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THE COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION
PUBLIC MEETING #162

CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

Gayle Cameron

James F. McHugh

Bruce W. Stebbins

September 3, 2015 10:30 a.m. - 12:46 p.m.

MASSACHUSETTS GAMING COMMISSION
101 Federal Street 12th Floor
Boston, Massachusetts

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

2
3 CHAIRMAN CROSBY: Welcome to our new
4 quarters. We are probably still going to be
5 working on getting some bugs out. And if
6 anybody has any issues or suggestions on how
7 we're doing this. We can save a lot on
8 convenience and a lot of money by doing it
9 here.

10 Where is Janice? We owe our Chief
11 of Staff, Janice Reilly and her team a special
12 thanks. Mike Sangalang who is the -- Mike's
13 over at the electronics. - for getting this
14 all set up. Hopefully, we will have many happy
15 returns from it.

16 So, I'm calling to order the 162nd
17 meeting of the Mass. Gaming Commission for the
18 first time at 101 Federal Street in our new
19 offices on the 12th floor.

20 We will start as always with the
21 approval of the minutes.

22 COMMISSIONER MCHUGH: And the
23 minutes to be approved, Mr. Chairman, are in
24 the book. They are those for the meeting of

1 August 20, 2015. I move that they be approved
2 as they appear in the packet with the usual
3 reservation of the power to correct
4 typographical and mechanical errors.

5 CHAIRMAN CROSBY: Second?

6 COMMISSONER CAMERON: Second.

7 CHAIRMAN CROSBY: Discussion? I
8 think -- Is Carrie's name spelled C-A-R-E-Y,
9 Carrie Torrisi?

10 MS. BLUE: It's C-A-R-R-I-E. So, we
11 can fix that if it's incorrect.

12 CHAIRMAN CROSBY: No. If that's
13 what it is, it's right then. I was wrong.
14 Okay. Any other comments? All in favor, aye.

15 COMMISSIONER MCHUGH: Aye.

16 COMMISSIONER CAMERON: Aye.

17 COMMISSIONER STEBBINS: Aye.

18 CHAIRMAN CROSBY: Opposed? The ayes
19 have it unanimously. We are on to item two
20 with interim Executive Director Wells.

21 MS. WELLS: Good morning, Mr.
22 Chairman, members of the Commission. As a
23 preliminary matter, I'd like to report I did
24 speak to members of the state police this

1 morning who informed me that the judge in the
2 Tom Brady matter overturned the suspension.
3 So, that's certainly good news for all of us.

4 COMMISSIONER CAMERON: Thank you for
5 that news.

6 CHAIRMAN CROSBY: All of those Jimmy
7 Garoppolo fans, too bad.

8 MS. WELLS: As far as the
9 administrative update for the members of the
10 Commission, I would like to reiterate what the
11 Chairman said as far as the move team doing a
12 fantastic job. I did want to acknowledge some
13 of those individually.

14 Obviously, we have our legendary
15 Chief of Staff Janice Reilly as the project
16 leader. We also had Maryann Dooley, Agnes
17 Beaulieu, Sarah Genji, Doug O'Donnell, Dean
18 Cirillo, Maryann Bratton-Davies, Bija Lama,
19 Mary Thurlow, Bijay Lama, Niam (INAUDIBLE) Amy
20 MacLachlan and Mike Sangalang. So, I just want
21 to acknowledge all the hard work. This was a
22 very smooth transition which showed a lot of
23 professionalism by that team. I just want to
24 acknowledge all that they did. And welcome

1 everybody to the new space here.

2 COMMISSIONER MCHUGH: They did a
3 terrific job. They really did. It was just
4 seamless and painless.

5 MS. WELLS: The other matter I just
6 want to update the Commission as far as new
7 positions. We had posted for three different
8 positions, a gaming technology manager. In
9 that case, there's been an offer made on that
10 position and the background has been complete,
11 a start date of 9/14/2015.

12 We are in the process of still
13 searching for a financial investigations
14 supervisor. So, that is still in process. And
15 we just posted for a construction project
16 oversight manager. So, those three positions
17 are still open.

18 Then the other matter of course of
19 great interest to the members of the Commission
20 is our search for the executive director.
21 Commissioner Stebbins, as you know, is heading
22 up that search.

23 I believe he has for your
24 consideration a draft of the job description

1 for you to look at today. I expect that there
2 potentially would be a vote on that so we could
3 move forward with that search process. I'll
4 defer to Commissioner Stebbins.

5 COMMISSIONER STEBBINS: Thank you,
6 Director Wells. What you see enclosed in your
7 packet is a new and updated description for the
8 executive director's position.

9 This is the description we hope to
10 post. I do want to acknowledge that it is
11 certainly much winnowed down from the first
12 time we went out and did this. We had
13 tremendous participation, cooperation and input
14 from our staff who also wanted to review this.
15 Had great suggestions, edits and comments that
16 were enfolded into the description as you now
17 see it.

18 Just some key things I just want to
19 point out. On page two, if you look at the
20 candidate's knowledge and preferred abilities,
21 again, we're hoping to cast a wider net this
22 time than I think we did the first time we went
23 out seeking an executive director. Management
24 experience in a gaming regulatory or a

1 regulatory enforcement and/or compliance
2 environment is preferred.

3 The first time we posted the
4 position, we were obviously very new to the
5 job. We did not have a full and capable staff.
6 And we really were focused on bringing in
7 somebody who had already been working in a
8 gaming jurisdiction.

9 This doesn't make the gaming
10 experience a requirement but certainly
11 expresses our interest in having add skill and
12 experience be preferred in the process.

13 Just also I'll note on the last page
14 just before it tells you where to apply and the
15 email address, and this is consistent -- HR
16 director Trupti Banda utilized some language
17 that we have from HRD, which says the posting
18 will remain open until filled. However, first
19 consideration is obviously given to those
20 candidates and applicants that apply within the
21 first 14 days.

22 This helps us avoid a deadline
23 procedure. It doesn't really cut us off from
24 receiving resumes. We'd hate to have a good

1 candidate step forward at the last minute and
2 we would end up being in a position where we
3 would say we couldn't accept your application
4 because it was past the posted deadline. It
5 doesn't also require us to keep extending a
6 deadline if we were using that model.

7 I think this one, again, allows us
8 to have to keep extending a deadline if we were
9 still looking for candidates and allows us to
10 start reviewing the resumes immediately as they
11 come in.

12 Everything else is pretty much
13 consistent. It's our hope in two weeks that
14 we'll have a process for the rest of the
15 Commission to consider how we are going to go
16 about doing the screening process for the
17 applicants. We'll hopefully approve that at
18 our meeting on the 17th.

19 But for now, we're just looking for
20 action to approve the posting as written. And
21 I'd open it up if any of my colleagues have any
22 thoughts, comments, edits or notes.

23 COMMISSIONER CAMERON: Commissioner
24 Stebbins much improved document. I like to see

1 it short and to the point. Well written. It
2 leaves the flexibility as you just mentioned.
3 And I'm prepared to move ahead with this
4 document.

5 Also, Mr. Chair, should we
6 officially vote to appoint Commissioner
7 Stebbins to head up the search. Is that
8 necessary?

9 CHAIRMAN CROSBY: Do we need a vote
10 to do that?

11 MS. BLUE: Yes.

12 CHAIRMAN CROSBY: Yes. Any other
13 discussion about the job description? The
14 predictive index test, did you mention that or
15 decide to do something?

16 COMMISSIONER STEBBINS: We did not
17 include that. That certainly is something that
18 I feel as we get further into the process it
19 can be a defining piece in our review and
20 selection of candidates. We can discuss it at
21 that point.

22 CHAIRMAN CROSBY: But not something
23 we'd put in now.

24 COMMISSIONER STEBBINS: No.

1 CHAIRMAN CROSBY: Any further
2 discussion? We would then have a motion to
3 adopt this and to direct or to appoint
4 Commissioner Stebbins to be the lead.

5 COMMISSIONER CAMERON: I move that
6 we accept the scope of the position of
7 executive director, the scope of the posting
8 and post immediately for the position.

9 CHAIRMAN CROSBY: Second?

10 COMMISSIONER MCHUGH: Second.

11 CHAIRMAN CROSBY: Further
12 discussion? All in favor, aye.

13 COMMISSIONER MCHUGH: Aye.

14 COMMISSIONER CAMERON: Aye.

15 COMMISSIONER STEBBINS: Aye.

16 CHAIRMAN CROSBY: Opposed? The ayes
17 have it unanimously.

18 COMMISSIONER CAMERON: Secondly, I
19 move that we appoint Commissioner Stebbins
20 with staff to lead the search for the executive
21 director.

22 CHAIRMAN CROSBY: Second?

23 COMMISSIONER MCHUGH: Second.

24 CHAIRMAN CROSBY: Discussion?

1 You're going to talk about a process at some
2 point.

3 COMMISSIONER STEBBINS: On the 17th.

4 CHAIRMAN CROSBY: On the 17th.

5 Okay. Further discussion? All in favor, aye.

6 COMMISSIONER MCHUGH: Aye.

7 COMMISSIONER CAMERON: Aye.

8 COMMISSIONER STEBBINS: Aye.

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

11 COMMISSIONER MCHUGH: On the 17th,
12 we'll talk about whether we're going to use a
13 search firm or not. And if not, what kind of
14 outreach we're going to do and all that stuff,
15 right?

16 COMMISSIONER STEBBINS: Correct.

17 CHAIRMAN CROSBY: But the job gets
18 posted now?

19 COMMISSIONER STEBBINS: It takes a
20 few days as I understand talking to Trupti.
21 But we can certainly post the information up on
22 our website immediately. But the process for
23 the HRD to start accepting applications may
24 take a day or two, but certainly by the middle

1 of next week.

2 CHAIRMAN CROSBY: Okay.

3 MS. WELLS: The next item on the
4 agenda, members of the Commission, is just an
5 update for you on the temporary key gaming
6 employee licenses that have been issued. We
7 have given out four.

8 The dates and the positions are
9 listed in the memo in your packet. The
10 individuals are Darin Morrison, Vannarie Heng,
11 Vaughn Eric Jones and Vincent Feng. So, that
12 is just the normal update that I give to you.

13 One matter just for your
14 consideration, these now are slowing down
15 because the casino is open. So, we are filling
16 through attrition but given how the licenses
17 are reported out to the IEB through the
18 licensing report, it would be easier for me to
19 do this once a month. I don't know if you have
20 any objection to me just doing this once a
21 month and giving you a monthly report by
22 calendar month.

23 I can do it either way. I can
24 continue to do it every Commission meeting but

1 that might be a little easier if there's no
2 objection.

3 CHAIRMAN CROSBY: Remind me and
4 everybody else again of the process by which
5 somebody qualifies for a temporary license.

6 MS. WELLS: By regulation, they have
7 to find -- the IEB has to make a determination
8 that the license is reasonably likely to issue.
9 And that by asking for a temporary license,
10 they are not trying to circumvent the normal
11 licensing procedure.

12 CHAIRMAN CROSBY: What do you do to
13 make that determination?

14 MS. WELLS: There's a preliminary
15 background check, depending on the category.
16 So, key gaming executive versus standard, and
17 we look at different things related to criminal
18 background check, financial and also regulatory
19 checks. We look at those.

20 COMMISSIONER STEBBINS: At this
21 point, these folks are more permanent hires.
22 They're not really people coming in from other
23 Penn properties.

24 MS. WELLS: That is correct. They

1 are not the sister property help.

2 CHAIRMAN CROSBY: As far as I'm
3 concerned, monthly is fine with me.

4 COMMISSIONER CAMERON: I would
5 agree.

6 MS. WELLS: The next item on the
7 agenda, item 3(c), I just want to give a
8 suitability update on Mass Gaming and
9 Entertainment, our applicant for Region C.

10 Just so the Commission is aware, we
11 are constantly monitoring issues regarding any
12 applicants and our licensees. And for your
13 information on Tuesday, August 25 I was
14 notified by Attorney Donnelly that the Illinois
15 Gaming Board had taken out a complaint against
16 Midwest Gaming and Entertainment, taken out
17 that day.

18 I will compliment Attorney Donnelly
19 on the prompt notification to the Massachusetts
20 Gaming Commission. That complaint was
21 regarding activity at the Rivers Casino.

22 Midwest Gaming and Entertainment is
23 owned in part by the Rush Street Group, the
24 same parent company that owns the Region C

1 applicant Mass Gaming and Entertainment.

2 The complaint stems from allegations
3 that the Rivers Casino (1) failed to conduct a
4 timely vendor evaluation or obtain the required
5 number of bids before entering into a cleaning
6 contract with the United Service Company. And
7 number (2) that Rivers repeatedly violated the
8 terms of its approved promotions and did not
9 obtain board approval for promotions.

10 The complaint against Midwest Gaming
11 and Entertainment, they are seeking a \$2
12 million fine and promotions suspended for 60
13 days. And two employees suspended, one for 60
14 and one for 30 days. That's clearly
15 significant. I have had conversation with
16 Attorney Donnelly.

17 The casino has 21 days to respond
18 and it is currently evaluating their options as
19 the process continues. So, we will be
20 monitoring this and I'll report back to the
21 Commission.

22 As with all of our other applicants
23 for casino licenses before the Phase 2
24 evaluation process, the IEB will do a

1 suitability update for the Commission on all
2 matters between the time of their suitability
3 finding until the time you start deliberations
4 on the license. I would expect this would be
5 part of that and I will have an update for you
6 at that time.

7 COMMISSIONER CAMERON: Director
8 Wells, that is an ongoing matter without a
9 final resolution?

10 MS. WELLS: That's my understanding.
11 They have the opportunity for a hearing on
12 that. So, we'll have to see how that is all
13 resolved.

14 COMMISSIONER MCHUGH: When will we
15 get an update from you?

16 MS. WELLS: If I get information
17 sooner, I can always present it sooner. But I
18 will definitely be reporting out on any kind of
19 information. We will have a suitability
20 update. If I have any information on that
21 before the region (SIC) two evaluation process.

22 COMMISSIONER MCHUGH: But not before
23 the RFA-2 is filed, we may not have it.

24 MS. WELLS: We may not. So, if I

1 have any information, I'll presents it to the
2 Commission but that may not happen. We will
3 have to see how that plays out in the hearing
4 process.

5 COMMISSIONER MCHUGH: All right.
6 Thank you.

7 MS. WELLS: Any other questions on
8 that?

9 CHAIRMAN CROSBY: I'm sure we all
10 read the complaint. That's only one side of
11 the story I'm aware, but it did sound like an
12 incredibly egregious series of problems and
13 would certainly raise some management questions
14 in my mind. So, I'm anxious to stick with this
15 and figure out what's going on.

16 MS. WELLS: Yes. We'll have to
17 flesh out what the actual facts are. The final
18 item under administration and IEB is regarding
19 the IEB's preliminary inquiry report onto the
20 Wynn Attorney General's office access
21 allegations.

22 So, I'll direct your attention to
23 the report in the packet regarding an
24 allegation made in a civil suit and by criminal

1 defendants that there were agents of Wynn
2 Resorts who were granted improper access to
3 confidential files at the office of the
4 Attorney General.

5 I will just point out there is one
6 correction. The amount of money in footnote
7 two should be \$2,187.50, not \$12,000. I gave
8 the investigator a little too much credit for
9 his hourly rate there. It was just a typo
10 there. But that's been corrected, and the
11 correct version is on the web.

12 As is outlined in the report, the
13 IEB concluded that there was absolutely no
14 factual basis to support the allegations. It's
15 important to note that this was a regulatory
16 inquiry to see if a full investigation was
17 warranted because the allegations pertain to
18 one of our licensees, Wynn Resorts. This was
19 not an inquiry into the criminal defendants,
20 the lawyers or any of the other parties
21 involved. This is simply was a regulatory
22 function of the IEB.

23 As the Commission and I have
24 repeatedly stated, suitability is an ongoing

1 process. And the IEB will always be looking
2 into matters that pertain to all of our
3 licensees. This is no exception.

4 Of course, given my current role and
5 prior positions as a prosecutor and the
6 undersecretary of law enforcement, no surprise
7 I'm professionally familiar with certain
8 parties here including Mr. Matthews, Flaherty
9 and Assistant Attorney General Hanley. I will
10 not be opining on the credibility of any
11 witnesses that were interviewed. The
12 statements there speak for themselves.

13 So, in trying to describe what
14 happened here, I'm reminded the children's game
15 of telephone. If you are not familiar with
16 that the kids sit in a row and one child
17 whispers something to the next to the next one
18 and it goes down the line and so forth and so
19 on until the last child reveals what they
20 thought the statement was. And inevitably it's
21 something completely different from what the
22 first child says.

23 In that game, everyone thinks it's
24 kind of funny but in this case it's really not

1 funny. We are not talking about a child's game
2 here. We're talking about serious allegations
3 of misconduct.

4 In this case you can see the report.
5 From the report, Sergeant Murray saw Stephen
6 Matthews and Joseph Flaherty at the office of
7 Attorney General in a conference room reviewing
8 files. His statement about that to someone he
9 ran into while he was on his own personal time
10 sort of went down the line in that manner,
11 developed into a rumor that the two men were
12 there on behalf of Wynn and given improper
13 access to information.

14 You can see from the report, there
15 is no support for the allegations. To the
16 contrary, there is evidence that Matthews and
17 Flaherty were properly working on a completely
18 unrelated matter when they were at the Attorney
19 General's office. And that was in the next
20 calendar year 2014.

21 Significantly, Stephen Matthews
22 signed an affidavit under the pains and
23 penalties of perjury that he had never worked
24 for Wynn Resorts or the vendors ML Strategies

1 or Mintz Levin.

2 Similarly, Flaherty signed an
3 affidavit indication he only worked for Mintz
4 Levin on a 12.5 hour project which did not
5 involve any contact with the office of the
6 Attorney General. Those full affidavits are
7 attached to the report for your consideration.

8 So, I have present here this morning
9 Attorney Popeo from Mintz Levin and Attorney
10 Krum from Wynn just here to address the issue
11 of Wynn's involvement or lack thereof in the
12 retention of Mr. Flaherty for those 12.5 hours
13 and also just to confirm for the Commission the
14 scope of Mr. Flaherty's assignment. So, I just
15 turn that over to Mr. Popeo just to address
16 that issue.

17 MR. POPEO: Good morning, Mr.
18 Chairman and members of the Commission. My
19 name is Robert Popeo. I'm the chairman of
20 Mintz Levin and I've represented Wynn Resorts
21 for a number of years.

22 After the investigative body
23 informed Wynn Resorts in July 2013 and frankly
24 caught them by surprise, there was

1 consideration to supplement what is a very
2 experienced, extensive security force that Wynn
3 Resorts has by hiring local former
4 investigators, law enforcement people to
5 supplement that. We interviewed --

6 CHAIRMAN CROSBY: Excuse me one
7 second Mr. Popeo. Okay. Go ahead.

8 MR. POPEO: We interviewed Joseph
9 Flaherty for that position on October 17, 2013.
10 It was ultimately decided by Wynn that they
11 were not going to hire anyone and they were not
12 going to create that position.

13 Nevertheless, because I felt that we
14 had been blindsided, I asked Joe Flaherty to
15 see what he could find out about the people
16 involved here and whether they were connected
17 in any way to any organized crime people. Just
18 get me information and names if you could.

19 CHAIRMAN CROSBY: Are you talking
20 about the defendants in the criminal case? Or
21 which people are you referring to?

22 MR. POPEO: I was looking at the
23 people who are the owners of the property FBT
24 Realty and anyone affiliated with them, because

1 it had come to the attention of Wynn at the
2 July session that there were others who may
3 have been hidden owners. And that those others
4 were people with criminal affiliations. And I
5 had never heard those names before.

6 So, we asked Joe Flaherty to see can
7 you find out anything? What is the rumble in
8 law enforcement circles? What could you learn?
9 So, he put in 12.5 hours in a period of less
10 than a month, and got back to us in terms of
11 his inability to find any connections to the
12 people that we were dealing with.

13 So, we embarked on an effort then to
14 get affidavits from all of the people to show
15 that they were the sole owners. That process
16 just continued on for some period thereafter.
17 I met with the Commission in January of that
18 year.

19 I did not seek nor did I need
20 permission to hire Joe Flaherty. I don't need
21 permission to hire people to do transcripts or
22 do legal research or whatever. It's very
23 common. And I did not receive a bill from Mr.
24 Flaherty until January 2014. And didn't

1 therefore send out my bill that is the
2 expenditure until February 2014.

3 And it was part of a much larger
4 bill well in excess of \$100,000. And it was on
5 one of the invoices that was a much smaller
6 invoice by comparison, but did not have any
7 attachments to it. I did not feel that a \$2100
8 invoice, as I said in the context, represented
9 Mr. Wynn for over 30 years and Wynn Resorts for
10 probably 10. So, it's in the context of that
11 that is not an unusual occurrence on my part.

12 CHAIRMAN CROSBY: Others questions?

13 COMMISSIONER CAMERON: It's clear
14 from the investigation that we did and your
15 testimony, Sir, that you thought it was
16 appropriate to look into the matter, which I
17 would have found it strange if you didn't look
18 into the matter frankly after receiving that
19 kind of information.

20 A professional law enforcement
21 official with great credibility that's common
22 and appropriate. And your testimony that you
23 didn't see the need to advise Wynn of that
24 inquiry I find to be credible as well.

1 CHAIRMAN CROSBY: Others? This was
2 done by Mintz Levin not ML. So, it was
3 independent.

4 MR. POPEO: Done by Mintz Levin, I
5 did the hiring, the primary contact attorney
6 was Tracy Miner, who was one of our partners,
7 who was one of our partners at the time, a very
8 experienced partner. And there was very little
9 to learn from this engagement.

10 You should know that Joe Flaherty is
11 someone we hire all the time. He does
12 extensive work for Mintz Levin. This was not a
13 one-off. So, I felt very comfortable just
14 saying find out what you can, see if you can
15 keep us from being blindsided.

16 CHAIRMAN CROSBY: This is probably
17 relevant to nothing, but what is the
18 significance of the reference in his affidavit
19 to Matthew Thompson and Thomas Butters? I
20 don't remember those names.

21 MR. POPEO: Are you talking about
22 the Flaherty affidavit?

23 CHAIRMAN CROSBY: Yes. The Flaherty
24 affidavit in paragraph 10 says that he told

1 Matthew Thompson, an associate of Thomas
2 Butters.

3 MS. WELLS: Okay, yes. Tom Butters
4 represents Dustin DeNunzio in the criminal
5 cases.

6 CHAIRMAN CROSBY: Okay.

7 MS. WELLS: Are there any other
8 questions for either Mr. Popeo or Ms. Krum?

9 COMMISSIONER MCHUGH: Mintz Levin of
10 course is a well-known and a long established
11 law firm. What is the relationship between
12 Mintz Levin and ML Strategies, Mr. Popeo?

13 MR. POPEO: ML Strategies is a
14 wholly owned affiliate of Mintz Levin, which
15 does primary crisis management. And it is not
16 composed of all lawyers as is Mintz Levin. So,
17 we have people in public relations, different
18 types of crisis management.

19 There are lawyers there as well, but
20 we do keep the relationship separately. Mintz
21 Levin as a law firm does no lobbying of any
22 kind. ML Strategies has people who register as
23 lobbyists. For ethical reasons as well as for
24 administrative reasons, they are kept

1 separately.

2 COMMISSIONER MCHUGH: Okay. As I
3 understand this now, this situation, Matthews
4 never did any work for ML Strategies or for
5 Mintz Levin, right?

6 MR. POPEO: Matthews was never
7 engaged - but was engaged by the opposition.

8 COMMISSIONER MCHUGH: Flaherty was
9 engaged by you?

10 MR. POPEO: Right.

11 COMMISSIONER MCHUGH: And through
12 you by Mintz Levin the law firm to do some
13 investigative work with respect to the land
14 ownership; is that right?

15 MR. POPEO: Correct.

16 COMMISSIONER MCHUGH: And that took
17 place in October, November 2013, right?

18 MR. POPEO: From October 18 to
19 November 13.

20 COMMISSIONER MCHUGH: Okay. And in
21 that connection, he did not, so far as you know
22 and according to his affidavit, make any visits
23 to the office of the Attorney General.

24 MR. POPEO: That is correct. He was

1 not asked to. There was nothing about this
2 engagement that would have required him to.
3 And he has affirmed to us that he did not.

4 COMMISSIONER MCHUGH: And the
5 principle allegations that triggered this
6 investigation by our IEB were allegations that
7 Flaherty and Matthews together while working
8 for Wynn visited the Attorney General's office
9 in 2013 and looked at wiretap products and
10 results that they had no right to look at.
11 That's the essence, is it not, of the
12 allegations?

13 MS. WELLS: Generally yes, that's
14 the essence.

15 MR. POPEO: I'm familiar with that
16 allegation.

17 COMMISSIONER MCHUGH: And there is
18 nothing that you have found, heard or read that
19 supports any part of that allegation.

20 MR. POPEO: That allegation would be
21 totally immaterial to anything in the work we
22 were doing.

23 COMMISSIONER MCHUGH: And the work
24 that you've described by Flaherty alone that

1 did not involve the Attorney General's office
2 is the exclusive work that you asked him to do
3 in connection with the Wynn application at that
4 stage.

5 MR. POPEO: That is correct. It
6 didn't involve that office in any way.

7 COMMISSIONER MCHUGH: All right.
8 Thank you.

9 MS. WELLS: Are there any further
10 questions? Members of the Commission, I can
11 report that since completing this report
12 earlier this week, I was informed by the AUSA
13 in the federal criminal case that in both the
14 state and the federal prosecutions the motions
15 by defendants regarding these allegations were
16 denied. And as I mentioned in the memo that's
17 in the civil case they were impounded.

18 So, it's my expectation that the
19 Commission's report -- pardon me, the IEB's
20 report to the Commission in this matter should
21 really put this issue to bed.

22 COMMISSIONER MCHUGH: It's
23 described, Director, as a preliminary report
24 but I take it from what you've said that you

1 anticipate that this is both the preliminary
2 and the final report?

3 MS. WELLS: Correct, because the
4 preliminary inquiry did not reveal any
5 information which would lead us to believe that
6 these allegations were true.

7 CHAIRMAN CROSBY: Just for the
8 record, it's not a preliminary report. It's a
9 report of the preliminary. Okay. Thank you
10 very much. Okay. Next up is Mr. Lennon, our
11 CFAO.

12 MR. LENNON: Good morning, Mr.
13 Chairman and Commissioners. Onto a bit of a
14 lighter topic. I'm pleased to be here to
15 present the fourth budget update for fiscal
16 year 2015.

17 This report includes activity
18 through all but the last week of the accounts
19 payable period. The accounts payable period is
20 a two-month period that the state has to allow
21 us to finish spending for -- to finish paying
22 bills for activities that happened through June
23 30, 2015.

24 In FY15, the Commission initially

1 approved a \$24.5 million budget that required a
2 \$20.78 million assessment on our licensees.
3 With this presentation, the Commission will
4 have a final anticipated FY15 spending of \$20.3
5 million and will have \$23.86 million in
6 revenues attributable to FY15, which will
7 result in a surplus of \$3.56 million.

8 As I'll discuss later in this
9 presentation, while MGC A&F department thinks
10 the surplus should be a \$3.56 million surplus,
11 it may be reduced to \$2.43 million as the
12 Governor's office of administration and finance
13 has not approved MGC's request for a waiver of
14 indirect costs. And we'll discuss that a
15 little bit further. And the Chair will have
16 some information to present on that as well.

17 In this fourth update, we're
18 adjusting spending downward by \$4.36 million.
19 The main areas are employee compensation,
20 \$687,000 for delayed hires and underspending of
21 overtime. Consultants are going down by \$1.2
22 million for OPM, oversight project management
23 underspending, and the lack of the Region C
24 application to start the review process.

1 Grants are being underspent by \$1.42
2 million which is comprised mainly of the MAGIC
3 and baseline studies not progressing as quickly
4 as we'd like. And then Region C grants not
5 materializing because we don't have
6 applications in.

7 And then finally there's an IT and
8 equipment consultant's cost that's going down
9 by \$549,000. That's due to the delays in
10 implementing the central management system and
11 not using the full set aside for the licensing
12 management system.

13 Now there's one area that I'd like
14 to elaborate on that's not easy to see based on
15 the presentation there or attachment (A). And
16 I just want to walk through why it's is
17 happening.

18 In the JJ object class under the
19 legal budget we've assigned \$800,000 in ISA
20 funding for the office of the Attorney General.
21 For clear reporting in this process, we are
22 reducing that from the legal budget but then
23 adding it back to two areas.

24 One is \$417,500 of that is going to

1 the ISA line on attachment (A) because we gave
2 an ISA out to them. And then there's an
3 additional line on the revenue side of the
4 equation, which a decrease of \$452,700. And
5 the reason for that is in the FY15 General
6 Appropriation Act, more familiarly known as the
7 FY15 state budget, the Attorney General's
8 office was given a state appropriation line
9 item 08101204 and that was for the cost of the
10 gaming unit.

11 Line item language for that
12 appropriation required the Gaming Commission to
13 reimburse the general fund for the cost of that
14 item as well as any associated fringe benefit
15 costs.

16 The total of that spending was of
17 452.7 that you see on the decrease on the
18 revenue side. The only way that that can be
19 accomplished is for the state comptroller's
20 office to go in and do an operating transfer.
21 Take money out of our revenue side of our
22 gaming control fund and move it to the general
23 fund.

24 So, while the backup reports don't

1 all add up, it's kind of cross walked in the
2 memo, cross walked on attachment (A). That's
3 the reason you'll see on attachment (B) I think
4 it is that our decreases are in excess of what
5 you see here because the ISA line item isn't
6 added into our backup budgetary system but is
7 reflected on the attachment (A).

8 So, I just wanted to recognize that
9 yes, (A) doesn't always match up to (B) on that
10 backup but there's a reason for it and it's
11 cross-referenced later on.

12 Now that we've gotten through that
13 piece, I want to highlight the changes in
14 revenue reductions. We've seen -- In this
15 quarter, we're going to see \$1.83 million in
16 revenue decreases, which are mainly
17 attributable to areas that have corresponding
18 spending decreases.

19 So, \$1.59 million of that \$1.83
20 million has spending offsets which make them
21 budget neutral. The \$452,000 line that we just
22 discussed in the AG's office has a
23 corresponding spending decrease. This \$336,000
24 that you'll see .9 and grant collections that

1 are attributable to underspending for the grant
2 item for Region C.

3 So, we were expecting grants to come
4 in. They never came in. We were expecting
5 that revenue to offset them because they are a
6 wash, it never happened. So, it really doesn't
7 impact the budget one way or another.

8 And then there's the \$800,000 for
9 the Region C application review that we're
10 anticipating. That never happened. The
11 revenue came in, the spending never happened.

12 The remaining amount of \$241,500 has
13 to do with employee and vendor licensing fees
14 still being lower than we anticipated. And a
15 big piece of this is our timing.

16 So, we brought in a lot of employees
17 -- Well, Penn brought in a lot of employees.
18 We did the review for them in June. The bill
19 can't go out until July after we process that.
20 So, there's a hundred and some odd thousand
21 dollar bill but we are still off by another
22 \$140,000 from what our initial estimate was.

23 So, we're working with the licensing
24 team. We're working with our accounting team

1 and our revenue side to see how we can get
2 better estimates on that for this year so that
3 we don't keep coming back with licensing fees
4 that are lower than we thought.

5 COMMISSIONER MCHUGH: Can I ask a
6 question about that? Some of this -- Some of
7 the under spending is going to be made up later
8 on, right?

9 MR. LENNON: Right.

10 COMMISSIONER MCHUGH: For example,
11 the \$1.42 million for under spending in MAGIC
12 and baseline -- well the 980 for underspending
13 in MAGIC and baseline presumably they're going
14 to do that work and that money will have to be
15 spent, right?

16 MR. LENNON: Unlike last year, we're
17 not actually rolling forward those costs.
18 We're saying you said just two months ago you
19 thought you were going to spend X dollars.
20 Spending another \$980,000 on top of that
21 doesn't sound realistic.

22 So, you have that budget. You have
23 what we put into FY16. Spend that. Take the
24 portion that didn't happen in FY15, spend that

1 first because that were cast to happen.
2 Obviously, your timeline can't accommodate more
3 work than what you had planned out, because I
4 think we had put \$1.3 or \$1.4 million toward
5 baseline and cohort this year. That would be
6 doubling it. I don't see realistically that
7 happening.

8 CHAIRMAN CROSBY: The answer is yes.

9 MR. LENNON: The answer is no. We
10 didn't carry forward the budget. They have the
11 contract value. So, they'll ultimately have to
12 come to us and extend this contract into
13 probably FY17, but we are not increasing their
14 budget. We are not adding that \$980,000 to
15 their budget.

16 COMMISSIONER MCHUGH: The 980 then
17 is a real reduction?

18 MR. LENNON: Real reduction.

19 COMMISSIONER MCHUGH: Then let me
20 ask a more broad question. Is some of the
21 \$4.36 million in effect a spending deferral
22 rather than a spending reduction?

23 MR. LENNON: No, it's all reduction
24 this year. It's all a spending reduction this

1 year.

2 CHAIRMAN CROSBY: This year but it
3 will be spent.

4 MR. LENNON: We're not increasing
5 next year's budget by any amount the way we did
6 this year. If you look at this year on
7 attachment (A), we had a carry forward amount
8 of \$2.42 million. We are not doing any of that
9 for next year.

10 So, the \$26 million budget I think
11 we passed for '16 is still \$26 million. It's
12 not bumping up by \$900,000 for the cohort and
13 MAGIC that didn't spend.

14 But that contract value is there.
15 So, what will end up happening is the contract
16 instead of stretching from '13 through '16 will
17 stretch '13 through '17.

18 CHAIRMAN CROSBY: The scope of work
19 and the amount of money will both occur and
20 will both happen. It's just going to be spread
21 out over time.

22 I would have said to your question
23 yes, it's just being deferred, but it is not
24 being added to it. It's just being extended.

1 COMMISSIONER MCHUGH: Okay. Well,
2 the point of my question was to ultimately
3 inquire as to whether or not these were real
4 reductions for the purposes of the assessment
5 to the licensees --

6 MR. LENNON: Yes.

7 COMMISSIONER MCHUGH: -- or whether
8 in effect we were going to have to, if we
9 reduce now, we were going to have to raise the
10 assessments later on to make up for the
11 reduction at someplace down the line.

12 MR. LENNON: At someplace down the
13 line that will come into --

14 COMMISSIONER MCHUGH: For present
15 purposes -- Okay, got it.

16 CHAIRMAN CROSBY: Anything else?

17 MR. LENNON: That's a good way of
18 putting it. The spending and revenue
19 adjustments result in a \$3.56 million surplus
20 this year. This is basically an over
21 collection of the FY15 assessment. Therefore,
22 it'll be credited to licensees in FY16 and
23 reduce their overall FY16 assessment. Each
24 licensee share of the reduce amount will be in

1 proportion to their contribution of the FY15
2 assessment. And that's illustrated on page
3 three of the memo.

4 The final piece to discuss is the
5 indirect assessment that I briefly mentioned at
6 the introduction of this presentation.

7 Section 57 of the Gaming Act
8 requires the MGC to be subject to indirect and
9 fringe rate assessments. These assessments
10 allow the Commonwealth to recoup fringe
11 benefits and costs incurred by the Commonwealth
12 on behalf of state agency employees from funds
13 not directly appropriated by the Commonwealth.

14 Negotiations of these rates are
15 implemented through the Governor's office of
16 Administration and Finance through an
17 administrative bulletin and policy known as A&F
18 5 dated May 1, 2008. This bulletin is written
19 mainly for agencies that are funded with state
20 dollars but receive direct federal grants.

21 For agencies that do not receive a
22 direct federal grant, the rate of 10 percent
23 established. This is usually beneficial to
24 that agency because it's lower than the rate

1 that would have been establish because it
2 assumes if you don't have a direct federal
3 grant the majority of your funding is coming
4 from the state.

5 That doesn't apply with us. We get
6 zero dollars from the state. The same bulletin
7 also provides a section for requesting waivers.
8 And those waivers can only be approved by the
9 Governor's office of Administration and
10 Finance.

11 It is the opinion of the MGC finance
12 office, me, that we should not be subject to
13 the 10 percent indirect rate. This is not
14 anyone else. It's not the Commissioners. This
15 is my opinion based on dealing with this in the
16 past.

17 Indirect rates is a rather
18 meticulous item to deal with but an indirect
19 rate is developed to recoup the cost of
20 salaries and items, rent, etc. that are not
21 directly allocable to any one program but
22 benefit all.

23 There are two portions to at state
24 indirect rate, the internal cost which is

1 directly within the agency and then the
2 external cost, costs the state agency benefits
3 from other state oversight services.

4 As I stated earlier, MGC does not
5 receive any direct funding from the state.
6 Therefore, there is no internal portion to our
7 rate, which usually makes up the large part of
8 indirect cost rate.

9 The statewide cost allocation plan
10 determines the external component of state
11 indirect cost rates. The most recent SWCAP,
12 statewide cost allocation plan, filed on the
13 office of the state comptroller's website has
14 MGC being responsible for \$5500 of the state's
15 overall costs.

16 In FY15 MGC was assessed \$1.125
17 million in indirect costs against the gaming
18 control fund and an additional \$130,000 on
19 racing trust oversight trust fund. It's of
20 note to state that in FY13 and '14 MGC received
21 waivers from A&F for indirect costs. That's
22 why this is the first time you're hearing about
23 this in a public meeting.

24 So, the discussion that we continue

1 to have with A&F in the office of the state
2 comptroller is why is the state recouping in
3 excess of \$1.25 - \$1.26 million when they've
4 only spent \$5500 to support the MGC?

5 CHAIRMAN CROSBY: This is real
6 money, because this is taken out of the money
7 that we get from the licensees. If this
8 stands, it will cost our licensees something in
9 the neighborhood I'll bet over the course of
10 this whole license and building facilities some
11 \$30 million, maybe more. It's a lot of money.
12 And it's not ours. It's the licensees.

13 So I got involved in this, because
14 my interpretation of this is the same as
15 Derek's. Derek is right, although I could be
16 wrong. We just needed somebody to try to
17 explain to us why in effect our licensees are
18 paying overhead twice.

19 They are playing all of our actual
20 overhead, our IT costs, our rent, etc. and they
21 are paying this arbitrary 10 percent, which
22 theoretically is paying the state back for
23 services rendered but there aren't any services
24 rendered that we aren't paying for directly we

1 think.

2 Where I think this has gotten hung
3 up is that A&F has gotten focused on whether or
4 not this waiver is the right way to correct a
5 mistake in public policy. And they're saying
6 technically they don't think the waiver should
7 apply to them. Maybe that's right but the
8 whole policy should not apply to us. The whole
9 A&F bulletin five should not apply to us.

10 So, we are going to have to keep
11 working on this. At the moment, their position
12 is this is the way it works. Everybody has to
13 play by the rules. Maybe we'll change the
14 rules some time. But at the moment these are
15 the rules. And we are going to assess your
16 licensees an extra \$1.3 million a year.

17 So, I think -- And I don't think
18 that's right. And I think we're going to need
19 the help -- I see some of our licensees here.
20 I don't think everybody's here, but we're going
21 to need to work together on this to persuade
22 somebody that this is mistaken. Or have
23 somebody explain to us why it's not mistaken.

24 I could be wrong about this but I

1 don't think so. And we certainly deserve to
2 have this squared away. So, we will be asking
3 you all, Bob and Jacqui and whoever else is out
4 there to try to strategize together, because
5 this is real money.

6 Okay. Anything else on the budget,
7 Derek or anybody else?

8 MR. LENNON: No. That's the
9 conclusion of the presentation. I'll be back
10 soon to do my first FY16 update which will
11 decrease the assessments and have a final,
12 final spending figure the reflects the last
13 week's worth of information that the
14 comptroller has done during accounts payable as
15 well as the operating transfers that they
16 process over the next month.

17 COMMISSIONER MCHUGH: But as matters
18 stand based on this report, we've decreased the
19 costs of our operations and consequently the
20 assessments to our licensees by but 18 percent
21 from what we projected?

22 MR. LENNON: Right, correct.

23 COMMISSIONER MCHUGH: Good work.

24 MR. LENNON: Thank you.

1 COMMISSIONER CAMERON: Thank you,
2 well done.

3 CHAIRMAN CROSBY: Next up Ombudsman
4 Ziemba.

5 MS. ZIEMBA: Thank you, Mr. Chairman
6 and Commissioners. First up today, Wynn MA,
7 LLC is here today to present its quarterly
8 report for the second quarter of this year.
9 Wynn will also discuss the Secretary of Energy
10 and Environmental Affairs decision Friday night
11 on Wynn's second supplemental final
12 environmental impact report.

13 As you're aware, the Secretary
14 determined that the report adequately and
15 properly complies with the Massachusetts
16 Environmental Policy Act. I note that the
17 Secretary required enhanced public review
18 during permitting and the development of
19 Section 61 Findings by agencies including
20 MassDOT and the Gaming Commission and the
21 establishment of a regional working group.

22 As part of the enhanced Section 61
23 process, and I'll ask Amy to turn to page three
24 of the certificate that outlines these

1 measures. As part of enhanced Section 61
2 process, MassDOT must publish revised draft
3 Section 61 Findings and must then hold a public
4 meeting to review comments. And then must
5 publish final Section 61 Findings in the
6 Environmental Monitor.

7 Pursuant to the certificate, the
8 Commission will consider and revise the draft
9 Section 61 Findings. MGC's findings will
10 include or include by reference the Section 61
11 Findings from other state agencies including
12 MassDOT.

13 And then a consultant or consultants
14 hired by the MGC will make a public
15 presentation at a Commission meeting and
16 provide recommendations regarding such
17 findings. MGC, the Commission, will solicit
18 written comments on the draft Section 61
19 Findings and will hold a public hearing.

20 The draft Section 61 Findings will
21 be posted. Final Section 61 Findings will be
22 incorporated into the gaming license.
23 Compliance with Section 61 Findings will be
24 part of the regular quarterly reporting and

1 reviewed by the MGC.

2 So, there were measures to ensure
3 that there was important consideration of
4 public comments at both the MassDOT level and
5 other agencies and here at the Commission
6 consistent with how we have operated in
7 receiving public comment throughout our
8 licensing process.

9 With that is an overview, I will
10 ask --

11 COMMISSIONER MCHUGH: Could I just
12 ask one question and make one point about that.
13 And that was in addition to the process that's
14 laid out in the certificate for the long-term
15 resolution, right? Everything you've said is
16 focused on short-term --

17 MS. ZIEMBA: That's correct.

18 COMMISSIONER MCHUGH: -- and the
19 Section 61 findings that are necessary before
20 work can begin. And then in addition to that
21 there is this longer-term approach that the
22 Secretary has outlined and in which MassDOT
23 will take a leading role.

24 MS. ZIEMBA: That's exactly right.

1 Amy, if you can turn to page four of the
2 certificate, that outlines the regional working
3 group, which would be led by MassDOT and would
4 include numerous stakeholders including, and I
5 assume including but not limited to EOHEd,
6 MAPC, DCR and municipalities including but not
7 limited to cities of Boston, Everett and
8 Somerville. And large employers and developers
9 have an important role to play in the regional
10 working group process.

11 Part of that MassDOT will outline
12 the process. They'll schedule work with
13 stakeholders to identify the goals and
14 objectives of the working group. And at a
15 minimum, the working group will assess existing
16 conditions, planned improvements and review
17 permitted development, identify plan
18 development and potential build out. Identify
19 critical infrastructure and study alternatives
20 and consider funding resources and equitable
21 allocation of project costs.

22 So, that will go on a separate track
23 but a very important track to assess the long-
24 term regional approach to plan development for

1 that area.

2 COMMISSIONER MCHUGH: Right. Good,
3 thank you.

4 COMMISSIONER STEBBINS: John, one
5 quick question on the SSFEIR. As I understand
6 it, the last time around, and you can talk
7 about this or we can defer this to Wynn, but
8 this heavily focuses on traffic, makes
9 acknowledgement of the orange line subsidy
10 which was part of the previous document.

11 The two missing points, and even
12 though I just read through it, maybe I missed
13 it, the MBTA land transfer issue was also
14 brought up the last time as well as the need to
15 respond to comments in a meaningful and
16 thoughtful way.

17 Because they're not mentioned here
18 does that mean those issues are satisfied?
19 What is your take on the comment issue and the
20 MBTA issue?

21 MR. ZIEMBA: I'll let these folks
22 comment, but you're right. The second
23 supplemental FEIR was limited primarily to
24 transportation related topics. There were five

1 items that were considered. The MBTA land
2 transfer is described in here. And also
3 response to the comments are also described in
4 the body of the certificate that was just
5 issued.

6 COMMISSIONER MCHUGH: This
7 certificate, just to follow up on Commissioner
8 Stebbins, this certificate deals with and
9 resolves all of the five issues that were
10 outlined in the certificate to the SFEIR, the
11 previous one?

12 MS. ZIEMBA: That's correct. It
13 creates a process whereby the permitting
14 agencies can consider improvements to what was
15 put forward in the plan pursuant to MEPA and
16 the long-term plan as we just discussed in
17 addition to those items that the Commissioner
18 just referenced.

19 COMMISSIONER MCHUGH: Right. Okay.

20 MR. DESALVIO: Thank you, John. And
21 good morning, Chairman and Commissioners.
22 Happy to be back in front of you. I'm joined
23 today by Chris Gordon and by Jacqui Krum.

24 And I want to first just acknowledge

1 that this is our second quarter report,
2 however, there are certain information which
3 has now become much more current. So, what
4 we've attempted to do is include not only the
5 second-quarter information, you'll see that in
6 certain areas, but where we can supplement the
7 report we've tried to bring it right up to date
8 for you.

9 Before I turn it over to Chris for
10 the next section of this, I do want to
11 acknowledge how pleased we were to obviously
12 receive the certificate on Friday. And I think
13 it's also important for me to acknowledge that
14 this would not have been possible without the
15 support, the incredible support I might add
16 that we get from the home office back in Vegas.

17 As you can imagine, this is 27
18 months' worth of work to get to this point to
19 where we are. Millions and millions of dollars
20 spent and we've had nothing but unwaivered
21 support out of the Las Vegas team. So,
22 certainly, I want to acknowledge them.

23 And I also want to acknowledge that
24 this is a major team effort to get to where we

1 got to. And the two people that I'm here with
2 today, I would be remiss if I did not
3 acknowledge about Jacqui and Chris's effort to
4 get us through. Thank you, guys, terrific job,
5 along with the team of consultants and other
6 employees that we work with. Truly very much
7 of a team effort. And we couldn't be more
8 pleased to be here to report.

9 With that I'm not going to read any
10 of the certificate. I think John did a good
11 job describing what was the key point, which
12 was that we adequately and properly complied
13 with Massachusetts Environmental Policy Act and
14 with its implementing regulations. And I would
15 like to now turn it over to Chris.

16 Chris is going to cover permitting,
17 site remediation, design, off-site improvements
18 and the project schedule before he turns it
19 back over to me for the last couple of items.
20 And then we'll open this up for any questions
21 that you may have. So Chris.

22 MR. GORDON: Thank you, Bob. The
23 next slide talks about a summary of the
24 permitting. Just to remind you that even

1 though we have the MEPA certificate, there's a
2 lot more work to be done on the permitting
3 front.

4 As John mentioned, the MEPA
5 certificate had several highlights including
6 the orange line subsidy, which we're quite
7 pleased about. And that's detailed in our
8 filing and in the certificate. Also, the
9 enhanced DOT Section 61 Findings as well as the
10 Gaming Commission enhanced findings. Those
11 will be public hearings, public notice and
12 public participation which we think is fine.

13 And finally, the working group as
14 was mentioned before, Sullivan Square. That
15 actually is tied to Section 61 Findings,
16 because it's a funding commitment from us to
17 actually fund part of that study. So, those
18 are all things we're embarking on now. We've
19 been in contact with the agencies, and we're
20 starting those discussions on how to get to the
21 Section 61 Findings resolution.

22 What that allows us to do as well is
23 start what is called Chapter 91. And if you're
24 not familiar with this that's the Massachusetts

1 Waterfront Act that dates back 150 years. And
2 it regulates the use of waterfront land.

3 We're lucky to have waterfront land.
4 So, our land is waterfront of course. So,
5 we're not starting this Chapter 91 process.
6 That is a process with the DEP. It's a public
7 process. That will appear -- We've already
8 filed our application. It'll appear in the
9 Public Monitor on September 9.

10 There's then a comment period.
11 There's public hearings. There's a process
12 that goes from there that takes about six
13 months. So, we're fully engaged in that and
14 we'll be keeping you posted on that. That's
15 the next long permitting process.

16 In the meantime, there's a number of
17 small permits and I'll show you a schedule in a
18 minute that we're working on as we go through
19 that process.

20 By the way, in the Section 61 --

21 CHAIRMAN CROSBY: Chris did I hear
22 you, the Chapter 91 process is six months?

23 MR. GORDON: It could be, yes. And
24 we've signed an agreement with the DEP, a

1 timing agreement that allows us to accelerate
2 through that process. But even with that it
3 could take up to six months to get through that
4 process.

5 MS. KRUM: Just to clarify, our
6 fast-track agreement that we signed with the
7 DEP is set to take six months. It's typically
8 a longer process. So, the six months is the
9 expedited process.

10 CHAIRMAN CROSBY: Is that a gating
11 mechanism on shovels in the ground?

12 MR. GORDON: It is for anything in
13 this Section 61 jurisdiction -- Chapter 91
14 jurisdiction. So, about a third of our site is
15 in that jurisdiction. And we will not be doing
16 any digging in that area until we get through
17 that permit.

18 CHAIRMAN CROSBY: But you can start
19 on the other two?

20 MR. GORDON: Yes. Things like
21 utility relocations and some of the early work
22 and remediation that sort of stuff, we
23 definitely can do. But we cannot do some of
24 the heavy permanent excavation inside the

1 Section 61 area.

2 COMMISSIONER MCHUGH: Section 91
3 area.

4 MR. GORDON: I'm sorry, Section 91
5 -- Chapter 91.

6 COMMISSIONER MCHUGH: I'm sorry,
7 Chapter 91, right, but the Section 61 Findings
8 are a gating device as well. So, we've got to
9 get through that.

10 MR. GORDON: That's correct.

11 Additional permitting, we have two city of
12 Everett permits that we're working on right
13 now. One is the site plan approval.

14 We've had two hearings on the zoning
15 site plan process. We have another hearing on
16 September 16. We're now responding to
17 questions from the public, the city and the
18 city's consultant. That's moving along very
19 well. We had a meeting with them yesterday and
20 that continues to move well.

21 We've also filed a notice of intent
22 with the Conservation Commission for work in
23 the water and the buffer zone. We have the
24 next hearing on September 10. That also is

1 moving along well. We're responding to
2 questions now, and we expect to work through
3 both those processes with the city of Everett.

4 COMMISSIONER STEBBINS: Chris, how
5 does that notice of intent piece overlay with
6 the Chapter 91 piece?

7 MR. GORDON: You have to get -- They
8 are related. In order to do that you have to
9 have your -- I'm just checking one record here.
10 You need to file the notice of intent before
11 you file Chapter 91. It's complicated but
12 there's also water quality certification and a
13 CZM certificate of consistency.

14 The water quality has to be done
15 before you get Chapter 91 and that's related to
16 the Conservation Commission. And we can't get
17 the CZM certificate until after Chapter 91.
18 So, we've got to do these all in a particular
19 order, which we are doing.

20 COMMISSIONER STEBBINS: Okay. And
21 the site plan review, is there a timeline for
22 when that will be approved.

23 MR. GORDON: I don't want to speak
24 for the city, but they've given indications

1 they'll vote on September 16.

2 MS. KRUM: That will have been all
3 through the meeting with the site planning
4 commission.

5 MR. GORDON: Any other permit
6 questions before we go onto remediation? On
7 the remediation, as you know, we've been doing
8 a significant amount of testing on the site.
9 We've got over 2000 samples that have been
10 done.

11 This is soil samples, water samples,
12 leachate samples, anything you can think of.
13 We filed our release abatement measure plan.
14 That's the actual plan of how to remediate with
15 the DEP. The plans and specifications have
16 been fully developed.

17 That work is now out for bid. We
18 short listed 13 remediation contractors to work
19 on that work. It's out for bid. And bids are
20 due back shortly. We'll then review the bids
21 and select the best value for that remediation.

22 There was a public participation,
23 public involvement participation for that work,
24 which we have fulfilled. We've had public

1 meetings. We've filed the PIP plan, which is a
2 requirement. So, we're through that process.

3 Once we get our remediation
4 contractor on board, we're going to have
5 follow-up meetings in both Everett and
6 Charlestown to talk about things like truck
7 routes. There's been an interest in where the
8 soil goes. So, we want to make sure we
9 publicly talk about that.

10 And we wanted to have the contractor
11 with us so we weren't just being hypothetical.
12 We'll actually have the person here that is
13 going to have to live up to it. So, that
14 meeting will happen as soon as that contractor
15 selected.

16 And then we anticipate roughly four
17 months of construction. We'll see how the
18 winter sets in and how all of those things
19 happen. But once we get them started, which
20 will probably be roughly in October, we're
21 looking for about four months to get done.
22 Remediation is a little hard to predict,
23 because you have to keep going until you get
24 certain things done, but we're assuming it's

1 roughly four months.

2 On the design process, design is
3 moving very quickly. In a minute, I'm going to
4 show you a schedule on how it's moving. But
5 things like the foundation design are to a
6 point where we hope in the early fall we'll be
7 submitting foundation plans to the city of
8 Everett for a review. They'll start their code
9 review on the foundation, which will be a
10 comprehensive process.

11 The podium and shell area, which is
12 the actual gaming and food and beverage area,
13 those designs are moving far past schematic
14 design now. We've actually got a very
15 detailed schematic design for that area. And
16 the hotel design is also well past the
17 schematic stage. And we're heading toward much
18 more detailed drawings we'll be submitting to
19 the city on the hotel tower.

20 There's a series of packages we
21 submit to the city. They're divided up into
22 the foundation, which include the parking
23 garage, the tower, the podium and the site
24 work. So, those four big packages will be

1 going to the city over the next six months for
2 review for building permits.

3 CHAIRMAN CROSBY: Is the reduction
4 in number of parking levels that's the
5 reduction you've already talked with us about.

6 MR. GORDON: Yes. In the SSFEIR we
7 went from 3400 parking spaces to 2941 for a
8 variety of reasons including pressure to make
9 sure we didn't provide too much parking because
10 we would induce parking. But it also allowed
11 us to come up out of the ground a little bit
12 and not have quite as much soil remediation.

13 CHAIRMAN CROSBY: I just didn't know
14 if it was the same one again.

15 MR. GORDON: Offsite infrastructure,
16 as you know, we've committed and will be
17 committing to the Section 61 process to provide
18 a very large amount of off-site infrastructure.

19 We have drafted an RFP, issued an
20 RFP, interviewed firms. And we've very close
21 to selecting one engineering firm to do that
22 off-site work for us. This is separate from
23 Sullivan Square, which is already being done
24 now. But this work will be the design, the

1 permitting and the construction oversight.

2 And as soon as we finalize that,
3 we'll be happy to come back and talk to the
4 Commission about that. That firm will then
5 embark on things like surveys, preliminary
6 meetings with those cities and towns. And get
7 all of the off-site infrastructure work
8 started, because we've committed to have all of
9 that roadway work done before we open, which is
10 a push. Very possible and doable, but it's a
11 push to get that done.

12 And finally, I wanted to give you a
13 quick schedule update. There's a number of
14 schedules in the package. And I know you can't
15 read this one, but we wanted to focus on this
16 one. And I'll briefly walk you through it and
17 then we can answer any detailed questions.

18 This isn't going to work that far
19 away, the pointer. But if you look at this,
20 just to summarize, the blue is all of the
21 permitting work that we're doing. And the six-
22 month look ahead is September through February.

23 Again, we'll get into whatever
24 detail you want, but the blue covers doing the

1 Section 61 Findings, doing Chapter 91, working
2 through the NOI, working through the site plan
3 approval, the FAA approval for the building
4 height.

5 We've got the Army Corps of
6 Engineers. There's a number of permits that
7 we're now well on our way with. And they're
8 all laid out there that we're pursuing. You'll
9 also see there's three sections to the
10 permitting work.

11 We have the main project, if you
12 will, which is the resort as you know it. Then
13 there's separate permitting for the sediment
14 removal out in the river that we're working on.
15 And there's a third leg of permitting for the
16 walkway that goes over to DCR.

17 And they're divided into three
18 different areas because they're different types
19 of permits and different stages of design, but
20 they'll all have to come together at the end of
21 course.

22 In red, you'll see on it that's the
23 design schedule. Again, I know it's hard for
24 you to read but that shows the progress of the

1 tower design, the foundation design, the podium
2 design and the site design as well as the
3 marine work that we're doing. There's a fair
4 amount of design for the bulkhead and the docks
5 that are on the waterfront.

6 There is a very large design team
7 fully engaged. We meet with them constantly.
8 And they're making great progress on the design
9 aspects. In green is remediation. As we
10 mentioned that's out for bid right now. So, we
11 expect the remediation to get done.

12 This is the phase that needs to be
13 done before we start heavy construction. This
14 is the three hotspots we talked about. So,
15 that'll be done before we start construction,
16 all that work.

17 In orange or burgundy I guess it is,
18 there's a service road. This is the service
19 road that goes from behind the back of house
20 area, around the MBTA property. It includes
21 the land that we bought from the MBTA, out
22 around the parcel in the back and out through
23 and back to Broadway.

24 It may sound like it's just a road,

1 but it's actually a very important part of the
2 project, because it not only has our service
3 component, it also carries most of the
4 utilities underground. So, we're working
5 closely with National Grid, with all of the
6 different utilities in there. So, we've shown
7 that as a separate activity because it's just
8 so important, we want to make sure we keep very
9 close track of the service road.

10 In the gray is the off-site roadway
11 improvements. We've talked about that. That's
12 the work to get all of the roadways designed
13 and permitted and built.

14 And then finally in the orange is
15 utility relocations. Our site has existing
16 utilities today that are fairly large. And it
17 also has future utilities that are needed. A
18 lot of those have to be either installed or
19 moved. So, we've got a separate program to
20 look at those utilities. And we are in very
21 good shape with National Grid. They've been
22 great. There's gas lines, water lines --
23 excuse me electrical lines that we'll be
24 moving. So, that is also well underway.

1 COMMISSIONER MCHUGH: What part of
2 this do you anticipate doing, if any, before
3 the Section 61 process is complete?

4 MR. GORDON: The remediation work
5 and we do have approval from the DEP that we
6 can do that before we get our Chapter 91
7 filing. I'm sorry, did you ask on Section 61?

8 COMMISSIONER MCHUGH: Section 61.

9 MR. GORDON: Well, the remediation
10 would be, according to this schedule, in
11 advance of the Section 61 and the Chapter 91
12 would be the remediation. The utility
13 relocations, I do not think they will happen
14 before then because of the sequence and that.

15 So, really the only big piece of
16 this that would get done before that would be
17 the remediation.

18 COMMISSIONER MCHUGH: All right. I
19 just am looking for information there. I don't
20 have any comment on that.

21 MR. GORDON: I'm thinking about the
22 other part of the question. The utility
23 relocations are well outside. Some of it is
24 way off our site. So, I've got to look at the

1 relationship between that and the Section 61
2 Findings.

3 MS. ZIEMBA: Chris, by remediation
4 you mean remediation of just the hotspots
5 portion.

6 MR. GORDON: Correct. There's a
7 series of other schedules behind this but we
8 don't need to -- They're the same thing.
9 They're in just much more granular format.

10 CHAIRMAN CROSBY: Just out of
11 curiosity, can you do the remediation of
12 hotspots even in the waterfront third?

13 MR. GORDON: Yes.

14 CHAIRMAN CROSBY: You can.

15 MR. GORDON: The DEP has told us we
16 can do that.

17 CHAIRMAN CROSBY: Okay. Great.

18 COMMISSIONER STEBBINS: Chris, I was
19 just looking further down almost at the end of
20 your master schedule at this point, your
21 process for construction management
22 procurement. And I think there was a condition
23 in their license that when a construction
24 manager is selected that they come in and meet

1 with us. Obviously, we have a strong focus as
2 you do on making sure the commitments are made
3 for minority, women and veteran participation.

4 MR. GORDON: Right. We're
5 anticipating roughly in the November timeframe,
6 restarting the CM selection process. As you
7 know, we paused it a bit as we went through the
8 permitting process.

9 So, if we start that in November,
10 it's probably toward the end of the year for a
11 selection roughly. And then we'd be happy to
12 have them come in and meet with the Commission.

13 COMMISSIONER STEBBINS: Okay. Thank
14 you.

15 MR. DESALVIO: The next section we
16 wanted to cover, unless there was any more
17 questions prior, is the section on project
18 resources and diversity.

19 So, we've got a slide. And again,
20 this is one of the slides that is actually
21 truly a second-quarter report. So, this only
22 has us out through June. And we're in the
23 process of updating this now. And we'll be
24 more advanced in the next update quarterly

1 meeting.

2 As of June 30, as far as the MBEs,
3 we had five contracts totaling \$2.6 million or
4 about 5.3 percent of the work against that 7.9
5 percent goal. For WBEs two contracts, \$619,500
6 for about 1.3 percent against the goal of 10.
7 And then still working on trying to secure
8 veteran participation for the design process.

9 As you know, we have a staff member,
10 Jenny Peterson is camped out on this issue,
11 works with Jill a lot. I'm going to get to in
12 a little bit about some of the events and the
13 types of things that we're doing to continue to
14 reach out to certainly continue to increase the
15 participation. And I think you'll see some
16 good results as of our next quarterly meeting,
17 especially as we kind of clean up where we were
18 prior to licensure and where we are today.

19 On the next slide, it talks about us
20 working with local groups.

21 COMMISSIONER STEBBINS: Bob, real
22 quick, on the MBE, WBE and VBE participation,
23 are the firms coming to you kind of self-
24 identifying themselves to you or is it on your

1 end to ask them whether they have a
2 certification or whether they're a veteran-
3 owned business?

4 MR. DESALVIO: We've been doing to
5 a lot of outreach to try to get connected to
6 groups. And there's some great resources that
7 we found out about through Jill and through
8 others at the state. So, we try to do the
9 outreach.

10 We are finding many of them are
11 already certified. Some are not. So, if
12 they're not, we can certainly assist in kind of
13 pointing them in the right direction to go
14 through that process. I think a good number
15 that we've been connected with I think had
16 their certification and some did not.

17 COMMISSIONER CAMERON: Bob did I
18 hear you say that you anticipate better results
19 for the next quarter?

20 MR. DESALVIO: Yes. We've reported
21 contracts that are currently in play. For
22 example, Chris just talked about one that we
23 haven't yet reported on which is the design
24 work for the off-site improvements.

1 And in our meetings with those firms
2 that wanted to participate, we've been strongly
3 encouraging them to come up with as a high
4 percentage number as we can. So, as we work
5 through the selection process that's a pretty
6 decent size amount of work. And we hope that
7 will also increase the participation along the
8 way.

9 So, we're still a work in progress,
10 but certainly we're trying every avenue we can
11 to connect with those vendors that can
12 participate in the project.

13 I wanted to talk for a few minutes
14 on -- if we turn actually right now to the
15 community events and outreach, this dovetails
16 nicely into the diversity program. We have a
17 list of events that we participated in. And
18 there's some crossover here between design work
19 and actual construction work.

20 And on the slide that you see, if we
21 start on 25, the ones that are highlighted in
22 color with the yellow color are actually events
23 that we planned and put together. And the ones
24 that are in white are the ones that we

1 participated in somebody else's event.

2 Again, for the report on the second
3 quarter, we had the Charlestown Working Group
4 on the Environment that community meeting on
5 April 6. Everett Works was a building trades
6 event. That was actually put on through the
7 city of Everett. And that was focusing on
8 construction jobs. And that was on April 8
9 over at the Everett High School.

10 We put on a Hispanic American
11 Institute breakfast where they helped us
12 connect to some vendors. We did that on April
13 24. We hosted our own construction career fair
14 on May 9. That was a great event, heavily
15 attended. We participated in the Hiring for
16 Heroes event focusing on veterans over at
17 Fenway on May 20.

18 We went to -- I thought it was
19 really good. I went to this one, the Mattapan
20 job fair where we tried to connect through that
21 local community to some folks who were
22 interested. A good event, it was held over at
23 the library in Mattapan.

24 On page 26, we attended the June 11

1 meeting of the Greater New England Minority
2 Supplier Development group along with the
3 Hispanic Chamber. The Women's Veterans
4 Conference on June 13, the Somerville Chamber
5 event we went to on June 18. The Mass.
6 Minority Contractors Association meeting in
7 Dorchester on June 23. And then we also did a
8 diverse local vendor networking event on June
9 26.

10 So, we have been extremely active in
11 this area trying to see if we can make
12 connections and increase our participation as
13 we work our way through the design process.
14 And those efforts will continue.

15 That was really the full update that
16 we had. We are certainly able to answer any
17 other additional questions the Commission might
18 have.

19 CHAIRMAN CROSBY: Anybody? I guess
20 we're all set. Thank you.

21 MR. ZIEMBA: Mr. Chairman and
22 Commissioners, I'm going to ask Jed Nosal from
23 Brown Rudnick, outside counsel to MGM
24 Springfield to join me.

1 He's here to provide a status update
2 regarding its conversations on the final
3 language of the proposed memorandum of
4 agreement on its historical preservation
5 efforts and remaining steps.

6 We've notified the Mass. Historical
7 Commission that we were going to have this
8 update today. And that hoped to get back to
9 them very soon regarding final language.

10 The language that is included in
11 your packet that is the MGM draft. That has
12 been circulated to -- a version of this was
13 circulated to the Springfield Preservation
14 Trust and the Springfield Historical
15 Commission. We've since received comments from
16 them. But they are not necessarily
17 incorporated into this version that you have in
18 front of you.

19 MR. NOSAL: Thanks John. I
20 appreciate it. I'm just going to run through
21 the steps and explain some of the changes in
22 the document that's before you, which is very
23 much still in draft form.

24 As you know, we were before on

1 August 6 and presented a draft MOA with the MHC
2 that essentially incorporated in all of the
3 MHC's original comments to that draft. We
4 talked to the Commission at that time about
5 three essentially outstanding items, two
6 ministerial changes and one particular change
7 around future impacts on historic properties
8 subject to the agreement, and specifically
9 around the covenant with the MassMutual Center.

10 The Commission took this under
11 consideration, voted to approve the agreement
12 deferring some discretion to staff to finalize
13 some of the language. And that's what we've
14 been working on over the last several weeks.

15 On August 6, the same day, we
16 received additional comments from the MHC
17 regarding the MGM Springfield's two additional
18 changes, the ministerial ones, which they
19 really didn't have an issue. On the issue of
20 future adverse effects and the covenant
21 question around the MassMutual business, they
22 essentially deferred in that letter to the
23 Springfield Historic Commission and asked that
24 we engage with them to get further input on our

1 proposed change to that agreement.

2 On August 7, the Springfield
3 Historic Commission sent a letter back to the
4 Gaming Commission raising two new comments
5 regarding the window casings at the Union House
6 Hotel and reuse of original materials in the
7 reconstruction of that building if certain
8 facades cannot be saved due to structural
9 issues.

10 In addition, the SHC, Springfield
11 Historic, proposed that MGM Springfield file
12 deed covenants on all of the properties that
13 were being renovated or partially preserved to
14 address their concerns regarding future impacts
15 especially pertaining to the French
16 Congregational Church and the Armory.

17 A comment was also received back
18 from the Preservation Trust, also a signatory
19 to the agreement, requesting that MGM
20 Springfield and the MGC provide a date certain
21 for making the agreed-upon contributions to the
22 Historic Preservation Trust created under the
23 MOA.

24 And Mr. Ziemba and I have been

1 working on essentially that language. I think
2 the language that is before you now may change
3 a little bit. But again, we are generally in
4 agreement that that should be done. And we
5 don't have necessarily any issues around
6 finalizing it.

7 MGM Springfield proposed additional
8 language back to the SHC now to deal with the
9 window casing issue and the change regarding
10 reuse original materials for the Union House
11 and proposed new language to address potential
12 future adverse effects in section 9, the
13 project change section.

14 That is all reflected in the draft
15 that you have now before you. The SHC has come
16 back to us on Tuesday agreeing to our proposed
17 language on the window casings and making a
18 further change to our proposed language
19 regarding section 9, the change section.

20 So, we are now currently considering
21 their proposed change in language. I can
22 report that we agree conceptually with what
23 they're proposing to do with that section. We
24 just need to finalize, I think, a few

1 additional changes to a word or two in that
2 particular section.

3 So, I think we're 99 percent there.
4 At this point, I think we are very much still
5 within the lane or the parameters of your
6 original vote. And I think we can get this
7 language hopefully finalized in the coming
8 days.

9 CHAIRMAN CROSBY: Would you agree
10 with that characterization?

11 MR. ZIEMBA: Certainly, that's the
12 hope. And I commend MGM for working with the
13 Historical Commission and the Preservation
14 Trust in the spirit that we've asked them to do
15 so in the past.

16 MR. NOSAL: Just one last thing,
17 obviously, once we have agreement on the
18 language with Springfield Historic, the
19 Historic Commission, we will then recirculate
20 the draft to all of the signatories.

21 So, I don't want to suggest at all
22 that the Mass. Historic Commission couldn't
23 come back and say we like this, we don't like
24 this or we consider changing this. We've also

1 been in contact with the city of Springfield as
2 well about these changes, again another
3 signatory to the agreement, and they haven't
4 necessarily raised any additional concerns and
5 want to help facilitate this in any way that
6 they can.

7 CHAIRMAN CROSBY: Okay.

8 MS. ZIEMBA: Thank you, Jed. I
9 appreciate it. Mr. Chairman, I'm going to ask
10 John Donnelly from Donnelly, Clark to join me.
11 John Donnelly, he is outside counsel for
12 Massachusetts Gaming and Entertainment. And
13 he's asked to address the Commission on two
14 recent letters that were issued by the United
15 States Bureau of Indian Affairs. Those letters
16 are included in your packet.

17 I'm going to make reference to them
18 in a second, Amy. I highlight a few sentences
19 from the two letters that provide context to
20 Mr. Donnelly's remarks. The August 26 letter
21 was meant as a clarification of the August 21
22 letter.

23 I'll just read from that letter at
24 the bottom of the first paragraph. This is a

1 letter addressed to the town of Mashpee from
2 the Acting Regional Director from the East
3 Region from the BIA. And he noted that we
4 write to clarify that we are inviting comments
5 for a 30-day period on the Tribe's request to
6 issue a reservation of proclamation, that the
7 Tribe's request is under review and that no
8 date has been identified in which a reservation
9 of proclamation will be issued by the
10 Department of the Interior. Issuance of a
11 reservation proclamation is a separate and
12 distinct action from acquiring land in trust
13 pursuant to section 5 of the Indian
14 Reorganization Act of June 18, 1934 25 USC 465.

15 I'm just going to quote from one
16 sentence from the August 21 letter. That
17 letter, which was addressed to Taunton from the
18 BIA Regional District noted that at the bottom
19 of the third paragraph "please note that to be
20 proclaimed an Indian reservation it is
21 requisite that the lands be held in trust. If
22 a decision denying the acceptance of the
23 Tribe's land into trust is made by the
24 assistant secretary, no reservation of

1 proclamation will be issued."

2 So, with that as the context, I ask
3 Mr. Donnelly to begin his presentation.

4 COMMISSIONER STEBBINS: John a
5 really quick question, have we seen or is it
6 necessary or important for us to see whatever
7 request I guess that's referenced that the
8 Tribe filed? Obviously, it sounds like it
9 spurred to action these letters from the BIA.

10 MS. ZIEMBA: I'm not aware of any
11 requests from the Tribe pursuant to these
12 letters. Obviously, there's been numerous
13 filings with the BIA throughout the entire
14 process, their environmental process, their
15 land in trust documents and the like, but I'm
16 not aware of --

17 CHAIRMAN CROSBY: I think it's the
18 whole application. That request is referring
19 to the entire application for land in trust and
20 the 321 acres.

21 MR. ZIEMBA: I'm not aware of a
22 specific letter.

23 MR. DONNELLY: Thank you, John.
24 Thank you members of the Commission for hearing

1 us on short notice. We received the letters at
2 the time that everyone else did. And we're
3 frankly confused by the first letter and remain
4 a bit confused by even the second letter.

5 What is clear to us is, I think, and
6 some of this is our reading of the letters --
7 We're certainly not confused on this. --
8 there's a great deal of uncertainty around this
9 process still. We read into these letters the
10 continuing uncertainty the BIA has that they
11 are troubled by this entire process, and we
12 think appropriately.

13 As Mr. Bluhm and Mr. Patent and
14 Mayor Carpenter addressed this Commission back
15 on August 6, the process and the likelihood of
16 the Mashpee group ever obtaining either if a
17 reservation designation is required and/or land
18 in trust is very, very uncertain fraught with
19 dangers. Any number of lawyers have suggested
20 that the group is not eligible. The process,
21 it will not accommodate them ultimately.

22 And that if it does, it will take a
23 long, long time, not only for the BIA to act
24 but for ensuing litigation. As the Commission

1 is well aware, there's a group in Taunton that
2 is opposed to this procedure. There will
3 certainly be litigation. So, the best we can
4 say is the horizon is very, very cloudy and
5 will remain very cloudy for many, many years.

6 With that said, when we received the
7 first letter, I had some conversation with John
8 and of course with my client and asked if we
9 could be on this agenda. And John, and I
10 appreciate this, directed me to considerations
11 that the Commission made back in December 2012,
12 going on close to three years ago. And there
13 was a December, I believe, I have the dates
14 written down here, December 4 and a December 18
15 lengthy and high-level, very insightful
16 discussion on the issues. And I don't say that
17 to try to endear myself to the Commission.

18 I found it very interesting. A lot
19 of thought in it. A lot of what do we do. I
20 glean from those two transcripts the following:
21 we are an agency of the Commonwealth. We have
22 statutory obligations that we have to follow.
23 And how do we balance those statutory
24 obligations given what we had back in December

1 2012?

2 Now if we cast ourselves back then,
3 what we had was we were beginning the RFA-1
4 process. Bluhm wasn't even in the picture. It
5 was KG Urban down in Region C. And there was
6 colloquy back and forth about one of the
7 obligations we have, certainly the largest
8 obligation is we have an obligation to the
9 Commonwealth and to Region C.

10 The only reason that I'm sitting
11 here today is because the Commonwealth is
12 determined that it wants the jobs, revenues,
13 economic development that come with casino
14 gaming. And obviously, the Commission was very
15 much on top of that and completely understands
16 that obligation.

17 So, then it read and I think
18 appropriately a second intent in the
19 Legislature. And that is, I'll paraphrase it,
20 to give the Tribe a shot, a more than fair
21 shot. One of the Commissioners or maybe more
22 the one said we read this as we should perhaps
23 lean over backwards for the Tribe because
24 there's an intent in this legislation to keep

1 the Tribe -- And I call it a group because I'm
2 not certain that it is a tribe at all. -- but
3 to give the group a shot at this.

4 And the decision was made to think
5 about it on December 4. And on December 18,
6 the Commission came back, had another high-
7 level analysis, another discussion of the
8 issues, and balanced all of the interests,
9 which I think is completely appropriate. It
10 looked at the legislation, it looked at the
11 Commonwealth's interests. It looked at Region
12 C's interests. It looked at the interests of
13 the Mashpee group. It looked at the interests
14 of the KG Urban, the entity that was involved.
15 And I think there may have been other entities
16 interested at that time.

17 And it tried to balance all of those
18 groups. The decision was let's give 90 days.
19 That was December 18, 2012. Obviously, those
20 90 days came and went. The RFA process went
21 through. My client engaged in it, so did other
22 people. We've spent a lot of money, a lot of
23 time, a lot of resources and a lot of energy.
24 And we are here now nearly three years later.

1 And that horizon is as cloudy as it was back
2 then.

3 Again, I read these two letters as
4 an expression of uncertainty from the BIA. And
5 I think, I don't know, but I think uncertainty
6 because it is uncertain and they know it's
7 uncertain. And they know that there's going to
8 be litigation and controversy if they make a
9 decision perhaps either way.

10 So, why do we come back again? We
11 came back again, and I appreciate it. I'm not
12 going to reread what Mr. Patent and Mr. Bluhm
13 said on August 6, but we ask the Commission to
14 do that balancing test again. And the way I
15 see this balancing test is -- Of course, the
16 interest is the Legislature and the
17 Commonwealth and Region C are paramount.

18 And as many of the Commissioners
19 expressed, we don't want Region C to get too
20 far behind the other regions. That's not what
21 the Legislature wanted. We recognize that
22 Region C has economic development needs. Let's
23 try to get on as quickly as we can, and still
24 recognize the interests of the Mashpee group.

1 What was also done back in December
2 was a balance of the interest of the then
3 applicants, because of course the Mashpee group
4 is just a commercial entity exactly like my
5 client has a commercial entity.

6 The Mashpee group wants to have this
7 process delayed until such time as it can
8 receive a favorable rendering from the BIA and
9 presumably until such time as they can engage
10 in whatever litigation. That's its interest,
11 but it's a commercial interest. It's an
12 interest to try to keep the ball up in the air
13 if it can so it can keep this opportunity and
14 maybe obtain it and maybe not.

15 We have a commercial interest too,
16 my client does. And that commercial interest
17 is to try to get the project and build it and
18 operate it. I think three years is a lot of
19 time to have given the group to get where it
20 is. And it appears to be certainly maybe a
21 little bit further but not a whole lot further.
22 And certainly that uncertainty curtain has not
23 been raised.

24 So, what are we asking, pretty much

1 what we asked before. We're not asking you to
2 license Massachusetts Gaming and Entertainment.
3 We know you cannot do that until all of the
4 process is through. What we are asking is that
5 the Commission declare that if a suitable and
6 qualified candidate in Region C comes forward,
7 and we believe our application is and will be
8 found to be one, that in that case a license
9 will issue.

10 And we ask the Commission to assume,
11 through the process of that consideration
12 assume that the BIA does sooner or later during
13 this process take the land in trust or issue a
14 reservation or whatever those steps are that
15 are required. I think everybody is a little
16 bit confused by these letters as to what they
17 are.

18 And why do we ask that? (A) We think
19 it is fair. And when I went back and read
20 December, I wanted to do a word count, but I
21 didn't do it in the transcript, but the word
22 fairness came up at least several dozen times.
23 And being fair to the group, being fair to
24 Region C and being fair to the commercial

1 interests. I think that is what's fair is to
2 make that decision.

3 And why does that make sense from a
4 fairness point of view? And I want to
5 emphasize that it's not a matter of lack of
6 financing. The Rush Street Group has plenty of
7 financing. And this project is financed. But
8 it's spending money and perhaps even more
9 importantly it's spending energy and time and
10 its resources of its people to move this
11 process forward.

12 And it's only fair that it know,
13 like Lucy Brown in Peanuts that the football
14 won't be pulled out from underneath it when it
15 goes to kick it. And that analysis was done
16 back in December. And I ask that that analysis
17 be done again. That there's a fairness element
18 to our commercial enterprise just like there's
19 a fairness element to the Mashpee group's
20 commercial enterprise.

21 As Mr. Bluhm pointed out, and I
22 don't think anyone has disputed it, I'm
23 certainly not aware of it, the analysis that we
24 have done demonstrates that if it comes to be

1 that there is ultimately a Tribal gaming
2 establishment and our establishment in Brockton
3 that the state will still generate more
4 revenues and certainly more jobs, maybe two
5 times maybe not two times but certainly more
6 jobs. I don't have to tell you, everybody
7 knows that's what this is all about, those two
8 elements.

9 So, I ask and we ask that this
10 Commission again go through that insightful
11 consideration and balancing of the interests
12 here of all the people. We're kind of a bird
13 in hand, not that we're being presumptuous. We
14 do know that we have to continue through the
15 process, but if we achieve that process as
16 we're confident we will, we are a bird in hand.

17 There is a bird in the bush. But
18 when or if or how that bird ever flies out of
19 the bush no one knows. Therefore, we urge you
20 to make that decision. I think this Commission
21 has been more than fair to the Mashpee group as
22 one Commissioner maybe two said it did bend
23 over backwards for them.

24 The second thing that I did glean

1 from those December transcripts, and I think
2 I'm reading this right, and Commissioner McHugh
3 did a lot of work on this, there is no bar to
4 the Commission making this decision, a legal
5 bar. But rather it was an attempt by the
6 Commission to give the group as much time as
7 possible, to bend over backwards. That's been
8 done.

9 And now we ask that my client's
10 commercial interest be given that same kind of
11 consideration. That's it. I appreciate again
12 the time and I appreciate hearing us again
13 after we were here in August. And that's our
14 ask.

15 COMMISSIONER MCHUGH: We certainly
16 can't do that today. It's not on the agenda.
17 So, we'd have to think about that and put it on
18 the agenda. Has anybody on your side called
19 the BIA? I don't know who you would call
20 actually. The first letter was written --
21 signed by Ms. Blackhair as the Acting Regional
22 Director and said if you have any questions
23 call Mr. Randall Trickey who is the Regional
24 Realty officer. And the second letter was

1 signed by Mr. Tricky as the Acting Regional
2 Director and said if you have any questions
3 call Mr. Wayne Smith.

4 So, I'm not sure who you'd exactly
5 call, but has anybody called anybody?

6 MR. DONNELLY: Not to my knowledge.

7 COMMISSIONER MCHUGH: Okay. Is that
8 worth doing to figure out if we can learn
9 anything more about it? Maybe we can call one
10 of those people, but let's think about that.

11 The continuing issue, for me at
12 least, and as I say we can't act on this today
13 but just thinking out loud for a minute, is the
14 problem that it's not either/or. It's
15 conceivably both. And the business plan which
16 we won't get until the RFA-2 is as important in
17 this area as it has been in all the other
18 areas.

19 And we never committed to issuing a
20 license before the RFA-2 in Region A. And we
21 never committed to issuing a license before we
22 got the RFA-2s in Region B. So, thinking out
23 loud, I'd have to think long and hard about
24 doing something different in Region C.

1 But I hear you and I hear what
2 you're saying. And I would like to think about
3 it more simply a preliminary response.

4 MR. DONNELLY: I'm used to
5 responding to judges when they ask me
6 questions, but respectfully what I would say to
7 that is times have changed. It has been three
8 years since and the clock is running.
9 Opportunities are fleeting. And no one knows
10 what tomorrow holds. And that would be my
11 counter to that.

12 COMMISSIONER CAMERON: Mr. Donnelly,
13 you have characterized our remarks from
14 December 2012 but not all of those remarks that
15 followed which were we always act on the best
16 interest of the Commonwealth.

17 This is not one or the other, you
18 versus the Tribe. This is what's best for the
19 Commonwealth. That's our responsibility. And
20 I think we've been very clear about letting the
21 process play out.

22 We have Mr. Bluhm's assurances that
23 the Commonwealth can benefit from two
24 facilities. Certainly, we cannot take that at

1 face value. We have our own consultants that
2 help us with all of these matters to make good
3 decisions.

4 So, I think you characterized some
5 early remarks but not in the years since then
6 which have consistently said we will look at
7 all of the circumstances at the time and make
8 the best decision.

9 So, I think you are asking us to
10 alter that plan, which is to continue on and to
11 be fair to everybody and do what's best for the
12 Commonwealth. And I personally do not see a
13 need to alter that plan.

14 We can make assurances that we will
15 listen. We will be fair. We will take all of
16 the circumstances into consideration before
17 making a decision. But to say we will
18 absolutely do this when all along we've said
19 it's complicated. There are many concerns.
20 And we want to look at all of them and be very
21 thoughtful and have our consultants weigh in
22 when the time is appropriate after we receive
23 the application.

24 MR. DONNELLY: As to the

1 characterization, I certainly didn't mean to
2 suggest that the Commission had done anything
3 other than look out for the best interest of
4 the Commonwealth. That was the whole thrust of
5 the thing.

6 But times have changed. And we are
7 asking you to change the plan. That's exactly
8 what we are asking you to do. And we're asking
9 it because the clock has ticked a lot since
10 then and times have changed. So, we think it's
11 time to reconsider that position. That simple.

12 And we think it is in the best
13 interest of the Commonwealth, of course that's
14 your decision not mine.

15 CHAIRMAN CROSBY: Commissioner
16 Stebbins, anything? In my view, it's a totally
17 fair request. I totally get that and I
18 understand where you are coming from. All of
19 us, I think, are profoundly frustrated by the
20 timing of the tribal decision.

21 So, I like Commissioner McHugh would
22 want to take this under advisement. (A) We
23 can't vote anyway because it's not on the
24 agenda. And (B) I think Commissioner Zuniga

1 would very much want to be a part of a
2 conversation about this.

3 But let me ask you this why now? I
4 think I know what -- The trigger mechanism was
5 the misunderstanding I think of the first
6 letter.

7 Everybody thought that what the
8 letter said was a decision was imminent,
9 perhaps within 30 days. At that point, as I
10 understand it, you called John and started
11 talking about the idea of asking the Commission
12 to say at that point as you are now, we would
13 go forward independent of the land in trust
14 decision.

15 I know that between now and
16 September 30 you are going to spend some more
17 money, but probably relatively little compared
18 to how much money has been spent up until now.
19 What's the difference? You've been dealing
20 with this deck of cards for a long time. Why
21 the request now?

22 MR. DONNELLY: Two things, one,
23 you're right. When we saw the first letter, we
24 thought this says we're taking land in trust

1 any day now. The second letter not sure
2 exactly what they're doing. But a couple of
3 things, one, there's two timeframes. There's
4 the timeframe that has already occurred and the
5 second timeframe that we're now facing.

6 In some ways, we see is the tail
7 wagging the dog. The BIA can keep this process
8 up in the air forever. And there will never be
9 certainty in the Commonwealth. We don't know
10 how long that will go or frankly don't know how
11 to react to that, because we are caught here
12 wanting to do a project, finance a project,
13 keep the team engaged when we don't know. And
14 really the ball has kind of moved over to the
15 BIA who can keep us on tenterhooks forever.

16 So, this letter triggered that. So,
17 the thought process was let's assume that the
18 BIA is ultimately going to take it into trust.
19 And if that's the case, let's ask the
20 Commission to issue a finding that even if that
21 happens, and in reading the earlier transcripts
22 the way I read them, the decision was made long
23 ago that you have the power to do this, if that
24 happens we will issue a second license.

1 We think and of course there needs
2 to be an analysis. You can't take our numbers
3 at face value, but we think our numbers stand
4 up. We wouldn't have presented them if not.
5 And we think it's in the best interest of
6 everybody from an economic point of view to go
7 forward with our project as soon as possible.
8 Because we think ultimately even if a group
9 does get recognized, there will still be more
10 jobs and more revenues for the Commonwealth.

11 And putting that aside, more jobs
12 and more revenue even if there's two, but it
13 will happen and it will happen quickly, much
14 more quickly. And we don't know if the group,
15 the Mashpee group will ever happen.

16 So, I come back kind of bird in
17 hand. One thing we do know for certain, if
18 this Commission determines that the MG&E
19 application is suitable and qualified and meets
20 all of the criteria, we know what will happen.
21 We know the financing is there. We know the
22 company is committed to go forward. It will
23 happen.

24 And the purpose of our August 6

1 presentation was to do an analysis and present
2 it to the Commission that if it comes to be
3 sometime in the future that the BIA does all of
4 these steps and the Mashpee group is successful
5 in the litigation and ultimately carries the
6 day, we still think it's better for the
7 Commonwealth.

8 And it's certainly better to get the
9 engine of economic development going sooner
10 rather than later. That's why we think it's
11 different. These letters just triggered that
12 again, because it seemed to us at least in the
13 first letter, okay we're taking the land in
14 trust. Okay, fine. We still think it's the
15 better decision is to go forward now.

16 CHAIRMAN CROSBY: Here's what
17 concerns me. I have two emails from KG Urban
18 that say very explicitly we do not care about
19 the threat of a tribal casino. We don't care
20 whether they get one or don't get one. We can
21 operate fine. It's immaterial to us. I also
22 have a letter from KG Urban saying due in large
23 part to the uncertainty of the Tribe, we can't
24 finance our deal.

1 You are taking the same position.
2 It doesn't matter to you. You're fine either
3 way. It's independent. You're going to do it
4 anyway. It's a financially doable deal. But
5 the day that comes the word that we think says
6 land in trust is 30 days away, it seemed your
7 financing got a little inky.

8 Are we really interested in this or
9 not? Maybe we better get the Commission to
10 make a promise that they will in fact go
11 forward.

12 So, it makes me wonder, just based
13 on our experience with KG Urban. We hung with
14 KG Urban for a long time with protestation
15 after protestation that financing was not an
16 issue. It was totally viable with or without
17 the Indians. And that turned out not to be
18 true.

19 Now this comes up and it raises the
20 exact same issue.

21 MR. DONNELLY: Let me make this set
22 in stone. Whatever this Commission needs,
23 whatever it needs to assure itself that the
24 financing is in place unequivocally we will do,

1 period. Financing is not an issue for this
2 project with this group, with the Rush Street
3 Group. If you think there's any wiggle room in
4 that statement there is no wiggle room.

5 That is not an issue. And that did
6 not generate this letter. What generated --
7 not the letter, our request to come back. What
8 generated our request to come back is that we
9 yet again are in this process of uncertainty
10 for our own folks.

11 We have to make decisions. My group
12 has to make decisions where they throw
13 resources, where they have their people
14 working. Where does Mr. Patent and others
15 spend their time, effort and money. And it's
16 those kind of issues.

17 Financing is not an issue. And I'll
18 say it again. Anything that this Commission
19 believes it needs to know that financing is
20 there if it issues a license to us, MG&E will
21 meet. That is not issue, never has been and
22 won't be.

23 One of the reasons we suspected that
24 might be on the Commission's mind that's one

1 reason why when Mr. Bluhm came in here, we
2 spent some maybe boring time talking about how
3 he financed the first casino after the great
4 recession in Pittsburgh. He took that casino
5 out of bankruptcy and he built and opened the
6 casino in Philadelphia when the Foxwoods group
7 could not get financing.

8 So, the advantage of Neil Bluhm and
9 his group is that he has such strong financing
10 abilities.

11 CHAIRMAN CROSBY: Okay. Anybody
12 else?

13 COMMISSIONER MCHUGH: No. I think
14 the request is a fair one. I echo the Chair.
15 And I would like to put it on a meeting and
16 properly post it and notice it and have all
17 five of us talk about it.

18 CHAIRMAN CROSBY: I think we should
19 ask Elaine and everybody else, we should ask
20 for comment on this soon. Whatever anybody
21 else has to say about this request, we'd like
22 to know whatever anybody else has to say about
23 it, one way or the other. Anything else on
24 this? Thank you.

1 MR. DONNELLY: Thanks, for your
2 time.

3 MS. ZIEMBA: That's the end of my
4 presentation, Mr. Chairman.

5 CHAIRMAN CROSBY: It's 12:15. Do
6 you want to take a very quick break?

7

8 (A recess was taken)

9

10 CHAIRMAN CROSBY: We are reconvened
11 at about 12:25. Next on the agenda is Director
12 Lightbaum.

13 DR. LIGHTBAUM: Good afternoon,
14 Chairman and Commissioners. The first thing on
15 the agenda is the approval of the racing
16 officials.

17 CHAIRMAN CROSBY: Alex, excuse me.
18 Somebody mentioned to me that sometimes hearing
19 in the back is not very good when speakers are
20 speaking. We're all right. So, just keep
21 relatively close to your mic.

22 DR. LIGHTBAUM: The first thing on
23 our agenda for the Racing Division is the
24 approval of the key operating officials and

1 racing officials for Suffolk Downs. Very
2 pleased to mention that almost all of these
3 people, if not all of them, were in these
4 positions last year or similar roles. So, it's
5 been great to get that whole group back again.

6 There's one change, Gerald
7 Stanislawzyk isn't coming in. Instead Stanley
8 Shina will be the assistant racing secretary.
9 We've got all of their applications in. They
10 are going through the background checks. And
11 most of them have been fingerprinted.

12 So, I would recommend that they be
13 approved pending the completion of their
14 background checks and fingerprinting.

15 CHAIRMAN CROSBY: This is everybody
16 on your list?

17 DR. LIGHTBAUM: Yes.

18 CHAIRMAN CROSBY: Is Woodard Tuttle
19 any relation?

20 MR. TUTTLE: No, just a common name
21 in New England.

22 CHAIRMAN CROSBY: Do we need a
23 motion?

24 COMMISSIONER CAMERON: I've had an

1 opportunity to review this with Director
2 Lightbaum. I agree that this is the
3 appropriate move forward to approve this. So,
4 I move that we approve Suffolk Downs' request
5 for key personnel and racing officials that we
6 approve those individuals at this time.

7 CHAIRMAN CROSBY: Second?

8 COMMISSIONER STEBBINS: Second.

9 COMMISSIONER MCHUGH: Subject to --

10 COMMISSIONER CAMERON: Subject to
11 the successful completion of the backgrounds by
12 the state police. Thank you.

13 CHAIRMAN CROSBY: Second?

14 COMMISSIONER STEBBINS: Second.

15 CHAIRMAN CROSBY: Discussion? All
16 in favor, aye.

17 COMMISSIONER MCHUGH: Aye.

18 COMMISSIONER CAMERON: Aye.

19 COMMISSIONER STEBBINS: Aye.

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

22 DR. LIGHTBAUM: One position
23 they're not going to fill is the safety
24 coordinator. They had that position last year.

1 It's not a requirement of ours as a racing
2 official. And I spoke with Catherine Blue
3 about it. And we felt that that was okay if
4 they didn't do that this year, just to note
5 that.

6 COMMISSIONER MCHUGH: What is that
7 person's function?

8 DR. LIGHTBAUM: They did things
9 like look at the vests and the helmets on the
10 jockeys and make sure the general facility was
11 safe as far as the horses and riders go.

12 COMMISSIONER CAMERON: They just had
13 that inspection that was a positive inspection,
14 correct -- on the safety of the facility?

15 DR. LIGHTBAUM: Correct. The
16 stewards and I and a contingent from Suffolk
17 Downs went around the other day through the
18 whole facility checking things. And everything
19 either was already set to go or certainly will
20 be by Saturday.

21 COMMISSIONER CAMERON: The track
22 itself that was another inspection and that was
23 also a positive result.

24 DR. LIGHTBAUM: Yes. I can get

1 into that a little further later on. The next
2 item on the agenda is Suffolk Downs' request to
3 reduce the takeout to 15 percent on their
4 wagers. This would not be for this Saturday,
5 but it would be for the following two Saturdays
6 in October. And maybe Mr. Tuttle would like to
7 speak to that.

8 COMMISSIONER CAMERON: Yes. I'd
9 like to hear your rationale, Mr. Tuttle.

10 MR. TUTTLE: Certainly, I'm happy to
11 provide an explanation answer any questions.
12 Other jurisdictions have experimented with this
13 for special events and for different basically
14 as a promotion to try to attract more wagering.

15 As the wagering landscape in the
16 betting world has expanded, it's become much
17 more price-sensitive over the last several
18 years. And Massachusetts for several years has
19 had the highest takeout if not among the
20 highest takeout with 19 percent on win, place
21 and show and 26 percent on multi-horse, multi-
22 leg wagers.

23 So, given the nature of this meet
24 already and that it's three days and we're

1 experimenting with some different things on
2 behalf of the horsemen and the Mass. breeders,
3 one of the things we discussed was the takeout
4 reduction and to try that and to see if we
5 could attract more wagering from the ADW world,
6 from other simulcast locations.

7 And actually what we're reducing is
8 essentially the tax on the bettor. And we
9 thought that that was something worth trying
10 and we're asking your approval to do that.

11 COMMISSIONER MCHUGH: Just as a
12 question, how does what you do affect the
13 takeout by the receiving outlets?

14 MR. TUTTLE: The receiving outlets
15 work under the host takeout. So, when someone
16 puts a wager at our facility on a New York
17 Racing Association race, it's the New York
18 takeout structure not the Massachusetts takeout
19 structure and vice versa.

20 COMMISSIONER MCHUGH: I see. That's
21 part of the agreement under which you agree to
22 export the signal.

23 MR. TUTTLE: Correct.

24 CHAIRMAN CROSBY: Just out of

1 curiosity do they squawk? Will they be unhappy
2 about this?

3 MR. TUTTLE: Our simulcast partners,
4 some may. One of the reasons that we have been
5 an attractive signal for some mutuel operators
6 to take is because they have a pretty good
7 spread with the high Massachusetts takeout.
8 So, some may not look favorably upon it, but if
9 their bettors do, and given that it's only a
10 couple of days racing. If this were 80 days or
11 100 days, there may be more reluctance among
12 receiving outlets.

13 But we braced some of them for the
14 fact that we may be doing this for the next
15 couple of days.

16 CHAIRMAN CROSBY: Again, this is
17 just kind of curiosity. It seems to me it's up
18 to you. It makes perfectly good sense to me.
19 But just out of curiosity what happened, I
20 think somebody said Plainridge tried it, right?
21 What happened when Plainridge tried it?

22 DR. LIGHTBAUM: They decided not to
23 do it anymore because like Chip said, there are
24 some unintended consequences where some areas

1 may drop you, drop the signal because of that.

2 CHAIRMAN CROSBY: They didn't think
3 it netted positively, I guess.

4 DR. LIGHTBAUM: Right. But that
5 was several years ago. And I think they made
6 some other changes as well that might have also
7 affected it.

8 MR. TUTTLE: I think there's been an
9 explosive growth of advanced deposit wagering
10 since Plainridge tried that experiment. So,
11 whereby people are able to wager on their
12 phones and from home and things like that.
13 Those tend to be sophisticated and thus more
14 sensitive customers.

15 COMMISSIONER CAMERON: The other
16 festival meets that have tried this have had
17 positive results, I would assume, or else you
18 wouldn't be trying it?

19 MR. TUTTLE: Yes. There have been
20 very positive results and some good feedback
21 from players bettors.

22 There's now an association HANA, the
23 Horseplayers Association of North America.
24 They're promoting takeout reduction nationally.

1 Some do it on selected wagers. So, they'll
2 have pick five or some wager where they have an
3 especially low takeout as a way to try to
4 attract bettors that wager.

5 We've decided that we're looking at
6 trying it on everything. Let's just reduce the
7 takeout for the two days and see how it
8 compares. And we'll have the ability to look
9 at Saturday the fifth against Saturday, October
10 3 and the 31st and see if we're able to move
11 the needle.

12 COMMISSIONER STEBBINS: You're going
13 to compare it against one of the other three
14 days but not historically versus your typical
15 running calendar last year?

16 MR. TUTTLE: It would be difficult,
17 given the nature of this meet with the three
18 days, to compare it to -- We can compare it to
19 historic in prior years, but it's just a
20 different animal.

21 CHAIRMAN CROSBY: Just out of
22 curiosity also, how's it going for getting the
23 horses? Where are they coming from? What does
24 the field look like?

1 MR. TUTTLE: I think I told this
2 panel a few weeks ago that this was an
3 experiment and we were rolling the dice a
4 little bit, pardon the expression. And so far,
5 so good.

6 We had 111 entries for 13 races.
7 We're able to card 13 races for Saturday. One
8 steeplechase race and then one flat race for
9 horses that had run over jumps before, which is
10 sort of a quasi-steeplechase race. Three Mass.
11 bred stakes \$50,000 each, and then eight other
12 races.

13 Dr. Lightbaum and I looked at the
14 entries and with the help of some people from
15 the Mass. breeders were able to establish of
16 the 97 non-steeplechase horses, 77 of the 97
17 were either Mass. breds, owned or trained by
18 Massachusetts connections or had run at the
19 track before.

20 So, I think so far so good on our
21 mutual desire to make sure that local horse
22 people were the beneficiaries of some of this
23 purse money and these dates.

24 COMMISSIONER STEBBINS: What's the

1 timeline for qualifying horses for the next two
2 dates, kind of what's that schedule?

3 MR. TUTTLE: We took entries on
4 Tuesday for this Saturday. And we're going to
5 continue that schedule where we'll take entries
6 the Tuesday prior for the next two days.

7 And we may tweak the conditions a
8 little bit in terms of if we've got the ability
9 to race some purses or run an overnight stake,
10 things like that we have the option to tweak
11 the conditions as we move forward to see what
12 may work better.

13 COMMISSIONER STEBBINS: Anything
14 special planned for the Halloween meet?

15 MR. TUTTLE: Not yet. Although that
16 actually coincides with the Breeders' Cup World
17 Championships. So, it's normally a big day for
18 facing nationwide and actually around the
19 world. News this morning from California was
20 that Triple Crown winner American Pharaoh was
21 planning to stay in training to run the
22 Breeders' Cup classic on that day in Lexington,
23 Kentucky.

24 So, if that's the case and that's

1 his last race, then certainly that will be
2 helpful that we are carding our day on the same
3 day.

4 COMMISSIONER CAMERON: Ship in
5 started today, Mr. Tuttle?

6 MR. TUTTLE: They began to arrive
7 this morning. So far, so good. I generally
8 only hear about things, Commissioner Cameron,
9 if there's a problem. And I haven't heard
10 anything this morning.

11 COMMISSIONER CAMERON: No news is
12 good news.

13 MR. TUTTLE: Yes. There were
14 several trainers on the grounds yesterday
15 preparing for arrival of their horses today.

16 COMMISSIONER MCHUGH: For the non-
17 steeplechase races that's about nine horses per
18 race, right?

19 MR. TUTTLE: It is. There are a
20 couple of horses that have been cross entered
21 into multiple races and are going to decide
22 which spot they want.

23 COMMISSIONER MCHUGH: But it's a
24 good number for each race.

1 MR. TUTTLE: Yes. We are pleasantly
2 surprised by how strong the response has been.

3 COMMISSIONER MCHUGH: That's great.

4 COMMISSIONER STEBBINS: Mr. Chair,
5 I'd move that the Commission approve the
6 request of Suffolk Downs to reduce the takeout
7 to 15 percent on all win, place, show and
8 multi-horse multi-leg wagers on October 3 and
9 October 31, 2015.

10 CHAIRMAN CROSBY: Second?

11 COMMISSIONER MCHUGH: Second.

12 CHAIRMAN CROSBY: Further
13 discussion? All in favor, aye.

14 COMMISSIONER MCHUGH: Aye.

15 COMMISSIONER CAMERON: Aye.

16 COMMISSIONER STEBBINS: Aye.

17 CHAIRMAN CROSBY: Opposed? The ayes
18 have it unanimously. Thank you.

19 COMMISSIONER MCHUGH: Great. Good
20 luck.

21 MR. TUTTLE: Thank you.

22 DR. LIGHTBAUM: I'd just like to
23 mention that we did do the track surface
24 testing at Suffolk Downs. Unfortunately, their

1 track superintendent, Steve Pini, passed away
2 this week, which is very sad. And he's a
3 third-generation employee at Suffolk Downs.

4 He's got an assistant that's going
5 to step in and we'll be all right that way, but
6 we did meet with him a couple of weeks ago.
7 And the engineering report came back well from
8 Dr. McPeterson with Biologically Applied
9 Engineering. His group was the one that came
10 down and did it.

11 I'll just give you a few quotes from
12 his report. "It's a forgiving track with low
13 peak loads and most importantly very good
14 consistency." They do a very thorough testing.
15 There's four or five different tests that they
16 do on this surface.

17 They pointed out just a few minor
18 things about moisture content and rating the
19 track, which is something that Suffolk is very
20 capable of doing on their own. So, I feel very
21 comfortable with the track surface.

22 COMMISSIONER MCHUGH: Great.

23 DR. LIGHTBAUM: And the Twin Spires
24 issue has been resolved. And we're getting the

1 billing for that now too.

2 COMMISSIONER CAMERON: Excellent.

3 Thank you. On behalf of the Commission, thank
4 you for all of the work that's been done. I
5 know licensing, they're coming in fast and
6 furious and we're keeping up with it. And the
7 staff is very willing to work this Saturday as
8 well as the backgrounds.

9 So, please thank everyone. I'll be
10 out there Saturday to thank everybody, but
11 everybody has been terrific about getting us
12 ready to regulate.

13 DR. LIGHTBAUM: Thank you. We've
14 got a great staff out there.

15 CHAIRMAN CROSBY: Next up is
16 Director Glennon.

17 MR. GLENNON: Mr. Chairman,
18 Commissioners. I'd like to recognize Matt
19 Cedor from IGT who is in the audience. He's
20 not going to join me up here but will if we
21 have some questions.

22 I have a really good news story for
23 you today, project update on the central
24 management system. I think with any IT

1 project, we can always expect visits from Mr.
2 Murphy, Murphy's Law. For those of you who
3 don't know it, anything that can go wrong will
4 go wrong.

5 And for this project we've had
6 everything from a rack of hardware fall off the
7 back of a delivery truck at the Springfield
8 data center to network connections being put in
9 the wrong place for our network. But through
10 it all the team has worked really well
11 together.

12 We're at kind of a critical juncture
13 here. Our go-live date is mid-October, which
14 is only two weeks from the original date. So,
15 when I first came before you and we talked
16 about a timeline, all the work we had to do,
17 September 30 was the day that we were going to
18 start converting at Plainridge Park. With all
19 of the complexities of installing the
20 infrastructure, the network, planning for the
21 training, our current timeline is now the 12th.

22 So, we had moved it a week to the
23 seventh but because of the Labor Day holiday
24 and conversations with the people at the Park,

1 our date is the 12th.

2 So, let me give a couple of
3 highlights. I do want to acknowledge Edward
4 Jordan from IGT who is the project manager who
5 has done an outstanding job for us. From my
6 own team, Dan McDonald has worked with Verizon
7 and MassIT and Justin from IGT on the network
8 piece. And we've had a lot of issues there. I
9 think all of those have been mitigated and
10 resolved.

11 At Plainridge Park, Frank Noborski,
12 one of our consultants, is helping us. One of
13 the most -- We are very collaborative. So,
14 Frank has been onsite at Plainridge working
15 with the team Mike Toma, Albert Delagarza and
16 Jason Gittel getting the information we need
17 for them to synchronize the two systems,
18 because as you know, if we had brought both
19 systems up when Plainridge Park opened, it
20 would have been easier than what we're doing,
21 which is to bring a second system up
22 concurrently while you're operating the casino.

23 A lot of the challenge is the
24 logistics that are being worked through right

1 now. Thanks to Frank and thanks to the
2 cooperation of the Plainridge Park people.

3 As far as details, there's a
4 timeline here. Our next critical date is
5 October 12 when we begin the conversion bank by
6 bank of the slot machines at Plainridge onto
7 our system. We expect from that date forward
8 it will take about three weeks.

9 So, the plan currently is to start
10 the conversion on the 12th and three weeks
11 later to be done to hopefully hand over a fully
12 operating system for the end of the month
13 audit. I don't think that's undoable given
14 what the team has done to this point.

15 Again, it's a good news story. I
16 think we've mitigated most risks and are on
17 track.

18 CHAIRMAN CROSBY: What is lottery
19 end-user training?

20 MR. GLENNON: That is probably just
21 a terminology and mistake on IGT's part. In
22 other jurisdictions, it's the lottery. So, I
23 probably missed that.

24 COMMISSIONER MCHUGH: It is just

1 end-user training.

2 MR. GLENNON: It is end-user
3 training, right. That's taking place here.
4 There will be a number of groups of end-user
5 training. The IEB agents will have a half-day.
6 The revenue staff, both the financial
7 investigators and people on Derek's staff will
8 have a time. There will be some technical
9 training.

10 And then IGT has staff coming
11 actually to operate the network operations
12 center here. And there will be training for
13 their staff as well on the NOC.

14 Again, when we start this up, our
15 operations here at 101 Federal will be seven by
16 24 as we bring the system online.

17 So, I'll entertain any questions.
18 Again, I think I'm reporting to you a good news
19 IT story, which is we are pretty much on track.
20 We managed to get beyond the issues that have
21 been challenges. And we're pretty confident
22 with the cooperation of our partners that we'll
23 get everything done by the end of October.

24 COMMISSIONER MCHUGH: That's really

1 good. And it'll make a big difference in what
2 we're doing an how we're doing it. And it's
3 coming along smoothly. And you've ironed out
4 the problems that I'm sure arose without a lot
5 of drama. That's great.

6 MR. GLENNON: I do want to point out
7 what we found in the manual regulation, which
8 we've done since we started since the casino
9 opened, because again we don't have the digital
10 solution, is that our estimates in the cost
11 justification were low.

12 We are going to save more time of
13 the agents when we bring the system online. In
14 other words, it's taking more time to manually
15 audit and validate the machines when there are
16 changes made than we estimated in our estimate.
17 So, I think it's a good story and it will be
18 going forward as well.

19 COMMISSIONER CAMERON: Thank you.
20 We look forward to that conversion and how well
21 it goes. I'm sure it will go smoothly. I know
22 Bruce Band was really happy to get his agent to
23 have this training first. And then they'll be
24 able to understand the entire -- the manual way

1 as well as the automation. I think that's
2 good.

3 MR. GLENNON: I can't say enough
4 good things about what Frank Noborski has
5 brought in his experience to the table and then
6 passed on to our agents. And also he's been
7 helpful to the Plainridge Park people as well.
8 So, a real win there for us to have him in our
9 court.

10 COMMISSIONER CAMERON: Great,
11 thanks.

12 MR. GLENNON: Thank you very much.

13 CHAIRMAN CROSBY: Thank you. That's
14 it for our agenda. Director Wells, are you all
15 set?

16 MS. WELLS: Yes.

17 CHAIRMAN CROSBY: Anything else?

18 Motion to adjourn.

19 COMMISSIONER CAMERON: So moved.

20 CHAIRMAN CROSBY: Second?

21 COMMISSIONER STEBBINS: Second.

22 CHAIRMAN CROSBY: All in favor, aye.

23 COMMISSIONER MCHUGH: Aye.

24 COMMISSIONER CAMERON: Aye.

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COMMISSIONER STEBBINS: Aye.

CHAIRMAN CROSBY: Motion is passed
unanimously. Congratulations everybody on our
new space. Things worked pretty well.

(Meeting adjourned at 12:46 p.m.)

- 1 ATTACHMENTS:
- 2 1. Massachusetts Gaming Commission September
- 3 3, 2015 Notice of Meeting and Agenda
- 4 2. Massachusetts Gaming Commission August 20,
- 5 2015 Meeting Minutes
- 6 3. Massachusetts Gaming Commission Executive
- 7 Director Job Description - DRAFT
- 8 4. Massachusetts Gaming Commission September
- 9 3, 2015 Memorandum Regarding Temporary Key
- 10 Gaming Employee Licenses Issued
- 11 5. Preliminary Inquiry Report to the
- 12 Massachusetts Gaming Commission September
- 13 3, 2015, Investigations and Enforcement
- 14 Bureau
- 15 6. Massachusetts Gaming Commission September
- 16 3, 2015 Memorandum Regarding Fiscal Year
- 17 2015 (FY15) 4th Update with attachments
- 18 7. Wynn Resorts Everett September 2015
- 19 presentation
- 20 8. Certificate of the Secretary of Energy and
- 21 Environmental Affairs on the SSFEIR
- 22 9. MOU Massachusetts Gaming Commission, Blue
- 23 Tarp ReDevelopment and the Massachusetts
- 24 Historical Commission - DRAFT

- 1 10. August 31, 2015 Donnelly Clark Letter
2 Regarding Mass Gaming & Entertainment, LLC
3 - Region C
- 4 11. August 26, 2015 US Department of Interior
5 BIA Letter Regarding Mashpee Wampanoag
6 Tribe
- 7 12. August 21, 2015 US Department of Interior
8 BIA Letter Regarding Mashpee Wampanoag
9 Tribe
- 10 13. Massachusetts Gaming Commission September
11 1, 2015 Memorandum Regarding Suffolk Downs
12 Key Operating Personnel and Racing
13 Officials with attachment
- 14 14. Massachusetts Gaming Commission September
15 1, 2015 Memorandum Regarding Suffolk Downs
16 Take Out Reduction Request with attachment
- 17 15. September 3, 2015 IGT Intelligen CMS
18 Project Update Presentation

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1 GUEST SPEAKERS:

2 R. Robert Popeo, Esq., Mintz Levin

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4 Bob DeSalvio, Wynn Resorts

5 Chris Gordon, Wynn Resorts

6 Jacqui Krum, Wynn Resorts

7

8 Jed Nosal, Esq., Brown Rudnick on behalf MGM

9 Springfield

10

11 John Donnelly, Esq., Donnelly Clark on behalf

12 of Mass Gaming & Entertainment

13

14 Chip Tuttle, Suffolk Downs

15

16 MASSACHUSETTS GAMING COMMISSION STAFF:

17 John Glennon, CIO

18 Derek Lennon, CFAO

19 Dr. Alex Lightbaum, Interim Director Racing

20 Doug O'Donnell, Senior Financial Analyst

21 Karen Wells, Interim Executive Director/

22 Director IEB

23 John Ziemba, Ombudsman

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C E R T I F I C A T E

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

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

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

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

WITNESS MY HAND this 7th day of September, 2015.



LAURIE J. JORDAN
Notary Public

My Commission expires:
May 11, 2018

