agencies have said to us they did not feel there

1 was a need to have an interface at that point. I am sure
2 when the time comes we can rethink it, but that was the
3 way they wanted to handle it.

4 COMMISSIONER MCHUGH: We have not given up
5 on that.

6 CHAIRMAN CROSBY: No, not at all.

7 COMMISSIONER MCHUGH: And have not
8 eliminated the idea of thinking on the front end how to
9 encourage some kind of a consolidated 40B or D, I have
10 forgotten which it is, approach to permitting at the local
11 level and other kinds of things that will facilitate this
12 going forward. That is a piece that still is in play I
13 think, right?

14 CHAIRMAN CROSBY: Yes. That was part of
15 the original agenda that Commissioner McHugh and I
16 undertook with all the secretaries and the Governor's
17 office. We left it explicitly on the table that we do
18 want to talk about the post-license award process. It
19 is just up in the air still. It just hasn't resolved.

20 COMMISSIONER ZUNIGA: I just want to
21 underscore a point that Commissioner Stebbins made, the
22 first point that he made which is on some of the feedback
23 in that meeting with Mass. Development let me thinking
24 that there could be good candidates out there with senior
25 real estate development expertise, familiarity with

1 permitting and 40D and those processes who may be willing
2 to come in on a contract basis. Frankly, it is one of
3 the options that we should be evaluating.

4 COMMISSIONER STEBBINS: Is there any
5 possibility as we foresee this role -- you have somebody
6 essentially doing the legal interaction and questions
7 about the bill that would have the direct interaction with
8 Anderson and Kreiger and this ombudsman role-playing more
9 of a role with respect to the permitting process, etc.

10 If we are looking for somebody with real
11 estate development experience, could we foresee that
12 person somehow having a role in helping us through the
13 whole issue of identifying impacted surrounding
14 communities, just based on their experience and their
15 knowledge of development projects? Probably not to
16 throw out more questions.

17 COMMISSIONER MCHUGH: That is certainly
18 -- Now is the time to be thinking about things like that.
19 I don't envision us setting up an environment in which
20 people outside the Commission can go directly to the law
21 firm we have hired to get answers. The law firm we have
22 hired has one client and that is us.

23 COMMISSIONER STEBBINS: Right.

24 COMMISSIONER MCHUGH: So, I think we can't
25 set that piece up.

1 COMMISSIONER STEBBINS: No, no. Having
2 somebody, an in-hire, an in-office hire, a Commission
3 hire, they could potentially become the legal department,
4 so to speak, to help handle a lot of the questions we get
5 about the legalese of the bill that would work on behalf
6 obviously, if they are on our staff, with Anderson and
7 Kreiger and then set aside this ombudsman role to be more
8 of analyzing and assessing the permitting process for
9 these facilities. Maybe those two people work
10 side-by-side.

11 COMMISSIONER MCHUGH: It seems to me an
12 ombudsman as conceived would have to have a pretty good
13 working knowledge of what the legislation provided. And
14 we would have to facilitate his or her acquisition of that
15 knowledge and provide support whether it was through
16 Anderson and Kreiger or through us internally or through
17 whatever mechanism.

18 Mr. Chairman, my conception of this was
19 that this would be a facilitator for cutting through red
20 tape, basically, to refine it as much as I can. And that
21 this person would be a person not only with knowledge of
22 development experience and the like, but also with
23 knowledge of who in State Government was responsible for
24 what so that both developers and cities and towns could
25 be most efficiently directed to the person who had the

1 answers.

2 CHAIRMAN CROSBY: As opposed to having the
3 answers.

4 COMMISSIONER MCHUGH: Yes, primarily.

5 CHAIRMAN CROSBY: That is exactly how I
6 envisioned it. Over time, obviously, the person would
7 gain more and more expertise and would be able to answer
8 questions kind of as a matter of course. But I do, yes,
9 see it very much the way you suggested it.

10 I think over time, they kind of morph
11 towards what Commissioner Stebbins said. That would
12 just be sort of a natural course of events.

13 COMMISSIONER MCHUGH: Is that a different
14 vision, Commissioner Stebbins, than the vision you have
15 for this role?

16 COMMISSIONER STEBBINS: As the Chairman
17 just put it in terms of this morphing into a role where
18 I think we expect a lot of our hires are going to morph
19 into different roles and responsibilities, morphing,
20 evolving.

21 Again, I just had the one concern about the
22 last piece in the protocol. I would argue that there is
23 still some responsibility on our part to kind of marshal
24 the forces to make sure that once an application is given
25 that we continue to work with our sister agencies and have

1 that one ombudsman kind of stay with it really until the
2 shovel is in the ground.

3 CHAIRMAN CROSBY: I don't really disagree
4 with that. But as I said, we have to make sure that our
5 colleagues in the State agree with it. I don't think they
6 would have a problem with that at all.

7 COMMISSIONER MCHUGH: In terms of, and
8 Chairman Crosby put it succinctly, in terms of this person
9 having the answers as opposed to knowing where to direct
10 people for the answers.

11 COMMISSIONER STEBBINS: I'm comfortable
12 with that. Obviously, comfortable in making sure that
13 whoever he or she is that fills this role would also
14 partner with the Collins Institute if we end up doing a
15 project with them.

16 CHAIRMAN CROSBY: And maybe the RPAs and
17 MMAs and others.

18 COMMISSIONER MCHUGH: Right.

19 COMMISSIONER STEBBINS: Exactly. I am
20 happy to kind of -- I don't want to slow up the process,
21 but maybe add some of the additional job description in
22 there if that's suitable. With everybody or the
23 Chairman, I know you have a protocol.

24 COMMISSIONER MCHUGH: We are going to talk
25 about the protocol piece in just a second. In terms of

1 the job description, do you want to put your thoughts in
2 there and edit that and send it back to the Chairman?

3 COMMISSIONER STEBBINS: Absolutely.
4 I'll do that relatively quickly.

5 CHAIRMAN CROSBY: Great.

6 COMMISSIONER MCHUGH: Commissioner, do
7 you have anything further, Commissioner Cameron?

8 COMMISSIONER CAMERON: No.

9 COMMISSIONER MCHUGH: We are satisfied
10 with the job description subject to your review Mr.
11 Chairman, of Commissioner Stebbins additions, comments,
12 allusions and the like.

13 CHAIRMAN CROSBY: Yes.

14 COMMISSIONER MCHUGH: Then in terms of
15 process, we will get moving on trying to identify,
16 solicit, interview potential candidates as quickly as
17 possible in whatever means are appropriate. Is there
18 anything more we need to say about that at the moment?

19 CHAIRMAN CROSBY: If we are going to post
20 a permanent job, then there is some structure we have to
21 go through. I sort of forget what it is, but Commissioner
22 Zuniga can tell us.

23 If we are having sort of a presumption for
24 starters that this would be a consultant role not a
25 permanent position, I think we can move more quickly.

1 Either a consultant role or a loaned person from the
2 State, which is what I was suggesting if that is okay with
3 everybody.

4 If it turns out we have to turn it into a
5 permanent position because we find the right person and
6 they won't do it without a permanent job, then we can cross
7 that bridge when we get to it. I agree with Mass.
8 Development or whoever said it that there are lots of
9 people out there who have these kinds of skills who would
10 be delighted to have a consultancy if not a full-time job.

11 COMMISSIONER ZUNIGA: I think from just
12 pragmatically we should post. We are discussing it now,
13 but we should post on our website and we should post in
14 other places like HRD the job description once it has been
15 refined and just articulate that this could end up being
16 a contract position not a permanent one. But it could
17 be a permanent, I guess, however we decide to articulate
18 that. And see what response we get from interested
19 parties.

20 CHAIRMAN CROSBY: That would be great.

21 COMMISSIONER ZUNIGA: That way it is out
22 in the open.

23 CHAIRMAN CROSBY: I will turnaround
24 Commissioner Stebbins' edits as soon as I get them and
25 forward it to you, Commissioner Zuniga. Then you and

1 Janice can have it posted however. And everybody's whose
2 got ideas, let's start moving.

3 COMMISSIONER MCHUGH: We could post this
4 for a time that was -- maybe this is obvious -- long enough
5 to get responses but short enough to be effective. We
6 need this person soon.

7 CHAIRMAN CROSBY: Post it for two weeks
8 maybe.

9 COMMISSIONER MCHUGH: Okay. All right.
10 Should we move onto the municipal process document, which
11 is in the packets and to which I made some revisions
12 following last week's meeting. The municipal process
13 document specifically is the one headed: Advisory to
14 Massachusetts communities that may qualify as host or
15 surrounding communities.

16 We discussed this last week and I made some
17 proposed revisions, which are incorporated in this
18 document. The first of those is at page one at the
19 penultimate bullet point, which begins July 2013 to May
20 2014. That is designed to make clear that the host
21 community agreements must be signed no later than the end
22 of that period rather than that people had to wait and
23 do them during that period.

24 And the same theme is reiterated at the
25 bottom of the chart on page two, the negotiations between

1 developers and host communities can start at any time that
2 those pairs wish to meet. So too can the negotiations
3 between surrounding communities and a developer, but the
4 regulations for the RFA-2 are not promulgated yet. And
5 they will not be promulgated before the end of the year.
6 So that those negotiations, the Commission's power with
7 respect to promulgation of regulations is broad under
8 this statute. So, negotiations that are finalized
9 before those regulations are completed run the risk of
10 missing something that ultimately isn't a regulation.

11 Nothing in the statute prohibits or even
12 discourages early discussions so long as they are done
13 with eyes open.

14 CHAIRMAN CROSBY: Could I interrupt on
15 that point before you go on?

16 COMMISSIONER MCHUGH: Sure.

17 CHAIRMAN CROSBY: I think what you did
18 here is great and made it a much stronger document. The
19 one thing I thought was a little bit confusing was at the
20 bottom of that paragraph on the second page. It says the
21 Commission will not act on a site-specific application
22 as if they might have such a thing but won't act on it.

23 I think what it really means is that the
24 Commission will not begin the RFA-2 process with an
25 applicant until the Commission has completed the

1 above the II, that paragraph on the third page. It says,
2 the Commission has not yet promulgated regs. regarding
3 RFA-2 and is not likely to do so before the end of the
4 calendar year 2012.

5 If I'm not mistaken that would be the
6 earliest. That would be amazing if we had them all done
7 by 2012, by December 2012. Unless I'm wrong, but just
8 in setting expectations right, you might say at the end
9 of calendar 2012 at the earliest.

10 COMMISSIONER MCHUGH: Sure.

11 CHAIRMAN CROSBY: I think this is a really
12 helpful document.

13 COMMISSIONER ZUNIGA: I have a
14 comment/question around that, which is on the one end we
15 don't anticipate to be promulgating regulations for phase
16 two until 2013, early 2013 -- rather we won't promulgate
17 them perhaps prior to the end of 2012, but also the early
18 subsequent date is April of 2013 when we are tentatively
19 -- this would be the earliest release RFA phase two,
20 correct?

21 COMMISSIONER MCHUGH: It is the earliest
22 likely date. I should've highlighted that. I recommend
23 changing the heading on those columns to the earliest
24 likely date. It is conceivable that this process could
25 move faster, not by orders of magnitude, but it is

1 conceivable it could move a little faster than this, so
2 earliest likely date is April 2013.

3 COMMISSIONER ZUNIGA: Would it be fair to
4 say that it would be that period, January to April of 2013
5 that both applicants and communities would have to digest
6 the regulations for phase two and act accordingly, I
7 guess. Understand them and begin those negotiations. I
8 am just trying to highlight for communities if that is
9 really the timeframe we are thinking about.

10 Again, this is the earliest likely. It
11 could slip all the way to November, which is fine.

12 COMMISSIONER MCHUGH: It could also
13 advance slightly too. That's why it's likely.

14 COMMISSIONER ZUNIGA: Right.

15 CHAIRMAN CROSBY: This is something you
16 brought up, Commissioner Zuniga, at the first meeting,
17 at the meeting last week as well.

18 COMMISSIONER ZUNIGA: Yes.

19 CHAIRMAN CROSBY: You are sort of
20 describing the internal workings of the process as
21 opposed to just putting markers at the central
22 breakpoints, which is fine.

23 What we could do is either say under
24 applicant's submission of completed RFA-1, the second
25 box, we could put something that says ongoing drafting

1 of RFA-2 regulations. It's not exactly a parallel
2 function. The function here was just to say what are the
3 critical path points, not what is the process going on
4 in between the critical path points.

5 COMMISSIONER ZUNIGA: Fair enough.

6 CHAIRMAN CROSBY: But you have brought
7 this up twice. It wouldn't harm if you just wanted to
8 put some words -- Why don't you send up some words and
9 we can try to put it in there?

10 COMMISSIONER ZUNIGA: Yes.

11 CHAIRMAN CROSBY: If the other
12 Commissioners are okay with it.

13 It is a little bit confusing because it's
14 not quite the same functionality, but I don't think it
15 hurts.

16 COMMISSIONER ZUNIGA: I can do that. I
17 actually just had noted that word just in that box.

18 CHAIRMAN CROSBY: Commissioner McHugh had
19 suggested that there might be a different chart, sort of
20 a process chart which absolutely would include what
21 you're talking that could be amended, could be appended
22 to this as soon as we have it. I don't think he has had
23 a chance to draft that but maybe that is the better place
24 to put the piece you are talking about.

25 COMMISSIONER MCHUGH: The document that I

1 was envisioning, Mr. Chairman, was the one that I started
2 on and I just have not had a chance to finish it yet. It
3 does do that. That sort the lays out in more detail, but
4 graphically in a few slides what the overall process looks
5 like.

6 CHAIRMAN CROSBY: Which would include the
7 point that Commissioner Zuniga is talking about?

8 COMMISSIONER MCHUGH: Yes.

9 COMMISSIONER MCHUGH: I would still like
10 to get those comments and we could figure out -- So, I
11 can make sure to incorporate those in that process. That
12 would be very helpful.

13 CHAIRMAN CROSBY: Why don't you give those
14 to both Commissioner McHugh and to me. And it looks like
15 it ought to fit on here too, I'll do that. I am pretty
16 sure that it will fit on Commissioner McHugh's chart.

17 COMMISSIONER MCHUGH: I will make the
18 revisions that we just discussed here. And I'll take a
19 look at what Commissioner Zuniga gives. We can both take
20 a look at that and try to get this finalized and available
21 for the public use and public commentary.

22 This document, this is like many things
23 that we are doing. If this raises questions and we get
24 questions as a result of this, we can always change this
25 to deal with those questions. The objective is to

1 continue to make these documents as helpful as we possibly
2 can. And we cannot anticipate everything, but we can
3 change them as we move forward.

4 I wanted to spend a second and we refer to
5 it a couple of times on the protocol that we discussed
6 at the last meeting. I wanted to spend -- and I suppose
7 this is the appropriate space. -- a minute just talking
8 about that, Mr. Chairman. Hope you will supplement
9 what I am about to say.

10 The origin of that document was the concern
11 that was expressed by a number of state agencies about
12 being overwhelmed by requests for assistance, guidance,
13 approvals, preliminary approvals and the like by
14 individuals who would not ultimately be bidders for a
15 project. And there was a concern about that and a concern
16 about the amount of time that that kind of process would
17 take.

18 At the same, there was a concern that we
19 were hearing from cities, towns, communities about how
20 to get assistance and where to go to get assistance for
21 their concerns at the State level.

22 So, the purpose of this document was to
23 allay the concerns of the state agencies that had them
24 and help and assist communities that had concerns about
25 where to go by creating an individual who would act as

1 a facilitator. Every facilitator is a gatekeeper, I
2 suppose in a sense.

3 It is two halves of the same coin. Not to
4 slow the process down but to facilitate and coordinate
5 the process so that nobody would be overwhelmed. The
6 fears about being overwhelmed would be reduced. And the
7 people who were in need of help could have a single point
8 of contact to go in order to get that help. That was the
9 background and the genesis of this document.

10 So, Chairman Crosby and I went and talked
11 to the secretaries who had these concerns. And this is
12 a protocol and a plan that evolved from that. Like
13 everything else, it is a work in progress. Like
14 everything else, there are some who don't need the kind
15 of help that this provides.

16 But this is a process if broadly viewed in
17 which everybody ought to be on the same playing field.
18 So, that nobody ought to be left out in the cold because
19 they don't know which room to go to and which door to knock
20 on. This is a document that is designed to do that, to
21 help that, to tell people what doors to knock on and where
22 to go. At the same time, reduce concerns about
23 overwhelming traffic coming in seeking advice on
24 hypothetical projects that may never get off the ground.

25 It can be revised and will be revised if

1 there are difficulties with it, but that is its origin.
2 That's its design. That is its intent.

3 Mr. Chairman, I don't know if you wanted
4 to say anything more about that or think we need to say
5 more about it?

6 CHAIRMAN CROSBY: No. I think that was
7 right on and well said. I know there have been a couple
8 of comments I guess from the developer community raising
9 questions about the process that is laid out in this
10 protocol.

11 You are now making the point that we
12 appreciate feedback. And if there's ways to make it
13 better, we will do that. Is it worth you just sort of
14 giving us the highlights of what those questions were and
15 whether that has affected your thinking at all about the
16 way this ought to work?

17 COMMISSIONER MCHUGH: The questions that
18 have arisen that have come in through our MGC comments
19 website and other ways is that some people want to get
20 started and want to get moving and view this as something
21 that will slow them down. That is the essential thrust
22 of it. And they ought not and they shouldn't need to
23 follow this process. They view it as a constriction.

24 Given the reaction of the secretaries to
25 the initial problem, this is designed to overcome that

1 and not slow anybody down. And designed to facilitate
2 the interaction between the appropriate state agencies
3 and the developers and the host communities and the
4 surrounding communities and the like.

5 At the same time, make sure nobody gets an
6 advantage simply because they know the particular doors
7 that they need to go knock on and other people don't in
8 these early negotiations. I think both halves of those
9 are important considerations or both parts of that are
10 important considerations.

11 If it appeared that this is slowing
12 somebody down to thwart progress that otherwise could be
13 made, it seems to me that we ought to hear about that and
14 we ought to try and fix it.

15 CHAIRMAN CROSBY: Right.

16 COMMISSIONER MCHUGH: So, the answer is
17 that it hasn't changed my thinking, Mr. Chairman. But
18 it remains like everything else plastic and designed to
19 be helpful not obstructive.

20 CHAIRMAN CROSBY: Great.

21 COMMISSIONER MCHUGH: Any other comments
22 or thoughts about that?

23 CHAIRMAN CROSBY: If you could set the
24 blank on the second bullet point what that is, then I think
25 this is ready to go.

1 COMMISSIONER MCHUGH: I am sorry. I
2 missed your question.

3 CHAIRMAN CROSBY: The second bullet point
4 talks about once a developer qualified and pays the
5 licensee fee called for in section blank.

6 COMMISSIONER MCHUGH: Yes, I will do that.

7 CHAIRMAN CROSBY: I think on these three
8 documents together, we have a couple of edits coming on
9 two of them. But they are pretty much ready to go.

10 So, we will move the job description
11 through quickly with an edit from Commissioner Stebbins
12 to Commissioner Zuniga. And we'll finish up with
13 Commissioner McHugh's edits and Commissioner Zuniga's
14 edits on the advisory. Then I think we are ready to
15 distribute all of this stuff to interested parties. I
16 don't think we need a vote particularly on this.

17 COMMISSIONER MCHUGH: No, I don't believe
18 we do either. Because it is a policy and we are prepared
19 to change it if it is necessary to do so. So, as with
20 everything else, we welcome comments about it.

21 There was one other comment. Let me bring
22 up one other comment because you mentioned it with respect
23 to the section, which I have to fill in. That is there
24 was a suggestion from somebody that they ought to be able
25 to jump to the second bullet simply by putting down the

1 \$400,000 for investigations before they actually filed
2 the RFA-1 and therefore become an applicant without an
3 application -- without a formal application.

4 I.E. a signification of a serious interest
5 in a project, sufficient to overcome the concern that this
6 was a hypothetical player was just testing the waters
7 about something that would never happen.

8 So, that was a suggestion that was made.
9 I don't know what the reaction of any of you -- what
10 reaction any of you have to that. That is not something
11 that has been taken up with the secretaries.

12 CHAIRMAN CROSBY: I don't quite
13 understand that. Compare what somebody raised with the
14 second paragraph of the protocol. What is the
15 distinction?

16 COMMISSIONER MCHUGH: The theory is that
17 the \$400,000, the statutory \$400,000 is to accompany the
18 RFA-1 application. That is the way we have been
19 envisioning things to happen thus far.

20 We envision things to happen that way thus
21 far because the statute says when the application is
22 filed, it should be accompanied by a \$400,000 application
23 fee to defray the costs of investigation of the
24 application.

25 The question is -- Here this protocol says

1 that once you have paid the \$400,000, you move to the
2 second stage. You have become an applicant. Embedded
3 in that I think is the notion that the \$400,000
4 accompanies at least the RFA-1 application, but it can't
5 today because the regulations aren't out there.

6 The question that has been raised is can
7 we uncouple the \$400,000 application fee the from the
8 necessity to actually file an application? We give you
9 the \$400,000. We say we have every intention of becoming
10 an applicant. You have not issued the regs, so we can't
11 be an applicant. But as soon as you issue the regs. we
12 will be an applicant.

13 In the meantime, we want to move forward
14 with our plan.

15 CHAIRMAN CROSBY: That is very
16 interesting. I am glad you are bringing this up because
17 I may have seen this differently from you. What I thought
18 we were talking about was when the \$400,000 is paid, which
19 would be at the time of receiving the blank RFA-1, walk
20 in the door, you give us a check for \$400,000. We give
21 you the RFA-1 to fill out. And you are an applicant.

22 I was not thinking that it would be when
23 they complete the RFA-1, which is three to six months
24 later. I maybe was thinking about it more in the way that
25 it's been raised.

1 COMMISSIONER MCHUGH: This is an
2 important point, because regulations are going to spell
3 this out in more detail, but we have not gotten in some
4 ways down to that level. There are a number of different
5 ways that we could go on that.

6 Under your view, Mr. Chairman, the
7 \$400,000 would come at the front end of the application
8 process, i.e. when you get the blank form.

9 CHAIRMAN CROSBY: Right.

10 COMMISSIONER MCHUGH: And I think the
11 suggestion we are getting is that it could come even
12 earlier. It could come tomorrow.

13 CHAIRMAN CROSBY: That's a different
14 question. Let's take them one at a time.

15 COMMISSIONER MCHUGH: I understand that.

16 CHAIRMAN CROSBY: You are right. I was
17 thinking -- We said we hope we will have the regs finished
18 by October 12. And we would at that time be able to issue
19 RFA-1 for interested parties.

20 COMMISSIONER MCHUGH: Correct.

21 CHAIRMAN CROSBY: It is at that juncture
22 that I was envisioning bidders would pay their \$400,000
23 and would become an applicant. I would be very
24 comfortable with that. I think nobody is going to come
25 in and get an RFA-1 and leave behind \$400,000 if they are

1 not very serious.

2 It doesn't necessarily mean they will pass
3 muster, but they believe they will pass muster and they
4 are very serious. So, I would be okay with that.

5 Whether we should let them come in tomorrow
6 with a check for \$400,000 is an interesting idea I hadn't
7 thought about.

8 COMMISSIONER MCHUGH: I hadn't thought
9 about it either. And I don't think -- That certainly was
10 never discussed when this protocol was being circulated
11 to the various agencies.

12 CHAIRMAN CROSBY: What were you
13 envisioning as to where the \$400,000 would fall?

14 COMMISSIONER MCHUGH: I was just
15 proceeding on a different reading of the statute --
16 different approach, interpretation and that is when the
17 application -- there is a unified application specified
18 in the statute, not necessarily specified, but when the
19 application was filed I thought -- when an application
20 was filed was when I thought the \$400,000 would come.

21 CHAIRMAN CROSBY: That was different from
22 what I was thinking.

23 COMMISSIONER MCHUGH: Yes. But that
24 doesn't necessarily mean that it has to be that way.

25 COMMISSIONER ZUNIGA: I agree. That was

1 also my understanding or my assumption that we would
2 receive an application and the \$400,000 at the end of that
3 solicitation period.

4 I am also intrigued by this notion of
5 trying to even bring it earlier.

6 CHAIRMAN CROSBY: Let's think about what
7 are the downsides? What is the downside?

8 COMMISSIONER ZUNIGA: I am thinking of
9 what is the motivation? We can get to the downside in
10 a minute, but what would motivate someone to fork over
11 \$400,000 as early as possible to continue doing their own
12 plans? I am really interested as to why would anybody
13 want to do that.

14 COMMISSIONER MCHUGH: Because I think
15 because they would like to go forward with the permitting
16 process and have the access to every state agency that
17 they need to engage with in order to move the permitting
18 process forward, not necessarily to the point of getting
19 a permit, maybe. At least moving forward to the point
20 of engaging in the kinds of negotiations and discussions
21 and planning that is necessary for any complex project.
22 And be ready when the license comes to go onto the next
23 stage.

24 COMMISSIONER ZUNIGA: To some degree,
25 this is something they can do currently. I guess they

1 would be in an official capacity, if you will?

2 COMMISSIONER MCHUGH: Not under this
3 protocol. Just to finish that point so everybody is
4 clear. Under this protocol, prior to becoming an
5 applicant you get one meeting.

6 COMMISSIONER CAMERON: Would this be an
7 appropriate question for our gaming consultants to ask
8 what has been done in other jurisdictions? And are there
9 best practices and reasons why a process is followed,
10 application and monies are collected? I just think there
11 might be some advice there.

12 COMMISSIONER MCHUGH: We surely can take
13 it up with them.

14 COMMISSIONER STEBBINS: I think to answer
15 Commissioner Zuniga's question is motivation just keep
16 moving the process to speed. I want to know if the road
17 I'm going down works right. And \$400,000 seems a small
18 amount to pay to begin to get that feedback from the
19 related permitting agencies.

20 CHAIRMAN CROSBY: The only complicating
21 factor that I can think of, and I'm not sure it is, we
22 don't yet know, we have not even started to contemplate
23 what degree of completion of a site preparation we will
24 require for either the referendum and hosting community
25 agreements or our own application. We know there is an

1 issue there where you have to have been permitted to
2 broaden the highway. Where you have to, whatever the
3 environment regs, where you actually have to have been
4 permitted on any of this or can you leave it in a
5 hypothetical? We just haven't worked that through.

6 It's very complicated issue as we
7 discussed because if there is a referendum on the proposed
8 highway extension, for example, and if actually the
9 highway extension doesn't get approved then we don't know
10 if we have a referendum that counts or not.

11 There's a lot of subtlety to this that we
12 haven't started to think about. Is there any reason why
13 we would want to have our own ducks a little more in a
14 row. Give us another 60, 90, 120 days to be thinking
15 about issues like that before we set the developers lose
16 on the state agencies and the towns trying to push them
17 for whatever degree of specificity and completion they
18 think is appropriate. That is the only issue that I can
19 think of.

20 COMMISSIONER MCHUGH: I think we need --
21 having just raised this issue and obviously determined
22 that we had different views as to when the application
23 fee is resolved, I do think we need to think about it some
24 more. I do think we need to think about it some more.

25 I am not sure we need to get as far as that,

1 Mr. Chairman, because in the end any requirements that
2 we impose it seems to me are minimums in terms of timing.
3 For example, if we think you have some kind of permit in
4 hand by the time you do X, that is not a prohibition on
5 having that permitting in hand much earlier.

6 CHAIRMAN CROSBY: Right.

7 COMMISSIONER MCHUGH: I think that might
8 be the response. So, I do think we need to think about
9 this a little bit more before -- and then go back to
10 agencies and see if they have any problems with this.
11 This is really simply -- this is in part designed to foster
12 a collaborative and cooperative relationship between the
13 state agencies and the cities and towns and the
14 developers.

15 COMMISSIONER ZUNIGA: I have two points on
16 this, two additional points. If we were to accept
17 somebody becoming an applicant as early as possible,
18 without an ombudsman who is supposed to coordinate those
19 meetings, would we be a little bit behind in that process
20 only because some of the meetings start to take place in
21 his/her absence. That's one question.

22 Also I think we need a little bit more
23 infrastructure financially to accept those kinds of
24 monies and have the financial controls in place before
25 we do that. I know that tomorrow, you don't really mean

1 tomorrow, but if it is really quickly, we would need to
2 establish the right controls around the bank accounts and
3 our ability to accept that kind of money.

4 COMMISSIONER MCHUGH: You could always
5 keep it in your desk.

6 COMMISSIONER ZUNIGA: No, I couldn't just
7 keep it in my desk even under my locked files.

8 CHAIRMAN CROSBY: I think that is a good
9 point. I agree with both Commissioner McHugh and
10 Commissioner Zuniga. We definitely are not going to
11 decide this today. I think we need to go back to the state
12 agencies, talk it through with them. I think interested
13 parties should know that we are giving this another
14 couple, three weeks consideration anyway.

15 So, we will both clarify what was the
16 original intent of the protocol and we will decide whether
17 we will be willing to move the \$400,000 up even further
18 and gives you ways to think about it.

19 COMMISSIONER MCHUGH: All right.
20 Anything else on that particular topic? Charitable
21 Gaming is the next thing on the report.

22 I have very little to report on that. I
23 am going to meet with the folks at the Lottery tomorrow
24 to talk about things with them. We have asked for
25 comments on the general subject of charitable gaming from

1 the clerks of cities and towns. We have gotten some very
2 helpful and thoughtful comments.

3 I have asked a number of groups of people
4 from various segments of the legal community who
5 represent charitable institutions to solicit comments
6 from their members or give me their own comments. So,
7 we have tried to cover the waterfront of the user
8 community, the regulatory community and the taxing
9 authorities as to their thoughts. And we are on track.
10 We continue to be on track to try to have a report for
11 the Legislature by the end of the month. Any questions
12 that I can answer about that?

13 Finance/budget, Commissioner Zuniga?

14 COMMISSIONER ZUNIGA: Very brief working
15 on the budget template. I shared my current budget with
16 our gaming consultants. They gave me some quick feedback
17 into some of the assumptions there, but are looking at
18 the details of that. Because as part of their strategic
19 plan, there is this budget piece that they have been
20 thinking about as well. More feedback on that soon.
21 Hopefully, I can present the budget in the next couple
22 of weeks to this Commission for approval going forward.

23 COMMISSIONER MCHUGH: Okay, thank you.
24 Any questions, comments?

25 Public education and information. Why

1 don't we go directly to Director Driscoll for a report
2 on what is happening on that front.

3 MS. DRISCOLL: Good afternoon, everybody.
4 I will be very brief. As I have told everybody, I have
5 a series of meetings set up this week and next. I
6 actually just added another one to the roster the other
7 day.

8 So, I have a series of meetings set up this
9 week and next. Hoping this week to get a lot of the
10 administrative work done in preparation for these
11 meetings, which is to basically go to several companies
12 on website development and also logo development. My
13 plan is to have as much preparation done for those as
14 possible to try to streamline the process.

15 I just figured if we know exactly what it
16 is that we want done from a company, I think that the
17 process will move a lot more quickly. So, I've been
18 working closely with the Nevada Gaming Commission who
19 just recently completely revamped their website. It is
20 a great standard for what our needs will be in the future.
21 And quite frankly, a lot of it we can use for what we need
22 right now.

23 I just have been working with them just to
24 determine their budget, how they work with the company
25 to develop it. What they have in terms of ownership of

1 the site, important things like that that will matter down
2 the line.

3 Again, I've also been researching and
4 developing some sort of brand and style guide just so that
5 again down the line we have an idea of proper logo use
6 that we actually have to go with the employee manual, what
7 the guidelines will be for who can use the logo and how
8 they can use it. What is an improper use of a logo, things
9 like that.

10 Speakers Bureau criteria, I am in the
11 process of just building a target list of the first round
12 of speaking engagements. I will have a memo for
13 everybody next week on what I propose the criteria be and
14 what some of the language, legal language should be in
15 that as well.

16 Again, hopefully with the development of
17 the website and the logo, we will be able to also develop
18 a really strong PowerPoint and possibly a video basically
19 to take on the speaking engagement schedule across the
20 state.

21 Hopefully, this week I will get to the
22 communications section of the employee manual. I plan
23 to get to that this week as well.

24 COMMISSIONER MCHUGH: Sounds entirely
25 ambitious. It sounds great.

1 CHAIRMAN CROSBY: If nobody else had
2 anything, Commissioner McHugh, I wanted to bring up the
3 issue Director Driscoll had raised about the inquiry from
4 a party. We were going to have a discussion about how
5 we would handle such meetings when interested parties
6 wanted to talk to us. Is now the time to --

7 COMMISSIONER MCHUGH: Yes, Mr. Chairman I
8 think this is a good time to bring up that idea.

9 CHAIRMAN CROSBY: Director Driscoll got a
10 contact from some party, I think, working with one of the
11 tribes in Southeastern Mass. saying that they were
12 working with surrounding -- this is the consultant who
13 was working. I am not really sure who they were retained
14 by, but working with surrounding communities. And they
15 had some suggestions for us on how we might deal with and
16 support surrounding communities.

17 They wanted to speak to one or more of us
18 to talk about that. That caused us to think about what
19 is the proper protocol here. I think our prima facie
20 reaction was maybe it is not a bad idea. There are going
21 to increasingly have people around, even participants who
22 have constructive suggestions to make about the process.
23 And maybe we should invite them to do it either in writing
24 if they wish or to come into one of our regular meetings.

25 We could set aside a half-hour or something

1 each meeting where people who had not proposal specific
2 things to talk about, but general things to talk about
3 that they could come in and do that.

4 That leaves open the question about how do
5 we respond to inquiries which will surely be coming soon
6 that are proposal specific and where a proposer wants to
7 talk with us just like they want to talk with state
8 agencies about how is the process going to work, questions
9 they might have. They might want to consider those
10 discussions proprietary and private. I think we decided
11 we needed to talk about that kind of meeting as well.

12 So, there's two kinds of meetings on the
13 table with interested parties. Basically, proposers and
14 their affiliates.

15 COMMISSIONER MCHUGH: Yes. Those are on
16 the table and it seems to me that we have to think through
17 the ramifications of that carefully, and articulate a
18 policy at the least, perhaps a part of our regulations.
19 Above all, we have to maintain a strong atmosphere of
20 transparency. That has to be it seems to me the
21 overriding consideration in how we formulate a policy to
22 deal with this.

23 CHAIRMAN CROSBY: Evenhandedness and
24 transparency.

25 COMMISSIONER MCHUGH: Evenhandedness

1 with respect to access and evenhandedness with respect
2 to discussions. To the extent there is something that
3 is truly proprietary, a trade secret that somebody has
4 to discuss with us, we can figure out how to deal with
5 that.

6 But we need to craft regulations that in
7 the main say that the interactions are open and
8 transparent, I think. That is a default. We need to
9 think it through, but it seems to me that is the default.
10 Other thoughts? This is coming out sort of suddenly.
11 Any other thoughts or instinctive reactions about that?

12 COMMISSIONER ZUNIGA: My thought is one of
13 first of all, having discussions around this and then
14 ideally crafting regulations to that effect to the extent
15 it is timely. Whether they fit in some of our phase one
16 and phase two that is a minor matter. That's my reaction.

17 COMMISSIONER MCHUGH: It seems to me that
18 the sooner we get a grip on this the better, because these
19 discussions and requests, one of them actually has
20 already come and are likely to start coming.

21 Is that something that would go into a
22 communications policy logically or is it better left
23 outside of the communications policy and done separately?

24 MS. DRISCOLL: My sense is that I think
25 where the communications aspect of it comes in, I think

1 it is just making sure that in my outreach I am keeping
2 everybody informed of what the expectation is in terms
3 of the parameters of interaction. The actual setting up
4 of those parameters, I am not sure that that comes under
5 communications policy.

6 The one thing I think about this as well
7 is through our open lines of communication with the Ethics
8 Commission. I think one of the things that they were
9 making a point of is that we are on a fact-finding mission
10 at this point so that there is the ability to engage in
11 discussions that will ultimately help us to be more
12 informed as we are drafting these regulations. That is
13 just my two cents on where I think we are.

14 COMMISSIONER MCHUGH: We cannot have been
15 the first people to have encountered these issues. This
16 too is an area where our gaming consultants may have some
17 helpful information for us and where the public -- where
18 there maybe regulations in other jurisdictions that deal
19 with this precise issue. It probably would be good to
20 check with those.

21 With respect to pending requests, simply
22 have a default that we will talk to anybody in a public
23 session until we get the regulations and policy fully
24 developed. Mr. Chairman, what do you think about that
25 approach?

1 CHAIRMAN CROSBY: I like that approach.
2 I think we will probably start getting a lot of requests
3 to come to our meetings.

4 COMMISSIONER MCHUGH: That's good.

5 CHAIRMAN CROSBY: That's fine. Why not?
6 This party that wrote Elaine, if they want to come in and
7 they feel that adds something more than just sending us
8 a note, then let them come in. I agree. We have no
9 private meetings unless and until we work out a policy
10 to do so.

11 COMMISSIONER MCHUGH: Is everybody
12 comfortable with that?

13 COMMISSIONER ZUNIGA: Yes.

14 COMMISSIONER CAMERON: It makes sense.

15 COMMISSIONER MCHUGH: We don't need to
16 have a vote on that. That again is just a policy that
17 we are going to adopt. And Elaine, you can be cognizant
18 of that if you get requests. That is the way we will
19 proceed. Okay. Thank you.

20 MS. DRISCOLL: Thank you.

21 COMMISSIONER MCHUGH: Speaking
22 engagements is the next one. Chairman Crosby, did you
23 want to say anything about that?

24 CHAIRMAN CROSBY: We followed up on the
25 meeting last week where we discussed the fact that State

1 Representative Orrall had asked for this meeting. We
2 clarified with her and through her to the folks that
3 wanted to get together that we will not be able to give
4 very much in the way of specific data. We couldn't do
5 it on a commercial license, never mind we can't do it for
6 a tribal license.

7 Having said that we are more than happy to
8 get together and meet with people and to hear their
9 concerns. They responded, Rep. Orrall and her
10 constituents responded very, very favorably to that and
11 were pleased we were willing to do it.

12 I am meeting with them, I think it's next
13 week. They have to be halfway between here and Boston
14 so I can to combine it with fresh air. I think we should
15 make sure that reps. and senators all know. People will
16 frequently come to them, their towns will come to them
17 thinking that they are the repository of all knowledge.
18 We should offer our services to meet with their
19 constituents if they want. We can parcel out among the
20 five of us.

21 COMMISSIONER MCHUGH: Yes. Those would
22 all be public meetings and people can attend them and see
23 what is being discussed and a good way to get information
24 out to everybody. Anybody can come to them.

25 Discussion of the Western Massachusetts

1 forum, Commissioner Stebbins, anything new to report
2 there?

3 COMMISSIONER STEBBINS: Sure. Two quick
4 updates to that. I spoke with State Senator Kandaras on
5 Friday afternoon. Again, she has offered Western New
6 England University to host our forum. Similar to I think
7 we had a State Senator speak at our mitigation forum in
8 Framingham.

9 She has had a long partnership with the
10 University and is happy to be the go-between between the
11 Commission and the Pioneer Valley Planning Commission,
12 which is also helping develop the agenda for this.

13 Also had the occasion at the end of last
14 week to speak with the ad firm that has been hired by the
15 Mass. Office of Travel and Tourism to do advertising.
16 They are planning to speak at the forum with respect to
17 the topic of tourism, thinking about Massachusetts now
18 will need to kind of rebrand itself when it comes to
19 blending in casino gaming as part of a tourism strategy.

20 I shared with the gentleman information
21 about since we are breaking it out by regions how each
22 region will consider, I think, different tourism
23 strategies and marketing strategies differently based on
24 the assets that are there and how casino gaming will fold
25 into that.

1 The head of that firm is going to be one
2 of our speakers at the forum in Western Massachusetts as
3 well. Hopefully, we will have a date nailed down either
4 at the end of this week or early next week.

5 COMMISSIONER MCHUGH: Great, sounds
6 terrific. Any questions, comments, other thoughts?
7 The research agenda, again did you have anything more that
8 you wanted to report on that, Commissioner Stebbins?

9 COMMISSIONER STEBBINS: Sure. I have
10 taken -- Chairman Crosby did kind of the inventory of
11 research topics that we want to have considered in some
12 of our baseline research. I have shared that out with
13 folks that spoke at our economic development forum in
14 Worcester earlier this month, waiting for some feedback
15 from them.

16 Also, two speakers that I had hoped to have
17 at our forum in June in Worcester are willing to make
18 themselves available to come in and talk to the Commission
19 on the 17th. Richard McGowan who is from Boston College
20 and Professor Robert Goodman. He is retired but he was
21 previously at UMass and Hampshire College out in Western,
22 Mass. He also has an interesting background because he
23 has I believe a degree from MIT in architecture. We can
24 ask him about the architecture and design issue with
25 respect to gaming facilities as well.

1 So, those two gentlemen will be here and
2 give us their thoughts on the research agenda as well at
3 the meeting on the 17th.

4 COMMISSIONER MCHUGH: That's terrific.

5 CHAIRMAN CROSBY: A couple of things I
6 wanted to add too. First of all, I did want to check with
7 the Governor's office who is my appointing authority and
8 with the Ethics Commission to see whether there was any
9 problem with my being involved in the possible
10 procurement of a research unit, since one possible bidder
11 or one possible doer of the work might be the folks from
12 UMass.

13 Both the Governor's office and the Ethics
14 Commission thought that through and made it clear that
15 there is a variety of reasons that there is not a problem
16 with that at all, which is good because I'm anxious to
17 be involved in this.

18 The point that Commissioner Stebbins and
19 I talked about last week and wanted to bring up
20 specifically this week is the following. We are talking
21 about the possibility of a very, very big research
22 project. In terms of its comprehensiveness and its scope
23 and its potential impact for understanding the impact of
24 socioeconomic impacts of gambling, but also big in terms
25 of cost.

1 Who are we envisioning this planning grant would go to,
2 to a group of individuals working collaboratively so that
3 they can outline a scope of work that will guide our
4 research agenda? Is that the thought process? Or could
5 this go to whomever wants to eventually respond to the
6 big research project so that they can themselves work on
7 whatever needs to be done?

8 CHAIRMAN CROSBY: What was that second
9 option?

10 COMMISSIONER ZUNIGA: Who would this
11 grant go to, one group or multiple groups?

12 CHAIRMAN CROSBY: It's not decided.
13 That's what we are here to talk about. My thought process
14 is this, there is a research group at UMass Amherst that
15 has been following our work for a long time. They have
16 sent us Rachel Volberg. She is one of the, by any
17 measures, she is one of the most well thought of gambling
18 researchers in the world.

19 They have already come to us and made the
20 proposal that Commissioner Stebbins and I gave to you.
21 And we said to them that is focused on problem gambling.
22 We really want to take a bigger look. And we said to them
23 would you be willing to think about how to scope this out?
24 And they said they would.

25 It's a team of people. They have got

1 people presumptively from not only other UMass campuses,
2 but also from Harvard and MIT. They are pulling together
3 a team of the best researchers in the business and
4 basically in the world, I think.

5 So, we said to them that we would like to
6 have you, them think about this and then we would look
7 into the planning grant idea. But we were clear that
8 there was no commitment, no promises. We also said that
9 we might possibly have to put this whole project out to
10 bid at some point though they could be working on specs.
11 to some extent. In a perfect world if it fits within all
12 of the rules and appropriate policies, my inclination
13 would be to give this group the planning grant headed up
14 by Rachel Volberg.

15 Then we would be talking about once we get
16 a scope, they would then put together a scope. We would
17 eventually decide on what scope we want. And then we
18 would decide how to procure that project, whether we would
19 go-ahead and do it with them. UMass is another state
20 agency or whether we would put it out to bid or whatever.
21 That would be the process that I would propose. But I
22 don't know if that works for everybody else.

23 COMMISSIONER ZUNIGA: What we may be
24 touching on here is that whoever might help us scope out
25 the scope of work to do is clearly in the best position

1 to respond and do that scope of work potentially. We need
2 to think through how we select the group of people who
3 is going to help us write the scope.

4 I recognize however that there is a limited
5 universe of people who could do this. But because there
6 is this nexus after this period, we need to think through
7 that.

8 CHAIRMAN CROSBY: I agree with that. I
9 think I just don't know how that cuts. That's one of the
10 issues that I was thinking that it would empower us to
11 look into and figure out. I would talk about that with
12 you, Commissioner Zuniga.

13 I think if this were XYZ for-profit
14 company, I probably would feel differently about this.
15 But given that it's a sister state agency, I feel a little
16 bit different. But I still agree with you that that is
17 something we need to think through and talk about with
18 the procurement people and so forth.

19 COMMISSIONER ZUNIGA: They are not profit
20 driven, but there is a real significant cost component
21 that we just need to think through. I can also make
22 inquiries of the Inspector General relative to procedures
23 just to educate myself on these kinds of options or
24 eventualities.

25 COMMISSIONER STEBBINS: I think we may

1 find ourselves in a position when we move to the larger
2 scope of the project, we will get more inquiries. And
3 similar to how we kind of made a marriage for Michael &
4 Carroll and Spectrum, we may be able to find people who
5 are better attuned to doing one piece of the research
6 coupled with an application or a project proposal from
7 somebody else who may have the problem gambling piece well
8 in hand.

9 CHAIRMAN CROSBY: Right.

10 COMMISSIONER ZUNIGA: Maybe I am stating
11 the obvious, but because there is a large variability in
12 how we approach this, if we go one group or another that
13 could include or exclude certain groups depending on how
14 we swing. That is the gist of having to discuss this.

15 CHAIRMAN CROSBY: I didn't follow that.
16 I'm sorry.

17 COMMISSIONER ZUNIGA: Because the
18 research agenda could vary very widely in how we
19 ultimately -- the detail and cause and tasks that we may
20 end up doing, at this stage of the game it could be very
21 variable really. It could vary widely. So, the
22 decisions that we make relative to listing a scope of work
23 early on may end up excluding or including groups that
24 respond to that solicitation later on. That's why it is
25 important to have those discussions.

1 CHAIRMAN CROSBY: Yes.

2 COMMISSIONER MCHUGH: What is the next
3 step there? Is there an action item for today or is there
4 simply a consensus that we should go forward with the
5 contemplation of a proposal for a planning grant enough?

6 CHAIRMAN CROSBY: If everybody's
7 presumptively okay with the idea then I would think just
8 to agree would be fine. I'll try to take it to the next
9 step. I will work on both of the issues that are involved
10 in procurement with Commissioner Zuniga and work with at
11 least this one group on teeing up a grant, a scope amount
12 and then come back to the Commission with a proposal.

13 COMMISSIONER MCHUGH: Sounds fine.
14 Everybody seems very happy with that, Mr. Chairman.

15 COMMISSIONER MCHUGH: That brings us to
16 other business.

17 CHAIRMAN CROSBY: I have one. I saw, as
18 I am sure everybody did, the paper this morning where one
19 of the Eastern Mass. proposers talked competently about
20 their proposal, which is fine.

21 But it concerned me that there may be an
22 impression that there won't be much competition in
23 Eastern Mass. That is a perception, which I think is not
24 in the public interest.

25 I wondered whether it would be a good idea

1 somehow or another for the Commission to make some kind
2 of a statement about the importance of competition and
3 to encourage competition or words to that effect. This
4 is something that obviously didn't come up until today's
5 newspaper so it could not be on the agenda formally. But
6 I wanted to bring it up and see if other folks reacted
7 the way I did. And if there is any way we can do anything
8 about that.

9 COMMISSIONER MCHUGH: I did not react to
10 specifics. But the notion that competition is in the
11 public interest I think is the foundation of our republic.

12 It certainly is a part of what seems to me
13 likely to enhance a legislative objectives in this bill.
14 One of those objectives, of course, is job creation,
15 competitive proposals where various people are
16 attempting to demonstrate how and by what method they can
17 create Massachusetts jobs, inevitably it seems to me
18 leads to the likelihood that a job enhancing proposal of
19 the best order is going to be produced.

20 Revenue enhancement is another
21 legislative goal and the same is true there. Trying to
22 promote tourism, competition and how to design a facility
23 to attract people to come and enjoy the benefits of this
24 marvelous Commonwealth is likely to lead to proposals to
25 amplify the likelihood that we are going to get tourists

1 to come in and bring both their interest and money not
2 only to the casinos but in the other amenities that
3 surround the proposals.

4 And mitigation is another clear
5 legislative objective. Regardless of what proposal is
6 ultimately selected, where a license actually goes, the
7 ability to look at multiple proposals and pick from them
8 things that might become conditions of a license in the
9 prevailing proposal is a worthwhile undertaking.

10 These proposals are going to come from
11 highly talented, thoughtful developers. And the more of
12 them we have seeking the ultimate license, it seems to
13 me, ultimately the better off we are.

14 So, I am not sure what this Commission can
15 do about enhancing competition any place except to
16 acknowledge and say that a competitive environment is one
17 that the Commission views is one which the statute was
18 designed to foster and that this Commission is very
19 interested in helping to promote.

20 COMMISSIONER ZUNIGA: I agree with
21 everything you said. I have a thought relative to
22 schedule that I am really looking forward as we evaluate
23 scenarios with the help of the project management firm
24 we just talked about earlier. That is if this Commission
25 were to bid out the first region, the one that is most

1 competitive first thereby allowing potential runners-up
2 for that region to make a bid for a move on another region,
3 is something I would really like to understand from all
4 of the moving pieces relative to scheduling and timeline.

5 Something tells me these proposals are
6 very site-specific and site-driven and there is a big,
7 big local process that we all know about. The Spectrum
8 report from 2008 suggested bidding out the most valuable
9 license first, not the most competitive necessarily.
10 The thought was that this staggered bidding could elicit
11 those who run-up, who did not get the license and
12 opportunity at least in theory to move for a subsequent
13 license.

14 That in my mind is something we need to
15 explore. It has huge time implications. It has huge
16 implications relative to process and investigations.
17 That is one of the pieces that I would like to see from
18 our project management firm as they start scheduling
19 scenarios for us.

20 CHAIRMAN CROSBY: I think that's a really
21 good point. We have sort of mentioned that in passing
22 before. I agree with you and think it is right in. I
23 do agree with you that even consider it carefully is one
24 way to do what Commissioner McHugh was talking about,
25 which is to tell the world this Commission believes that

1 competition is really important and believes that
2 competition will maximize the potential for the
3 Commonwealth to get out of this process what it has
4 wanted.

5 So, I very much agree with you,
6 Commissioner, that we should consider the issue of that
7 phasing strategy. I definitely would not consider it
8 likely but I think it is one we want to consider. I also
9 think that it might make sense just because of the
10 timeliness of this recent article if we issue just some
11 kind of a statement. This is basically what Commissioner
12 McHugh said that puts the Commission formally on the
13 record saying we believe competition is in the public
14 interest and competition will maximize the potential to
15 get the return that the Commonwealth wishes and that we
16 encourage it or words to that effect.

17 COMMISSIONER STEBBINS: I echo what
18 Commissioner McHugh said and interest in Commissioner
19 Zuniga's comments. Obviously, the legislation spells
20 out pretty clearly what we essentially look for in an
21 application under Section 18. It looks for a number of
22 things related to broad goals of revenue and job impact
23 but also project specific.

24 So, as much as we want to drive
25 competition, we also want to drive quality in those

1 applications to allow us to render a decision on a license
2 and base it on a lot of those qualifiers that the
3 legislation outlines. So, it is all a piece of the
4 puzzle. The more the merrier.

5 CHAIRMAN CROSBY: Right.

6 COMMISSIONER CAMERON: I certainly agree
7 with everything that Commissioner McHugh had to say and
8 Mr. Chair. I'm just a little concerned about how we would
9 make decisions on one region going before the other
10 without being extremely problematic. I just can't
11 envision how that would happen without someone claiming
12 that they were disadvantaged in making another wait to
13 move forward with a project or a proposed project.

14 CHAIRMAN CROSBY: Just for the record, I
15 am a long way from thinking that that's what we should
16 do. I just think it is a legitimate point, particularly
17 right now if we look at Western Mass., we've got a whole
18 bunch of bidders. Maybe those folks would be interested
19 in another site if they knew they were not going to get
20 Western Mass. I have no idea. Clearly, it would be a
21 very controversial and difficult process to entertain.
22 I think it is worth thinking about. That's all. I am
23 certainly a long way from thinking that we should do it.

24 COMMISSIONER MCHUGH: I think it is way
25 too early to think about staggering or that kind of

1 process. I'm not sure that we can do much more at this
2 moment, but I do think it's important to do at this moment
3 a statement of some kind. And maybe what we just said
4 is enough. Maybe we ought to do something else, but
5 underscore the belief and the principle that a
6 competitive process is a desirable social good for
7 implementing this legislation as it is for many things.

8 And that the Commission's view is that
9 competition is a healthy ingredient of the process we are
10 trying to move forward.

11 CHAIRMAN CROSBY: There's a second point
12 to it too, again, just for the record. We are not
13 mandated to do one per region. We are mandated to do up
14 to one per region. We are going to be looking for
15 proposals that do what the Commonwealth wants done. If
16 we don't have very many options to choose from then maybe
17 somebody runs a risk, a region runs a risk of not having
18 anything.

19 So, for all of the reasons it is in
20 everybody's interest, I think, to have as much
21 competition as possible. I agree with the Commissioner.

22 COMMISSIONER MCHUGH: Okay. Anything
23 else? And we are a long way from that too.

24 Anything else anybody wants to offer by way
25 of commentary on that?

1 Is there any other other business?

2 I will entertain a motion to adjourn.

3 COMMISSIONER CAMERON: I make a motion
4 that we adjourn this meeting.

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

7 COMMISSIONER ZUNIGA: Second.

8 COMMISSIONER MCHUGH: Commissioner
9 Stebbins, how do you vote on that?

10 COMMISSIONER STEBBINS: I.

11 COMMISSIONER MCHUGH: Commissioner
12 Cameron?

13 COMMISSIONER CAMERON: I.

14 COMMISSIONER MCHUGH: Commissioner
15 Zuniga?

16 COMMISSIONER ZUNIGA: I.

17 COMMISSIONER MCHUGH: Mr. Chairman?

18 CHAIRMAN CROSBY: Back to the beach. I.

19 COMMISSIONER MCHUGH: I as well. Mr.
20 Chairman, we had no difficulty hearing you at any point
21 during this meeting. I take it that with the exception
22 of the few times when you interjected to ask somebody to
23 repeat, you had no trouble hearing us; is that so?

24 CHAIRMAN CROSBY: The link from the
25 guest's chair does not work very well. Otherwise, this

1 worked extraordinary well. It is by far the best
2 conference participation I have ever had, both the sound
3 and being able to watch the Commission as it is meeting.
4 It worked amazingly well.

5 COMMISSIONER MCHUGH: You were able to
6 understand the substance and content of what Ms. O'Toole
7 and Director Driscoll had to say I take it?

8 CHAIRMAN CROSBY: I was.

9 COMMISSIONER MCHUGH: We are adjourned.
10 Thank you very much.

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12 (Meeting adjourned at 3:50 p.m.)

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1 ATTACHMENTS:

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3 Attachment 1, Agenda

4 Attachment 2, June 18, 2012 Meeting Minutes of

5 Massachusetts Gaming Commission

6 Attachment 3, June 19, 2012 Meeting Minutes of

7 Massachusetts Gaming Commission

8 Attachment 4, June 28, 2012 Memorandum Regarding

9 Recommendation to Select and Contract Executive Search

10 Firm

11 Attachment 5, June 28, 2012 Memorandum Regarding Project

12 Management and Scheduling Resource Procurement

13 Attachment 6, Draft Ombudsman Job Definition

14 Attachment 7, Advisory to Massachusetts communities that

15 may qualify as "host" or "surrounding" communities under

16 Massachusetts General Law Chapter 23 in a proposal for

17 a gaming license

18 Attachment 8, Protocol for Prospective Gaming

19 Developers' interactions with Massachusetts State

20 Agencies.

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23 SPEAKERS:

24 Elaine Driscoll, Director Communications

25 Kathleen O'Toole, gaming consultant

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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.

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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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//Elizabeth Tice// Date: July 3, 2012
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My commission expires: August 26, 2016