

1 THE COMMONWEALTH OF MASSACHUSETTS

2 MASSACHUSETTS GAMING COMMISSION

3

4 PUBLIC MEETING #51

5

6 CHAIRMAN

7 Stephen P. Crosby

8

9 COMMISSIONERS

10 Gayle Cameron

11 James F. McHugh

12 Bruce W. Stebbins

13 Enrique Zuniga

14 -----

15

16

17 February 7, 2013, 1:00 p.m.

18 OFFICE OF THE DIVISION OF INSURANCE

19 First Floor, Hearing Room E

20 1000 Washington Street

21 Boston, Massachusetts

22

23

24



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

2

3                   CHAIRMAN CROSBY: I am pleased to call  
4 to order the 51st public meeting of the Mass. Gaming  
5 Commission on February 7, 2013. We'll start with  
6 the approval of the minutes, several sets of  
7 minutes, Commissioner McHugh.

8                   COMMISSIONER MCHUGH: Yes, Sir, Mr.  
9 Chairman. We have three sets of minutes. The  
10 first minutes are minutes of January 17, which are  
11 now ready for a vote. I distributed them I think  
12 a week or so ago, but at our brief meeting last week  
13 they weren't ready for a vote.. So, today they are.  
14 I welcome any comments, corrections, suggestions.  
15 And if there are none --

16                   CHAIRMAN CROSBY: Are you doing all  
17 three of them?

18                   COMMISSIONER MCHUGH: Yes.

19                   CHAIRMAN CROSBY: This is not at all a  
20 correction, just sort of a bit of information on page  
21 five of January 24, you volunteered to write a policy  
22 on the issue of meetings with outside parties -- with  
23 bidders.

24                   COMMISSIONER MCHUGH: I did.



1                   CHAIRMAN CROSBY: I just don't want to  
2 lose track of that.

3                   COMMISSIONER MCHUGH: The way we are  
4 going to deal with that, Mr. Chairman, at least in  
5 the first run, is in our ethics, enhanced ethics.  
6 And the enhanced ethics piece is now out for final  
7 comment. And we are very eager to bring that  
8 forward two weeks from today and be done with it.

9                   That's the way we're going to deal with  
10 it. And if that doesn't cover the waterfront  
11 sufficiently, then we can write a supplementary  
12 policy, but I think it does.

13                  CHAIRMAN CROSBY: Okay.

14                  COMMISSIONER STEBBINS: Mr. Chair, I  
15 had two quick corrections, which I shared with  
16 Commissioner McHugh before the meeting on the  
17 minutes from the 17th.

18                  CHAIRMAN CROSBY: Okay.

19                  COMMISSIONER MCHUGH: Yes. They were  
20 in the nature of typos, important typos, but they  
21 will be corrected. So, any other corrections,  
22 thoughts? Okay.

23                  Let's do them seriatim so the record is  
24 clear. I move that the minutes of January 17, 2013



1 be approved as written with the exception of the  
2 correction of two typographical errors, which will  
3 appear corrected in the version that's posted.

4 COMMISSIONER ZUNIGA: Second.

5 COMMISSIONER MCHUGH: All in favor,  
6 aye.

7 COMMISSIONER STEBBINS: Aye.

8 COMMISSIONER ZUNIGA: Aye.

9 COMMISSIONER CAMERON: Aye.

10 CHAIRMAN CROSBY: Aye.

11 COMMISSIONER MCHUGH: Same motion  
12 with respect to the January 24 meeting, but I move  
13 that they be approved as written.

14 COMMISSIONER CAMERON: Second.

15 CHAIRMAN CROSBY: All in favor, aye.

16 COMMISSIONER STEBBINS: Aye.

17 COMMISSIONER ZUNIGA: Aye.

18 COMMISSIONER MCHUGH: Aye.

19 COMMISSIONER CAMERON: Aye.

20 CHAIRMAN CROSBY: Approved.

21 COMMISSIONER MCHUGH: And then  
22 finally of our very succinct meeting -- minutes of  
23 our very succinct meeting of January 31, I move that  
24 they be approved as written.





1 COMMISSIONER ZUNIGA: Second.

2 CHAIRMAN CROSBY: All in favor, aye.

3 COMMISSIONER STEBBINS: Aye.

4 COMMISSIONER ZUNIGA: Aye.

5 COMMISSIONER MCHUGH: Aye.

6 COMMISSIONER CAMERON: Aye.

7 CHAIRMAN CROSBY: Approved

8 unaniously. Item number three, administration  
9 master schedule, which as usual we have posted.

10 We have been doing a lot of work on the  
11 schedule, both on making sure that we meet our  
12 deadlines but then where possible trying to move our  
13 deadlines back, speeding them up. And I think that  
14 we are at the point now -- Let me just see. Can you  
15 scroll to slots?

16 This is slots, no. Slots would be down  
17 below. So, here is the award of the category two  
18 license, the slots license, which has been scheduled  
19 for December 2. And we believe now that we can move  
20 that back to September 1, picking up almost three  
21 months in the process.

22 There are a lot of variables here,  
23 which are not within our control. One is having  
24 everybody get all of their information into us and



1 getting it completed, getting it reviewed properly.  
2 And second, the process here, we've got in the  
3 schedule we have almost two months or a month and  
4 a half for hearings if there are contested  
5 decisions, if we make decisions, which are contested  
6 on the background check phase.

7                   So, there are a lot of things, which are  
8 beyond our control. But we think in good faith that  
9 we can move this deadline back now to September 1.  
10 So, our aspiration will be to make the license --  
11 the slots license award, category two license award  
12 by September 1. So, we'll rejigger the schedule now  
13 to do that.

14                   And we're looking at the casino  
15 licenses too, but at the moment, they are still  
16 scheduled to be done by the first couple of months  
17 of next year.

18                   We are also doing a lot of work on the  
19 evaluation process. After the Phase I background  
20 checks are completed, as everybody knows, we'll be  
21 getting into Phase II applications where the  
22 Commission will be receiving the final applications  
23 with host community and surrounding agreements and  
24 then making decisions on who will ultimately the



1 winners be.

2                   And there's a multi-part process that  
3 we're going through, which includes accumulating  
4 all the criteria in a way that can be made public  
5 to the bidders. Much of that criteria is already  
6 in our legislation, but as you know, we are adding  
7 to those criteria.

8                   There is the process by which we will  
9 review it. What kind of team will we have to help  
10 us review it? How will we handle it? And in some  
11 respects, most importantly or also very importantly  
12 is the weighting of those criteria and how we're  
13 going to do that. To what extent we can make it a  
14 measurable metric. To what extent do we have to  
15 protect subjectivity, etc.

16                   And I think maybe Commissioner Zuniga  
17 and maybe Commissioner McHugh have been working on  
18 this one and sort of bring us up to date and put  
19 issues on the table, if there are any.

20                   COMMISSIONER ZUNIGA: I can start with  
21 one comment/question for the Commission. One is as  
22 we refine this criteria and bring it forward, one  
23 question in my mind that I wanted to confirm was to  
24 what extent all of that criteria needs to be on



1 regulations to conform with our immediate -- or  
2 approximate milestones.

3 I assume that a great deal of that would  
4 by necessity have to be in regulations. But  
5 frankly, not all of it. Certain sections could be  
6 broad or certain sections could be later outlined  
7 by policy and by the form of response that we  
8 generate.

9 So, that was one assumption that I  
10 wanted to talk about because the time for our  
11 regulation writing is ongoing.

12 CHAIRMAN CROSBY: Here is the guts of  
13 the reg. writing process for Phase II. And this has  
14 us having to deliver draft regs. to the local  
15 governing whatever board.

16 COMMISSIONER MCHUGH: Local  
17 Government Advisory Committee.

18 CHAIRMAN CROSBY: Local Government  
19 Advisory on March 14, barely a month from now. Then  
20 there is an ongoing process of review and comment  
21 and iteration and they can be amended to some extent.  
22 But for the most part, under this schedule the regs.  
23 have to be done in substantial draft form by March  
24 14.





1                   On the other hand, we are talking about  
2 this very complicated process of compiling all of  
3 our criteria, turning it into some kind of a usable  
4 evaluation tool and discussing the process by which  
5 we will use that tool and involve the public and so  
6 on and so forth.

7                   And the question that the Commissioner  
8 is raising, and he and I talked about this a little  
9 bit yesterday, is need we make the teeing up of the  
10 evaluation process triggered or blocked by this  
11 deadline of March 14. So, we have to get that whole  
12 process of teeing up the evaluation process done  
13 before March 14. So, it can be included in the regs.  
14 that start through the approval process.

15                   Or can we have some portion of it in the  
16 regs. but later on set out publicly within a thorough  
17 process everybody comments on the evaluation  
18 process so we can use some more of the months here  
19 to figure that out?

20                   COMMISSIONER ZUNIGA: I'll just  
21 append to that. The parallel is perhaps a great  
22 example of what we did on Phase I. The form for  
23 response was not part of the regulations. It was  
24 a reference but it came contemporaneous, if you



1 will, to the regulations. And I think that helped  
2 -- to some degree I'd like to think it helped our  
3 applicants preparing information that would  
4 ultimately be requested.

5                   So, I see a parallel there. And I  
6 wondered to what extent can we try to accomplish that  
7 or need not be constrained by the March 14 date.

8                   COMMISSIONER MCHUGH: I have been  
9 working under the assumption that these would be in  
10 the regulations that the criteria would be in the  
11 regulations. The application doesn't have to be.  
12 The application flows from the criteria. But  
13 there's a matrix now of principles that can be ready  
14 for discussion next week. And it seems to me we  
15 ought to get on to that process.

16                   CHAIRMAN CROSBY: Principles of  
17 evaluation?

18                   COMMISSIONER MCHUGH: Yes. the  
19 evaluation criteria, Commissioner Zuniga and I have  
20 been working on a matrix. We've got now five  
21 categories with a bunch of subcategories. It's not  
22 complete, but it's in ready enough form to have a  
23 discussion about it, an intelligent discussion.  
24 So, we can do that next week.



1           We could explore the possibility,  
2    although I don't think it's the most desirable  
3    possibility, of putting in a regulation that we will  
4    evaluate applications according to a schedule that  
5    we will publish on the website after a vote and  
6    period of public comment. That gives us additional  
7    time.

8           But insofar as the evaluation criteria  
9    are concerned, it seemed to me that we were striving  
10   to get that done as early as possible so that people  
11   preparing their applications, particularly if we're  
12   going to move the slots licensing process back in  
13   order to accommodate a variety of interests, we need  
14   to get that done in principle even if it's not done  
15   in final so people have a target at which to shoot.

16           And then the application, as I say,  
17   flows from that the form of the application. And  
18   then figure out the scoring system as quickly as we  
19   can, but we can take more time with that. I say the  
20   scoring system, the evaluation system because there  
21   may not be a scoring system.

22           CHAIRMAN CROSBY: The evaluation,  
23   right?

24           COMMISSIONER MCHUGH: How are we going



1 to deal with this mass of data that we're going to  
2 get and how are we going to deal with it  
3 comparatively?

4                   So, I would propose, Mr. Chairman to  
5 put in place holder next week for a discussion of  
6 the preliminary -- this matrix. And Commissioner  
7 Zuniga and I can certainly finish it between now and  
8 then and present it for discussion next week. And  
9 then plan to have those criteria in these regs. I  
10 think that's doable. And then move on from there  
11 with other things.

12                   CHAIRMAN CROSBY: That makes sense to  
13 me. This is always subject to change. If for some  
14 reason or other we feel like we can't make it then  
15 we can't make it, but I agree with you. We clearly  
16 want to give the bidders as much heads-up as we  
17 possibly can, first on the criteria and second on  
18 the way we will analyze and weigh those criteria.

19                   COMMISSIONER MCHUGH: Right.

20                   CHAIRMAN CROSBY: And it would be  
21 ideal to get as much of it as possible in the regs.  
22 So, let's at least set out, as you're saying, let's  
23 at least see if we can get the criteria into the regs.  
24 and if can follow that with the evaluation process





1 and weighting.

2 COMMISSIONER MCHUGH: Right, right.

3 CHAIRMAN CROSBY: That make sense to  
4 me. Okay. Good.

5 COMMISSIONER MCHUGH: Can I say one  
6 other thing about the master schedule and hopefully  
7 in two weeks we'll have this resolved. Because in  
8 the regulation writing process, we have focused --  
9 Attorney Grossman has focused and I have discussed  
10 it with him. -- how we are going to deal with  
11 involuntary surrounding communities or involuntary  
12 surrounding community issues.

13 Remember that in our statute, a  
14 surrounding community is a community that has  
15 reached an agreement with a developer to be a  
16 surrounding community -- with an applicant to be a  
17 surrounding community.

18 But there is also in the statute a  
19 provision for petitioning us to be a surrounding  
20 community if negotiations have failed and not  
21 resulted in the voluntary process. The question  
22 arises as we drill down into the detail, how do we  
23 deal with those applications. Because once we make  
24 the designation of a surrounding community, the



1 surrounding community and the applicant then have  
2 a 30-day period within which -- It's that right  
3 there, Mr. Chairman, that area right there. -- then  
4 have a 30-day period within which to negotiate an  
5 agreement failing which we have to have in place some  
6 protocols for bringing them to either agreement or  
7 an imposed protocol.

8                   So, we need to give a deference to that  
9 but we don't to want to string out the process unduly  
10 to take account of that.

11                   So, we've got some ideas as to how we  
12 can do that. We want to think those through. And  
13 in two weeks, I anticipate that we will be able to  
14 put something out after consultation with John  
15 Ziemba and working things through, getting some  
16 thoughts with Attorney Grossman, and have a plan to  
17 propose to you in a couple weeks.

18                   CHAIRMAN CROSBY: Okay. That's  
19 great. I've mentioned, as we've all mentioned many  
20 times, there are a number of things in here that are  
21 not within our control.

22                   COMMISSIONER MCHUGH: Right.

23                   CHAIRMAN CROSBY: We can sort of make  
24 our best judgments, but part of the incentive for



1 the developer to make sure that there are deals done,  
2 agreements signed with all of the surrounding  
3 communities is so they don't delayed by this  
4 process.

5 COMMISSIONER MCHUGH: Right.

6 CHAIRMAN CROSBY: So, that's great.  
7 Anything else in that topic? So, you said 3/14 we  
8 are going to see whether we can have our first --  
9 next week, our first round of conversations on the  
10 criteria.

11 COMMISSIONER MCHUGH: On the  
12 evaluation criteria, yes.

13 COMMISSIONER ZUNIGA: I have one more  
14 thing, Mr. Chair. You had asked me to take the lead  
15 on articulating the type of advisors that we will  
16 need for the evaluation, which comes certainly after  
17 we receive those proposals, the applications.

18 I've made some inroads and some  
19 research. And Commissioner McHugh and I agree that  
20 the first order of business is really fine-tuning  
21 and finalizing the criteria after which advisers  
22 would flow.

23 CHAIRMAN CROSBY: I sort of think of  
24 that as part of the process, what would be the



1 process, but I agree with that. Clearly, criteria  
2 is step one, no question about it. Okay, great.

3           The only other thing is you want to  
4 scroll down to the hires. We are talking about our  
5 Executive Director today. Workforce Development  
6 and Diversity, we can get an update from  
7 Commissioner Stebbins. That process is now  
8 underway, right?

9           COMMISSIONER STEBBINS: Yes, it is.  
10 We are doing our first round of interviews with  
11 candidates. We have about 16 to 17 candidates out  
12 of our pool who we thought had interesting resumes  
13 we wanted to have initial interviews with.

14           CHAIRMAN CROSBY: Great. So, that's  
15 targeted for April 10. So, we should be well in  
16 place for that one. We also are in the process now  
17 of soliciting resumes for Director of Research and  
18 Problem Gambling.

19           COMMISSIONER ZUNIGA: We need to  
20 update that.

21           CHAIRMAN CROSBY: So, we need to get  
22 that on there with that amendment. And that will  
23 be done within a month or so.

24           And then the third one, and this is now





1 in our packets, is the Director of Licensing. We  
2 have the Director of Licensing here being hired --  
3 what is that, June 3? I think we felt, Commissioner  
4 Cameron and I felt that we could probably do sooner  
5 the better on that.

6                   So, we have the draft job description  
7 for the Director of Licensing in your packets, which  
8 we would like to get approve or modified and approved  
9 and start this process rolling. Did anybody have  
10 a chance to have comments on the Director of  
11 Licensing?

12                   COMMISSIONER CAMERON: Mr. Chair, I  
13 did not receive any, but I didn't get this out until  
14 late yesterday and we did not modify it again this  
15 morning. But yes, I would welcome comments and we  
16 are prepared to move ahead with this.

17                   We do think it's an important position.  
18 It really does go hand-in-hand with investigations.  
19 And it would be important to get a licensing system  
20 in place so we are prepared to license as soon as  
21 we are able to. So, this is a critical position and  
22 probably our last critical hire as far as a director  
23 position.

24                   CHAIRMAN CROSBY: Right. And if we



1 are going to have a slots decision on September 1,  
2 then we need to have the process up and ready to go.

3 COMMISSIONER CAMERON: Yes, correct.

4 CHAIRMAN CROSBY: Because we will  
5 start having to license contractors, etc. September  
6 2. So, I think moving that up is all to the good.  
7 So, let's move that up a little bit.

8 I have a couple of thoughts. There's  
9 two kinds of licensing in my view. One is licensing  
10 the initial gaming facilities. And then two is  
11 everything else. We are not really looking to this  
12 director to be in charge of the licensing of the  
13 facilities. That's sort of what we are doing now.  
14 That person can play a role in that when they get  
15 here.

16 COMMISSIONER CAMERON: The processing  
17 piece, yes. The decision will be made by all of us,  
18 of course, but then the actual processing of the  
19 license.

20 CHAIRMAN CROSBY: Okay. This sort of  
21 implies the way this is written --

22 COMMISSIONER CAMERON: Where are you  
23 looking, Mr. Chair?

24 CHAIRMAN CROSBY: Duty number two,



1    tasked with responsibility for receipt, review,  
2    control, security and follow up for licensing and  
3    registration including applications for gaming  
4    applicants under section eight, and qualifications  
5    of officers, directors and other natural persons.  
6    That is well underway. That's really falling under  
7    the IEB at this point.

8                    COMMISSIONER CAMERON: The  
9    investigation piece is, correct.

10                   CHAIRMAN CROSBY: It's not that big a  
11   deal but --

12                   COMMISSIONER MCHUGH: Well, I beg to  
13   differ a little bit. It's not that big a deal, but  
14   it ties back into definition of functions, which  
15   then ties back -- Everything ties back into  
16   everything else -- at some point, breaking out an  
17   organization chart and seeing really where things  
18   flow.

19                    But for the moment, that was the one  
20   part that I didn't understand entirely, because the  
21   IEB is basically looking at qualifications and doing  
22   the investigations. So, where is it that the line  
23   of responsibility between the IEB and the Director  
24   of Licensing kicks in, at least insofar as the



1 casinos are concerned?

2 CHAIRMAN CROSBY: Is the point I was  
3 making.

4 COMMISSIONER MCHUGH: Yes, is the  
5 point you were making.

6 COMMISSIONER CAMERON: So, you think  
7 it's a little misleading the way it reads?

8 CHAIRMAN CROSBY: Just to make it  
9 clear, and Commissioner McHugh is right, it's worth  
10 being clear, the first bullet point is really not  
11 the same as the others.

12 For all of the others, they will, the  
13 licensing person and their department, will be  
14 responsible for receipt, review, control, security  
15 and follow up for all of the applications that we  
16 have to grant licenses.

17 For the applications, the license  
18 applications that are going on now for the initial  
19 bidders, the IEB is doing all of that. And the  
20 licensing person will have whatever to do with it,  
21 but it will be sort of incidental once he or she comes  
22 on board.

23 COMMISSIONER CAMERON: Well, I --

24 CHAIRMAN CROSBY: Let me just finish





1 up.

2 COMMISSIONER CAMERON: Sure.

3 CHAIRMAN CROSBY: For everything  
4 else, all of the other licenses once we've awarded  
5 the licenses and all of the other licensing begins,  
6 then I would say all of those completely apply all  
7 of that would come under. And the roles would  
8 change, because the licensing person will receive,  
9 control, secure the applications, shovel them to the  
10 IEB where investigations are necessary, get the  
11 results back and process them. So, that's the way  
12 I see it working.

13 COMMISSIONER CAMERON: And I think you  
14 are correct about that other than I really do like  
15 a checks and balance. Reviewing those applications  
16 for -- not the initial application but all of the  
17 investigative work that's done, and just making sure  
18 everything is in the order in which it's going to  
19 be needed for licensing. Bringing in someone with  
20 real licensing background that understands all of  
21 those steps I see it as a really connected, the two  
22 directors will be very much working hand-in-hand.

23 CHAIRMAN CROSBY: On the bidders?

24 COMMISSIONER CAMERON: Well, on every



1 license that we do. I really like the idea of a  
2 Director of Licensing who has experience, if we're  
3 able to do that, looking at everything that's been  
4 done investigations wise. Just almost like a  
5 review process for all of the work that's been done  
6 to date, another set of eyes.

7                   Maybe this is the way it reads, but I  
8 thought it was really important to have the  
9 licensing person on deck, the director, in order to  
10 just kind of that final assurance for the Commission  
11 that everything is in order, every last piece of the  
12 investigation and anything else that would be needed  
13 to properly license.

14                   CHAIRMAN CROSBY: To license?

15                   COMMISSIONER CAMERON: Yes. I  
16 understand your point that everything has been done  
17 now. The application is being reviewed. Those  
18 investigations are underway. But I just again  
19 thinking of what those responsibilities are, I've  
20 had really in-depth conversations about the  
21 licensing responsibilities, because I wanted to  
22 learn more about it, with those that have done it  
23 in other jurisdictions.

24                   It really is a process that works



1 hand-in-hand with the investigations. Typically,  
2 now of course we don't have a Licensing Director yet,  
3 but typically that work would be done, all of that  
4 review work -- For example, we are using IEB to do  
5 that review process for an initial application now.  
6 Typically, if for example we end up licensing  
7 someone later on for whatever reason, that work  
8 would be done, that initial work would be done by  
9 the licensing division. And that's how it works  
10 well in other jurisdictions.

11 But because of our startup nature and  
12 the fact that we are moving this process along and  
13 hiring staff as we can, that initial work has fallen  
14 to the IEB. Typically, in other jurisdictions that  
15 is not the function of IEB to do that initial review  
16 of an application for completeness.

17 COMMISSIONER ZUNIGA: In other words,  
18 the administrative --

19 COMMISSIONER CAMERON: -- review.

20 COMMISSIONER ZUNIGA: -- compliance,  
21 the desk review, not the enforcement and  
22 investigation but the administrative, shall we call  
23 it, review.

24 COMMISSIONER CAMERON: It would be



1 done by the license -- That initial work would be  
2 done by the licensing division. And then a  
3 completed application is sent for investigation.

4 But because we are not set up that way  
5 yet we have been trained by licensing experts on how  
6 to do this initial review of an application and make  
7 sure we get the additional materials that we need.

8 So, if that's helpful at all Mr. Chair,  
9 that's typically how this would happen. It would  
10 be an initial review.

11 CHAIRMAN CROSBY: I don't disagree  
12 with that, but it isn't the way it's working. We  
13 don't happen to have the licensing person here.

14 COMMISSIONER CAMERON: But that would  
15 be their responsibility.

16 CHAIRMAN CROSBY: If they were here,  
17 but they are not going to come in -- The only role  
18 for both IEB and the the licensing people in the  
19 initial licensing of facilities is in Phase I, the  
20 background checks.

21 The second, Phase II has got nothing to  
22 do with the IEB and the licensing people or little  
23 to do with them. It's going to be ultimately with  
24 us looking at all of these other criteria. And the





1 background checks will be essentially done by the  
2 time this person --

3 COMMISSIONER CAMERON: The review of  
4 -- We are going to lay out criteria. And that  
5 review to make sure it's been submitted properly  
6 would be a licensing function.

7 COMMISSIONER MCHUGH: Can I just say,  
8 in an ideal world that may be the way it works. I  
9 haven't been through this before, none of us has.  
10 Maybe that's the way it would work.

11 But it seems to me, let's assume we  
12 advance that hiring date by two months. So, we get  
13 the licensing person at the end of April. And we're  
14 trying to advance the slots license issuance by the  
15 end of -- by the beginning of September. There has  
16 got to be a robust licensing scheme in place by then  
17 to deal with the people who are going to be applying  
18 for licenses, operators' licenses, construction  
19 licenses, supplier licenses. There's a huge amount  
20 of infrastructure that has got to be built between  
21 the end of April and September when we award the  
22 license.

23 It seems to me that this licensing  
24 director -- And it also seems to me that the



1     transitioning from the Phase I to the Phase II piece  
2     of the application is itself an enormous amount of  
3     work for which we are in the process of assembling  
4     an evaluation team of outside professionals to help  
5     us get a handle on it.

6                     And it seems to me that we ought to be  
7     clear in our own minds at the outset that this  
8     Licensing Director really can perform the best  
9     service to the Commission at this stage, given where  
10    we are, by coming in and focusing immediately on  
11    creating the licensing infrastructure that is going  
12    to be necessary to deal with the construction,  
13    maintenance, supply and then ultimately operating  
14    people going forward. And not be burdened by having  
15    to deal with something that we've already got a  
16    structure in place to deal with.

17                    So, I would echo the Chairman's concern  
18    about that though if down the road we, because of  
19    one reason or another, have to issue another casino  
20    license after this is all in place, the Licensing  
21    Director would play a different role.

22                    COMMISSIONER CAMERON: What this  
23    really indicates is our research of best practices  
24    in gaming and how all of these directors would



1 interact with one another. So, that's what this  
2 reflects.

3 I do hear you and understand that  
4 that's not how we're operating right now. I'm happy  
5 to make a change if you think this is unclear in what  
6 we are doing right now.

7 CHAIRMAN CROSBY: Okay. I think we  
8 can work this out when we are talking to people. But  
9 I think for purposes of clarity -- And I could take  
10 a shot at giving you a suggestion on how I would redo  
11 that. But I think with that amendment, I think  
12 we're all on the same page.

13 I think Commissioner McHugh said  
14 exactly what I was trying to say well.

15 The only other thing, and I'm not sure  
16 how I feel about this, under minimum qualifications,  
17 I know we've gone through this before, bachelor's  
18 degree required means that we couldn't consider  
19 somebody who didn't have one. And I don't know  
20 whether we really want to do that.

21 I can imagine somebody who has come up  
22 through the tribal gaming world who might not have  
23 a college degree. It might be a community college.  
24 Bill Gates doesn't have a college degree. There are



1 exceptional people who don't happen to. So, I just  
2 throw that out.

3                   It's not a bar to me, but I'd hate to  
4 find a great candidate who is kind of an on-the-job  
5 training type person. And in this world you could  
6 sort of imagine such a thing would happen -- that  
7 we couldn't consider. We had to do the process over  
8 again because we used a verb form which is too strict.

9                   COMMISSIONER ZUNIGA: Mr. Chair,  
10 perhaps as a way to address that particular instance  
11 which we've done in other job descriptions, A and  
12 B could be combined, in other words, to read a  
13 bachelor's degree or equivalent professional  
14 experience.

15                   CHAIRMAN CROSBY: We've used that.  
16 I've seen that before. For my money, I prefer that.

17                   COMMISSIONER ZUNIGA: And it will be  
18 up to the hiring manager to ascertain what level of  
19 equivalency of professional experience.

20                   COMMISSIONER CAMERON: My experience  
21 with reviewing resumes is people submit whether or  
22 not they have it or not.

23                   CHAIRMAN CROSBY: But we can't  
24 consider it.





1                   COMMISSIONER CAMERON: I believe we  
2 had one of our director positions where we haven't  
3 required it, I don't think so.

4                   CHAIRMAN CROSBY: I think we put -- I  
5 don't know. I'm not sure. I can't remember.

6                   COMMISSIONER CAMERON: That would be  
7 fine. I don't have any problem with that looking  
8 at additional --

9                   COMMISSIONER ZUNIGA: I have only one  
10 very small addition, but that's now the subject of  
11 most of our job descriptions to just clarify that  
12 all candidates will go through a background check,  
13 which includes financial background.

14                   COMMISSIONER STEBBINS: That's in  
15 here.

16                   COMMISSIONER CAMERON: I think we have  
17 it pretty clearly spelled out.

18                   COMMISSIONER ZUNIGA: Oh, I didn't see  
19 it at the end. I'm sorry.

20                   CHAIRMAN CROSBY: Yes.

21                   COMMISSIONER CAMERON: I'll make that  
22 change, Mr. Chair.

23                   CHAIRMAN CROSBY: Okay, great. Okay.  
24 Anything else under master schedule or sort of



1 general administration?

2 COMMISSIONER STEBBINS: Did we need a  
3 motion to approve that posting with the appropriate  
4 changes?

5 CHAIRMAN CROSBY: I don't remember.

6 COMMISSIONER MCHUGH: We haven't done  
7 it in the past.

8 CHAIRMAN CROSBY: What we should do I  
9 think is agree to make Commissioner Cameron the  
10 hiring manager. I think we will continue our  
11 process of designating a single Commissioner to take  
12 the lead here, rather than setting up a  
13 subcommittee. My recommendation would be that this  
14 one be Commissioner Cameron as the IEB was. If  
15 everybody's okay with that, let's just go with that.

16 COMMISSIONER ZUNIGA: I agree.

17 COMMISSIONER MCHUGH: Yes.

18 CHAIRMAN CROSBY: So, we'll make a  
19 couple of edits and get this posted and get moving  
20 ASAP. Great.

21 MS. GLOVSKY: Mr. Chairman, we are  
22 using a loaner computer today. Is it all right if  
23 I shut the master schedule down?

24 CHAIRMAN CROSBY: Yes, we're all set.



1 MS. GLOVSKY: Thank you.

2 CHAIRMAN CROSBY: Thank you, Mr.  
3 Loaner from the loanee.

4 I think that is everything. Anything  
5 else, Commissioner Zuniga? Director Glovsky,  
6 anything else?

7 Okay. We are going to 3B, which is the  
8 interview with the Executive Director candidate.  
9 Why don't we have a quick break while we find that  
10 candidate and bring him in. And we will convene  
11 again in five minutes or three minutes and get  
12 started.

13

14 (A recess was taken)

15

16 CHAIRMAN CROSBY: We are ready to  
17 reconvene public meeting number 51. Before we pass  
18 the ball over on agenda item 3B, interview with our  
19 Executive Director candidate, I just want to take  
20 time to go back over the process a little bit.

21 This is our most important hire, maybe  
22 the most important hire this Commission will ever  
23 make. It's important that we stick with the process  
24 that we decided to and that we remember what the



1 process is. We try to be and are trying to be as  
2 transparent about this whole process as we possibly  
3 can, given other considerations of personal  
4 privacy, confidentiality and so forth.

5                   The Commission started 10 months ago,  
6 a little over 10 months ago. We spent the first four  
7 months or so kind of getting ourselves organized and  
8 hiring a search firm, JuriStaff, to do the ED search  
9 for us.

10                   And then in our meeting on August 7,  
11 2012, which to the day six months ago we started the  
12 search process. And at that point, we talked about  
13 what kind of a search process we would use. All of  
14 you and everybody in the public is familiar with the  
15 open meeting constraints that are part of our  
16 process. So, we talked about a couple of different  
17 ways we could go. And just for the record, I want  
18 to read through some of the minutes from August 7,  
19 six months ago, as we talked about the ED process.

20                   Commissioner Stebbins stated that the  
21 Commission should have a further discussion on the  
22 two search and interview scenarios. Commissioner  
23 McHugh stated that the two scenarios are in the  
24 Commissioners' meeting packet. Under the first





1 scenario, a single Commissioner would work with  
2 JuriStaff and conduct the screening process. Under  
3 the second option, a subcommittee would conduct the  
4 screening.

5 Under the single Commissioner  
6 screening approach, all materials would be  
7 submitted by the applicant to the single  
8 Commissioner. The Commissioner would select the  
9 finalists and the finalists would appear at a public  
10 meeting with the Commission after there had been a  
11 background investigation and drug screening.

12 One clarification I wanted to make.  
13 We decided that "finalists" (putting the word in  
14 quotes), one would become a finalist after (A) they  
15 completed the background check and (B) agreed to  
16 take the job if offered. We decided not to call  
17 people in to be a finalist to have interviews without  
18 telling us that they're prepared to take the job if  
19 it were offered.

20 Then our minutes go on to say that the  
21 materials submitted by those who were not finalists  
22 would remain confidential as part of their personnel  
23 file. And there would be no record of the  
24 interviews the single Commissioner held with those



1 applicants.

2                   The interviews between the finalists  
3 and the Commission would be public. Other than the  
4 candidate's resume, the materials used in the final  
5 interview would not be public documents.

6                   Chairman Crosby asked if JuriStaff had  
7 a preferred method as between these two, a search  
8 committee and the single commissioner, for  
9 conducting the interviews. Commissioner Stebbins  
10 stated that JuriStaff's main concern is for the  
11 Commission to choose a process that will enable them  
12 to ensure applicants that the content of interviews  
13 and materials they submit are confidential, unless  
14 and until they become finalists.

15                   Commissioner Cameron stated that  
16 having someone in the room taking minutes during an  
17 interview changes the dynamic of the interview.  
18 And that would have been required under the search  
19 committee process. She stated that she is very  
20 comfortable with one Commissioner moving forward  
21 with this process.

22                   Chairman Crosby stated the Commission  
23 could move forward with the single Commissioner  
24 process. And if the designated Commissioner



1 determines the process is not working, a  
2 subcommittee model could be utilized.

3           The Commission decided to move forward  
4 with one Commissioner conducting the initial  
5 interviews and selected to Commissioner Stebbins to  
6 carry out that screening, what we refer to as the  
7 hiring manager.

8           Commissioner McHugh stated that he did  
9 not agree with the single Commissioner approach to  
10 screening, but understanding the Commission's  
11 contrary view, agreed that Commissioner Stebbins is  
12 an excellent choice to carry out the screening  
13 process.

14           So, we thought through the options and  
15 made a conscious decision to go with a single  
16 Commissioner taking the load on this. It's the  
17 model we have used in most of our other senior hires.  
18 I think it's a good model.

19           It does the best we can to protect the  
20 confidentiality of candidates and thereby maximize  
21 the size of our pool that we get by being able to  
22 protect the confidentiality. And Commissioner  
23 Stebbins working hand-in-glove with JuriStaff over  
24 the course of last 180 days has worked on that



1 process rigorously and has managed the entire  
2 recruitment and review and assessment process.

3                   Having said that the Commissioner  
4 Stebbins, would you like to --

5                   COMMISSIONER MCHUGH: Can I just -- I  
6 hate to interrupt, but we've used that in all of our  
7 other hirings, Mr. Chair. And we have now a  
8 handbook that has been promulgated and published  
9 that governs all of our hiring and other conditions  
10 of employment and the like. And it has provisions  
11 in it for a hiring manager in each case in which we  
12 make a hire as well.

13                   So, this is part and parcel of a  
14 standard practice that we announced at the outset  
15 and have been faithful to ever since.

16                   CHAIRMAN CROSBY: Right. And we use  
17 finalists in two different ways and we shouldn't.  
18 But colloquially people think about finalists as we  
19 were starting to get to the end of the game.

20                   But we have a very formal meaning of  
21 what is a finalist. And a finalist in our formal  
22 process, as I said, is when a candidate has gone  
23 through the vetting process by the hiring manager,  
24 has passed all of the background check criteria and





1 has told us that they would accept the position if  
2 offered. That defines finalist in our formal  
3 process.

4                   Okay. Anything else on that?  
5 Commission Stebbins, how would you like to take it  
6 from here?

7                   COMMISSIONER STEBBINS: Sure. Let me  
8 -- I'll just provides some background as to the  
9 search that I conducted over the past, conveniently  
10 enough, on the six-month anniversary with our  
11 friends from JuriStaff.

12                   Because we clearly stated our goal of  
13 finding an individual with gaming commission  
14 experience, we knew immediately we'd be recruiting  
15 a candidate from outside the Commonwealth of  
16 Massachusetts. As much as we knew that this was an  
17 incredible opportunity for an executive with gaming  
18 commission experience, we also knew that we had to  
19 somewhat assume a salesman mentality in that we had  
20 to impress upon the candidate the benefits of  
21 assuming this position, and actually what a great  
22 state Massachusetts is to live in, despite  
23 tomorrow's weather projections.

24                   JuriStaff commenced an aggressive and



1 what I thought was a thorough outreach to leaders  
2 in the gaming industry and approached approximately  
3 100 individuals who either had gaming commission  
4 experience, leaders currently employed at gaming  
5 commissions, candidates with industry experience,  
6 those interested in the position or individuals who  
7 would be a solid source of referral for candidates.

8                   And as this process began, we were  
9 quickly reminded that we had two challenges in our  
10 recruitment effort. We expected when it came to  
11 recruiting candidates we would be finding, again,  
12 someone who would have to consider relocation.  
13 Several candidates we approached were interested in  
14 the position, but not willing to take the step of  
15 uprooting their family to locate.

16                   Twenty-one prospects were contacted  
17 and invited to be considered for the position, but  
18 for various reasons could not consider the position  
19 because of relocation. In fact, all of the initial  
20 interviews I did with candidates that was in my first  
21 round of questioning whether they had considered the  
22 possibility and had actually talked about it with  
23 their family.

24                   In addition we informed candidates of,



1 as Mr. Chairman you mentioned, the public nature of  
2 this process including this final public interview.  
3 We were asked on a couple of occasions whether the  
4 Commission would reconsider the final public  
5 interview step, because a candidate who was  
6 currently employed would not wish to participate in  
7 a public interview. I was steadfast in reminding  
8 candidates of the Commission's commitment to this  
9 public step throughout the interview process.

10               During the course of identifying  
11 candidates who could become suitable finalists for  
12 the Commission to consider, I assessed and reviewed  
13 over 21 candidates that were presented to me from  
14 JuriStaff. We also, by the way, received a handful  
15 of resumes and cover letters from our official  
16 posting as well.

17               Of the 21 candidates presented by  
18 JuriStaff, I personally spoke with 17 candidates via  
19 conference calls. These candidates were rich in  
20 background in gaming commission experience, some  
21 with industry experience, currently employed,  
22 previously employed, members of the commission,  
23 actual commission staff, constituted the group of  
24 candidates I spoke to.



1                   I also conducted multiple reference  
2 calls for candidates I felt would also be  
3 well-positioned to be identified as finalists.  
4 Some of these candidates, as you know, were invited  
5 to Boston to meet with us, meet me in-person. And  
6 fortunately that didn't scare too many out of  
7 consideration.

8                   CHAIRMAN CROSBY: You could have  
9 skipped that step.

10                  COMMISSIONER STEBBINS: I know. And  
11 also have time to introduce themselves to you and  
12 to our staff, which every time we had a candidate  
13 come in, it seemed to be more and more people that  
14 they'd have to visit with.

15                  As stated in the guidelines for  
16 conducting our search, I was not at liberty to  
17 discuss individual candidates with each of you, but  
18 was allowed to receive feedback from our senior  
19 staff as to their impressions.

20                  I narrowed down our list of prospective  
21 candidates and decided to invite two of those  
22 candidates to be finalists after completion of a  
23 background check.

24                  I will mention that a second finalist





1 decided to decline our invitation to be a finalist  
2 at this time. Jennifer Reske who's the Deputy  
3 Director at the Indiana Gaming Commission  
4 appreciated our invitation, but for family reasons  
5 could not relocate to Massachusetts at this time.  
6 Jennifer forwarded me a letter. I'll just mention  
7 some of her thoughts.

8                   Dear Commissioners, It's been an honor  
9 to participate as a candidate in the Executive  
10 Director selection process. I am regretfully not  
11 in the position to serve as a finalist. A series  
12 of events transpiring since I began this process has  
13 led me to conclude it's not feasible at this point  
14 in time to relocate.

15                   It's really a pleasure to meet each of  
16 you. I have immense respect for the wealth of  
17 talent, experience you bring to the regulation of  
18 gaming. And I believe Massachusetts will benefit  
19 greatly from your dedication in ensuring  
20 transparency, thoughtful deliberation in the strict  
21 but fair regulation of the gaming industry.

22                   I am pleased, however, to report and  
23 present for your consideration our finalist  
24 candidate, Mr. Rick Day from the State of



1 Washington. From the outset, being introduced to  
2 Mr. Day, I was immediately impressed with his years  
3 of service with the Washington State Gaming  
4 Commission, the second oldest gaming commission in  
5 the country coming up on approximately 40 years.

6 CHAIRMAN CROSBY: Not all him.

7 COMMISSIONER STEBBINS: Not all him,  
8 correct. As well as his experience in law  
9 enforcement. As you can see from his resume, which  
10 was included in your packet, he has tremendous  
11 experience running an agency that is commensurate  
12 in size with respect to the number of employees we  
13 expect to employ.

14 And I was impressed with the experience  
15 he had of managing and organizing a new agency as  
16 he had undertake in Montana. Additionally, his  
17 work on the subject of Internet gaming was also a  
18 highlight as we collectively know that this issue  
19 will be front and center in the national policy basis  
20 as we move forward.

21 In talking to Mr. Day's references, I  
22 was impressed that one, I had an opportunity to talk  
23 with Mr. Day's current chairman as well as contacts  
24 from his work experience in Montana. References I



1 spoke to stressed his strong management skills,  
2 willingness to have employees feel part of a team,  
3 contribute their ideas and suggestions was a  
4 positive, especially as we move forward with the  
5 recruitment of new employees.

6           He has also worked successfully with a  
7 diverse nine-member board. That includes both  
8 regular and ex-officio members. One of his  
9 colleagues in Washington State highlighted his  
10 hands-on on-site visit to the State's 27 tribal  
11 casinos around the State.

12           Additionally, through relationships  
13 that we the Commission have established in our short  
14 existence, I invited additional viewpoints and  
15 references as to Mr. Day's work performance and  
16 experience. I'm happy to say that that feedback has  
17 also been overwhelmingly positive.

18           Mr. Chair, my colleagues, I am pleased  
19 to present Rick Day to you, invite him to offer some  
20 opening comments before we have some questions of  
21 our own.

22           MR. DAY: Thank you, Commissioner  
23 Stebbins for the kind information and introduction.  
24 I appreciate it. And good afternoon, Chairman



1 Crosby and members of the Commission, the  
2 Massachusetts Gaming Commission. And thank you for  
3 this opportunity, except for tomorrow's weather.

4           My name is Rick Day and I'm the Director  
5 of the Washington State Gambling Commission. Our  
6 decision to seek the Massachusetts Executive  
7 Director position was difficult as I am fortunate  
8 to be part of a successful agency, have a great staff  
9 and support the commissioners and a beautiful place  
10 to live. But I refer to our, because my spouse of  
11 35 years, Jan, is critical to all of these decisions  
12 and has been involved in this thought process from  
13 the beginning. And I'm also fortunate to have three  
14 grown children and four grandchildren on the western  
15 side of the country.

16           I believe you have my resume, as  
17 Commissioner Stebbins pointed out. Essentially, I  
18 started as a local law-enforcement officer in 1975,  
19 served 23 years for the State of Montana in several  
20 positions and 11 years for the Washington State  
21 Gambling Commission. I received my bachelor of  
22 science from Montana State University. And then  
23 much later in life, I received, completed my work  
24 on a master's of public administration at the





1 University of Washington.

2 I want to take a minute to congratulate  
3 this Commission as well on the results of the  
4 competitive process for Phase I. And it just, I  
5 think, adds to the excitement about what the future  
6 is and actually this position offers me an  
7 interesting and challenging opportunity to join a  
8 new team and contribute to building a new agency and  
9 a new foundation for a successful gambling industry.

10 So, thank you very much again for this  
11 opportunity. I'm very excited about taking  
12 questions and turn it back to the Chairman.

13 CHAIRMAN CROSBY: Thank you and  
14 welcome. Commissioners, fire away.

15 COMMISSIONER CAMERON: Mr. Day, I,  
16 frankly, am very impressed with your resume, your  
17 background in investigations, law enforcement,  
18 public safety. I think much of what we do here as  
19 an aspect of public safety.

20 And as you are probably aware, we are  
21 really starting our background investigations at  
22 this point. We are using a combination of  
23 experienced investigators who are contracted by us  
24 and our State Police members who are experienced



1 investigators but have not had the experience of  
2 gaming investigations.

3 I'm assuming that you've had -- I know  
4 about your extensive experience in public safety.  
5 And I assume that you have that same experience with  
6 gaming investigations. Could you tell me a little  
7 bit about your expertise with gaming  
8 investigations?

9 MR. DAY: Commissioner Cameron, I  
10 would be glad to do my best to expound in that area.  
11 The Washington State Gambling Commission and our  
12 process -- as a matter of fact, a lot of even the  
13 organization of the commission is very similar to  
14 Massachusetts Gaming Commission in its  
15 recommendations to move forward.

16 We in that process do investigate each  
17 applicant. As a matter of fact, I agree with you  
18 on the public safety side in particular. One of the  
19 reasons is is because that process does provide the  
20 entrance into the gaming system. And it's absolute  
21 critical to make sure that the licensing process  
22 goes far enough to make sure that those individuals  
23 are qualified.

24 In Washington even it's if that



1 determination is made, the commissioners aren't  
2 allowed to limit that decision. So, it's even as,  
3 I think, relevant as it is here. We, in that  
4 process, investigate approximately 3500 different  
5 organizations. And we also do a background and  
6 financing, for instance, with the tribal  
7 governments in case they actually seek outside  
8 financing relative to the licenses in the  
9 establishments they create.

10 We then as well put that entire process  
11 through an investigation, which includes tracing  
12 funds. We send our agents internationally, if  
13 necessary, to make sure we can follow those funds  
14 and the records and identify the people that are  
15 involved in each one of those license applications.  
16 And it's not just with the larger tribal casinos,  
17 we actually complete that process with the smaller  
18 businesses in the State of Washington.

19 CHAIRMAN CROSBY: Smaller businesses  
20 meaning?

21 MR. DAY: Meaning nontribal would be  
22 house-banked card rooms. In Washington,  
23 informally a lot of people call them mini casinos,  
24 but from the gambling regulatory side, we call them



1 house-banked card rooms.

2 CHAIRMAN CROSBY: House paint card  
3 rooms?

4 MR. DAY: Banked, banked, blackjack,  
5 blackjack and other card games that the house is  
6 involved or funds.

7 COMMISSIONER CAMERON: Thank you.  
8 That's certainly expertise we could use.

9 MR. DAY: Thank you, Commissioner.

10 COMMISSIONER MCHUGH: I had series of  
11 questions, particularly given your long and varied  
12 and successful career in a number of startup  
13 operations.

14 But I wanted to start with the vision  
15 portion of your website, which says that you'll  
16 build positive partnerships and relationships.  
17 There are five or six things there that are part of  
18 the vision of it.

19 Could you help me understand with whom  
20 the relationships are and why is that part of the  
21 vision of the Washington Gambling Commission?

22 MR. DAY: Commissioner McHugh, I will  
23 definitely give that a try. And I might start with  
24 the side of the -- the beginning of the vision





1 statement there as well because it refers to public  
2 confidence.

3 COMMISSIONER MCHUGH: Right.

4 MR. DAY: And that's actually what the  
5 following four or five principles now at this point,  
6 you might have me there, that are referring to. So,  
7 each of the relationships has a lot to do with that.

8 Our ability, of course, with tribal  
9 governments as that's a government entity to have  
10 a relationship where there's mutual respect. Even  
11 with our licensees, the state licensees, we are  
12 going to operate with respect relationship with  
13 them. People are generally in business and they're  
14 there to make a living and do it correctly. The  
15 regulatory atmosphere is there not as a barrier but  
16 as to ensure that continues in that fashion.

17 We also do that with our  
18 law-enforcement agencies. That's also very  
19 important to us. Whatever jurisdiction we operate  
20 with actually multiple tasks forces involved in  
21 joint law-enforcement activities across the State  
22 of Washington.

23 So, it's those relationships that we  
24 are talking about. Not to mention, the public side



1 to try to make sure we reflect those standards, make  
2 sure the industry in Washington is seen as honest  
3 and legal.

4 COMMISSIONER MCHUGH: Do you see a  
5 difference between the regulatory aspect of the  
6 Commission's role, and the law-enforcement aspect  
7 of it? Your commission as this one has both  
8 functions. And is there a difference in those --  
9 in the way one approaches the subjects of either the  
10 regulation or the law-enforcement activity?

11 MR. DAY: Commissioner McHugh, the  
12 short answer to that is yes. But from the other side  
13 of it is a lot of the bulk of the work, which would  
14 be the investigative follow-up, building of cases.  
15 In many case the criminal investigation is -- I'm  
16 sure I don't -- you didn't already know this part,  
17 so I'm just going to hit it real quick, is the  
18 elements of the particular, whether it's a civil  
19 offense or a criminal offense that's what the focus  
20 of investigation is on.

21 The weight of the evidence relative to  
22 the civil side is deemed allegedly not be as  
23 extensive as a reasonable doubt on the criminal  
24 side. But in actual practice, oftentimes there



1 isn't a lot of difference in the two criteria that  
2 are needed.

3                   COMMISSIONER MCHUGH: I ask that  
4 question because I've been struggling as I've been  
5 working in this position with the difference in  
6 emphasis. It's not a difference in kind.

7                   The difference in emphasis between the  
8 law-enforcement piece, which as you've described,  
9 focuses on say the elements of the crime or the  
10 elements of the civil infraction and the  
11 consequences of that. And the regulatory side,  
12 which in many respects seems to be more corrective  
13 and working with the industry and with the public,  
14 define best practices and the like. That is not so  
15 much focused on elements as it is on policy and its  
16 implementation. Is that part of -- That must be  
17 part of what you encountered as the Director of the  
18 Washington Gambling Commission as well, both of  
19 these roles.

20                   MR. DAY: Commissioner McHugh, I think  
21 you point out one of the significant sides. It's  
22 not with gambling, criminal offenses that we don't  
23 also take the time to work with people that may not  
24 be aware that some of those offenses are even a



1 crime.

2 COMMISSIONER MCHUGH: Right.

3 MR. DAY: But generally, and it's one  
4 of our goals and I think it's essential in an  
5 operation of any regulatory environment is to make  
6 sure that you're working with people to promote  
7 compliance, because that's actually from the  
8 regulatory perspective that's essential to being  
9 able get the job done.

10 If you have to tug and push with  
11 everybody all of the way down the line in your  
12 regulatory efforts, it's not going to be good for  
13 either side of the coin.

14 But with the effort of compliance, and  
15 that's not just an effort to me of an agent or  
16 somebody interacting and warning and making sure  
17 people understand, but it also has to do with public  
18 information, contacts, informing, make sure that  
19 those licensee groups and those people that are  
20 operating within the industry and the employees are  
21 aware of what's legal, what's not legal, what  
22 problems we have found and how to correct them. So,  
23 that is one of the major elements of any regulatory  
24 agency and gambling particular because it is so





1 detailed in its operation.

2 COMMISSIONER MCHUGH: On the public  
3 side of that, I was interested to see that in two  
4 years, 2005 and 2011 I think you did a public survey  
5 that you commissioned an outside entity, maybe the  
6 University or somebody to do that -- anyway, a public  
7 survey of a variety of things. Could you explain  
8 why you did that and -- why you did that? I guess  
9 I'll put a question-mark there.

10 MR. DAY: Commissioner McHugh, as a  
11 matter of fact, it was a survey conducted by the  
12 other university in Washington I might add. What  
13 actually happened, it was undertaken at the  
14 direction of the commission. The commission was  
15 holding regular meetings. And what they looked for  
16 is a broader -- wanted to tap a broader view of how  
17 the commission was doing, what might be important  
18 enforcement areas to the commission, those kinds of  
19 things.

20 So, they decided to have the staff  
21 contract with Washington State University and  
22 conduct a survey with a set amount of questions.  
23 Again, the first time they did that was in 2005 and  
24 the second time they followed up in 2011.



1                   It's been a very interesting process.  
2     And it's helped identify areas of particular public  
3     concern. For instance, underage gambling has and  
4     still is an area of concern, I think in many states,  
5     but in Washington.

6                   And we also asked the question about  
7     confidence in the regulatory, the fairness and  
8     honesty of the gambling in the State of Washington.  
9     The percentage that were even in what I'd call  
10    excellent range or the positive range was in the high  
11    seventy percent. So, it did provide some very  
12    beneficial information to the commission.

13                   COMMISSIONER MCHUGH: Is that  
14    something that you would think of doing here? Did  
15    you find that to be a useful thing to do  
16    periodically?

17                   Ed Koch who just recently passed away  
18    was famous for saying how am I doing all the time.  
19    And I wonder if that's a how am I doing that would  
20    be useful from your experience to have on an ongoing  
21    basis?

22                   MR. DAY: The answer to the question  
23    would be yes. Obviously, it has to be in the context  
24    of the Commission and the State of Massachusetts,



1 because it does provide an evaluation, sort of an  
2 evaluation that you don't normally get. That's  
3 always difficult.

4 I know we also do employee surveys.  
5 And it reminds me of don't ask the question if you  
6 don't want the answer. So, you definitely take a  
7 chance when you put forth some kind of survey in that  
8 fashion.

9 It obviously has its weaknesses. It's  
10 a public opinion comparatively of a small group of  
11 people. But it both practically and  
12 philosophically has helped the commission with  
13 making its daily decisions.

14 COMMISSIONER MCHUGH: I want to come  
15 back if I might to the vision statement again. And  
16 another one of those bullet points is that the  
17 commission will anticipate and respond to the  
18 evolving gambling industry.

19 What do you see as the evolution, the  
20 trajectory, if you will, of the gambling industry  
21 in the short-term, I guess? Nobody can predict way  
22 down the road what things are going to look like.  
23 But what do you see as the arc that we're facing now?

24 MR. DAY: Commissioner McHugh,



1 there's several different sides to that question.  
2 And I think the idea of that particular statement  
3 is not to have an agency that sort of stops in its  
4 tracks. And what it has today is then how it does  
5 its job today is how it's going to do it in the  
6 future.

7                   But rather to be prepared to see that  
8 the gambling industry is changing and to review  
9 rules and processes and make sure that we aren't  
10 again back to that barrier. That we're able to  
11 continue to allow the industry to compete fairly and  
12 honestly.

13                   COMMISSIONER MCHUGH: Right.

14                   MR. DAY: So, that's the idea behind  
15 that. An example would be we're in the process, I  
16 think it was the American Gaming Association started  
17 a process of questioning looking for reform in  
18 gambling regulations. So, we are currently in a  
19 process of evaluating our entire rules that we have  
20 on the nontribal side. We're also taking a look at  
21 that on the tribal side.

22                   So, we want to try to determine and  
23 identify, as times have changed, if some of those  
24 rules at this point have outlived their usefulness.





1 Then it will begin a process with the commission and  
2 include also the gambling industry as we move  
3 forward.

4                   The other side of that, which is very  
5 dramatic, is the change in the gambling industry.  
6 And it evolves from just the surveillance, for  
7 instance, used to be all VCR and cover half of the  
8 interior wall of the casinos. It was dramatic.

9                   And now the change has been made to  
10 digital. And that's a moving concept. So, we also  
11 want to make sure we don't rules that say things like  
12 you must have VCR surveillance. That's kind of a  
13 simple side.

14                   Then the last part of that is on the  
15 electronic gambling, gaming machines mostly, but  
16 that's developing far past that. I found the  
17 gambling industry is very creative and challenges  
18 and the competition is always proposing new games,  
19 new information.

20                   So, the electronic side is a very  
21 demanding area. In many cases, where we see those  
22 machines in place probably runs 90 to 92 percent of  
23 the gambling net that comes to those operations.

24                   COMMISSIONER MCHUGH: Thank you. I



1 do have some more questions, but I don't want to  
2 monopolize things. So, maybe if I could come back  
3 and have a second shot.

4 COMMISSIONER ZUNIGA: Thank you, Mr.  
5 Day for being here. As you alluded to in your  
6 opening remarks, the Commission has started this  
7 very important bifurcated process. We completed  
8 our RFA Phase I. We got some great responses.

9 At the same time, we are also writing  
10 regulations. We started the investigations in  
11 earnest. And we're building an organization, of  
12 course, preparing for Phase II, which will be coming  
13 this upcoming calendar year.

14 How would you characterize the  
15 challenges for an executive director and the  
16 Commission on this next year? And how would you go  
17 about prioritizing where the director leads, where  
18 the director supports other ongoing efforts? Just  
19 give us your thoughts on like one-year look ahead,  
20 if you will. If that's not too broad of a question,  
21 and I realize it is.

22 MR. DAY: Commissioner Zuniga, I had  
23 pause because I read through the rather complex  
24 Massachusetts statute and the strategic plan that's



1 available. I guess I'd almost give it sort of a  
2 perception of an iceberg. The top of the iceberg  
3 the Commission is working and moving forward.  
4 Obviously, there can be no gaming if the Commission  
5 doesn't have a process and issue licenses, and get  
6 those done in a timely fashion.

7                   But underneath that process there's  
8 got to be an agency that is ready to provide  
9 investigation and even regulation, which is a  
10 daunting task in itself. And I think it provides  
11 a lot of pause for consideration as to how to move  
12 forward, because it involves, as you might know,  
13 anything from just hiring that amount of staff to  
14 locating qualified, training that kind of staff.  
15 And then in the end, being prepared to license the  
16 number of people that would need to be ready to go  
17 to work in those establishments.

18                   So, I kind of went through in my mind  
19 too is exactly how do you go about that. And I have  
20 no what you would call a failsafe plan. But I think  
21 there are some definite things to look for. From  
22 my perspective itself, this is all about  
23 Massachusetts and the implementation of  
24 Massachusetts law and the effectiveness of the



1 Commission.

2                   So, I think it's important to me if I  
3 were to get this position to make sure that I was  
4 fully informed on everything that's happened up to  
5 this point, which will take a significant effort  
6 myself.

7                   Then the process, I think, is  
8 fortunately you have hired a Deputy Director for  
9 Enforcement, which I think is fantastic. And I look  
10 forward to that. I think that's a significant hire  
11 that will be helping out.

12                   On the other side, there is probably  
13 one area I would like to look at as I move forward  
14 is technology. As we were talking about with  
15 Commissioner McHugh, I think that technology and its  
16 ability to support the operations both inside but  
17 also relative to what might be featured with the  
18 casinos, I think is an essential step and can be very  
19 hard to find someone with that extensive experience.

20                   It can be, obviously, the systems we  
21 use for licensing process and their connection,  
22 which will actually speed our ability to get that  
23 done. All of the way to things a little bit more  
24 on the advance side, which is potential remote





1 surveillance from locations or remote income  
2 reporting from machines, all of which can help to  
3 reduce the number of staff and actually give the  
4 Commission more timely information.

5 CHAIRMAN CROSBY: Another or should we  
6 go back to Commissioner McHugh?

7 COMMISSIONER ZUNIGA: That's fine.

8 CHAIRMAN CROSBY: Go ahead, if you got  
9 -- I am just going to run out for one second. But  
10 why don't you go ahead and I'll be right back.

11 COMMISSIONER MCHUGH: Okay.

12

13 (Chairman Crosby exits meeting room)

14

15 COMMISSIONER MCHUGH: I wanted to  
16 shift gears a little bit and ask you about your  
17 approach to the difficult subject of problem gaming.  
18 Your website mentions it. You obviously devoted  
19 attention to it in Washington. What is your general  
20 philosophy about how the Commission should -- a  
21 commission should approach that subject?

22 MR. DAY: Commissioner McHugh, part of  
23 that answer is statutory requirement. And so, for  
24 Washington State, there isn't really a requirement.



1 It starts as simply as warning signs in  
2 establishments. So, it's the idea to make sure the  
3 gambling public are aware of the hazards and aware  
4 of the help that might be present and to make sure  
5 that's done consistently across the state as best  
6 as we as can.

7           At the same time, we really believe and  
8 have a close association with the Evergreen Council  
9 on Problem Gambling. And we work with them to help  
10 get the message out. So, I guess, I would say it's  
11 not a proactive role. The commission is not out  
12 trying to identify any problem gambling and those  
13 kinds of elements.

14           But we think it's very important for  
15 those members of the public that do have a problem  
16 with gambling that we make sure the information is  
17 there and the ability to move in the right direction.

18           We just started participating in a PSA  
19 announcement with one of the Seattle, Washington  
20 stations that is doing some nonprofit work as well.  
21 And in that, we are featuring a speaker who talks  
22 about underage gambling and its potential  
23 connection to problem gambling later in life. Then  
24 it also carries an enforcement message that it's



1 illegal in the State of Washington and can be  
2 followed with civil penalties.

3                   And we, in that case, it's both being  
4 supported by the Evergreen Council and then the  
5 Washington State Gambling Commission in the  
6 messages that come out. So, we just found that  
7 relationship -- I guess it would go back to the  
8 relationship question we talked about before.  
9 That's been very effective and I think very  
10 important for the system.

11                   COMMISSIONER MCHUGH: One of the  
12 mechanisms that we've seen in other jurisdictions  
13 are the self exclusion processes. Do you have any  
14 views as to the efficacy of those processes? Do  
15 they work? Are they the best that's available?  
16 Can they be supplemented in some way? Any thoughts  
17 on self exclusion and how it works?

18                   MR. DAY: Commissioner McHugh, I think  
19 it's a difficult question. From the evaluation  
20 point, I think it can be dependent on how it's  
21 administered. And I know Washington has had that  
22 debate at times. At least at this point, the state  
23 government does not wish to get into that role.

24                   Each one of the casinos is encouraged



1 to do that and does have a system themselves for self  
2 exclusion. And I guess at this point, I think  
3 that's probably as effective as having a huge state  
4 apparatus to enforce that kind of thing locally and  
5 put another burden and I guess a potential liability  
6 on the state.

7

8 (Chairman Crosby re-enters the meeting  
9 room)

10

11 COMMISSIONER MCHUGH: Washington, of  
12 course, is much bigger than Massachusetts,  
13 geographically. You have 28 casinos including the  
14 tribal casinos in Washington?

15

16 MR. DAY: Twenty-eight tribal  
17 casinos, and then there's about 60 of those mini  
18 casinos that we briefly spoke of. Then about 3500  
19 organizations across the state that have some form  
of gambling license or another.

20

CHAIRMAN CROSBY: 3500?

21

MR. DAY: About 3500.

22

23 COMMISSIONER MCHUGH: So, the sites,  
24 you have a huge number of sites as opposed to what  
we're going to have here in Massachusetts. Is self





1 exclusion something that you would be willing to  
2 think about -- Let me not close it down there.

3                   Are there other forms of approaching  
4 problem gambling that might work in this smaller  
5 geographic community that would be more difficult  
6 to enforce in a population that's as broad as -- a  
7 business population that's as broad as yours in  
8 Washington?

9                   MR. DAY: Commissioner McHugh, I think  
10 what to me, and if I did say that I didn't support  
11 self exclusion that wouldn't be my intended message.  
12 I just know that it is, because I hear quite often  
13 about the difficulties in a person who is self  
14 excluded and then goes down to the next casino, and  
15 how that ultimately works in its effectiveness.

16                   COMMISSIONER MCHUGH: Right.

17                   MR. DAY: But I think you are correct  
18 with a smaller number of establishments that you are  
19 looking at, the exclusion -- lots of times the  
20 exclusion process goes for those that aren't  
21 suitable to be in a casino. Then a similar process  
22 is available for those that have a problem and have  
23 self excluded.

24                   So, it's much easier to enforce in a



1 smaller environment. That doesn't mean that -- but  
2 we can also learn on what's been problematic in  
3 various jurisdictions and refine that as it would  
4 go in effect in Massachusetts.

5 COMMISSIONER MCHUGH: Shifting gears,  
6 you have a beautiful state out there in the  
7 Northwest, which are a great attraction for many  
8 people. We have a beautiful state that is an  
9 attraction here on the East Coast and have a mandate  
10 to create destination locations and to draw on  
11 tourists from out of state in what we are doing.

12 Do you have ideas about the synergy  
13 between the casinos and tourism or other attractions  
14 to enhance the appeal of Massachusetts as a  
15 destination for vacationers?

16 MR. DAY: Mr. McHugh, I would say not  
17 so much at this point. Mostly because that's not  
18 been my forte, I guess I would call it. But I do  
19 know I have watched -- because tribal gambling in  
20 Washington started at virtually zero and no casinos  
21 or one or two very small ones.

22 And they have moved from that position  
23 to approximately \$2.2 billion, I think, in their  
24 share of Washington's gambling. In those cases,



1 they went through a process of many had started in  
2 small casinos. Some of those small casinos  
3 actually were significant temporary structures.

4 Many have expanded now to include  
5 hotels, luxury hotels have consolidated those.  
6 Entertainment venues has been an extensive  
7 selection. As a matter of fact, there's constant  
8 entertainment around the State of Washington with  
9 different themes for each hotel or restaurants.

10 So, I've seen that. As a matter of  
11 fact, some of the larger casinos now actually have  
12 somewhere in the area of between 3000 and 4000  
13 electronic machines in play in different places in  
14 the State.

15 COMMISSIONER MCHUGH: Finally, which  
16 is probably a word you've been looking for, there  
17 has been a steady growth in Washington in gambling  
18 revenues over the last -- since the 90s. Do you  
19 expect that to continue? And is that something  
20 which you would expect to happen generally in the  
21 gaming industry, in the gambling industry?

22 MR. DAY: Believe it or not,  
23 Commissioner McHugh, I have been asked that question  
24 in legislative testimony on occasion. I have to



1 stay with what the figures show, is regardless of  
2 what year it was that I was asked, the trend  
3 continues to be upward.

4           Although they've expanded the 28  
5 casinos -- The 28 casinos have been up with their  
6 entertainment venues. The nontribal locations,  
7 smaller have actually dropped. But the total for  
8 the state has increased.

9           So, that were effects of casinos is  
10 part of that and the electronic gambling that  
11 they're going to offer. So, in summary, I don't see  
12 an end at that point.

13           In Massachusetts, I think what would be  
14 interesting to see in looking at the law as well,  
15 the concept seems to me, I'd have to get more  
16 familiar with it, but it seems to me to be very  
17 creative in that it also brings more significant  
18 local connection, local entertainment and seems to  
19 try to protect and involve the local area  
20 development, which I think actually bodes well for  
21 that part of the process.

22           COMMISSIONER MCHUGH: So, if I  
23 understand you correctly, part of the increase in  
24 the tribal casinos may be attributed to nongaming





1 revenues that were brought about by the hotels and  
2 the other amenities that were part of the casino  
3 establishment, if you well?

4 MR. DAY: Commissioner McHugh, you're  
5 exactly right. I think there's no doubt about it.  
6 I can't provide that kind of testimony in facts  
7 because the numbers I were talking about purely  
8 gaming revenue.

9 COMMISSIONER MCHUGH: Right, right.  
10 I hear you. Okay. Thank you very much, Mr. Day.

11 COMMISSIONER CAMERON: I had another  
12 question, Director Day. As I believe you are aware,  
13 we also have responsibility for racing. The Racing  
14 Commission was disbanded and we, the Gaming  
15 Commission, took responsibility last June for those  
16 responsibilities. We take those seriously.

17 I note that you don't have a racing  
18 responsibility. You haven't had that in your prior  
19 employment. Have you had a chance to think about  
20 that and how both of those important  
21 responsibilities, regulatory responsibilities --  
22 the Executive Director certainly would have overall  
23 responsibility for both functions.

24 MR. DAY: Commissioner Cameron,



1 you're exactly right. I have no direct horseracing  
2 experience. I have though in the State of  
3 Washington, the Governor has directed the three  
4 agencies, the horseracing director, the lottery  
5 director and myself, we participate in a regular  
6 quarterly sessions to review issues, discuss any  
7 potential legislative matters that might be moving  
8 forward and be aware of what each other is doing in  
9 the state, rather than moving totally  
10 independently. So, I am aware to that extent.

11 So, I have very regular discussions and  
12 assist horseracing. If there is illegal gambling  
13 in the State of Washington that might originate from  
14 horseracing, the Commission will still investigate  
15 those issues. So, we have worked with the  
16 Horseracing Commission as well in that capacity.

17 So, I know from fact that horseracing  
18 has a lot more to do about the horses and vets and  
19 the structure around them than it does with the  
20 wagering and the gambling that accompanies it and  
21 funds that process. But I am familiar with it. But  
22 as you pointed out, it's not on my resume.

23 CHAIRMAN CROSBY: You'll be pleased to  
24 know that we have a Director of Racing who is both



1 a veterinarian and a lawyer and knows quite a bit  
2 about this stuff.

3 MR. DAY: That is unique combination.  
4 The Commission is very fortunate.

5 COMMISSIONER MCHUGH: We are indeed.

6 CHAIRMAN CROSBY: We have a mandate  
7 from our legislation to be very proactive in  
8 assuring that the casinos have a diverse workforce  
9 and diverse supplier base. And that is a mandate  
10 that we want to try to implement in our own  
11 operations as well.

12 What's your track record on issues of  
13 diversity?

14 MR. DAY: Chairman Crosby, and I'll  
15 reply that we don't have any responsibility in the  
16 casinos themselves in that way. But in the  
17 commission itself, that's one of our main goals. As  
18 a matter of fact, we have a diversity plan that's  
19 approved, one of the few things that is actually  
20 approved policy wise by the commission.

21 So, our agency is, I think I am kind of  
22 going on memory here, but if I recall correctly, it's  
23 about 54 percent female gender-based. And we have  
24 a substantial amount of diversity involved in our



1 leadership as well.

2                   So, it's an issue we take -- I found  
3 that although staff works very hard at times, it's  
4 important to check those things yourself if they are  
5 particular things that have potential to not move  
6 forward.

7                   So, we do make sure our human resources  
8 people are involved in the interviews and are  
9 looking for that. If there's a diverse applicant  
10 involved and they are not moved forward, I want to  
11 know why. So, we make sure we talk about that and  
12 I am involved in that part of the position. It's  
13 just important, I think, to actually be able to make  
14 sure that goes forward.

15                   CHAIRMAN CROSBY: I liked your  
16 response or the issue to Commissioner Zuniga's kind  
17 of strategic priority. The metaphor of the iceberg  
18 I think is very apt. We are primarily focused on  
19 getting these initial licenses done, and getting the  
20 underlying rules and regs. that will make the  
21 licensing possible, and eventually the regulation  
22 take place. And we are pretty well-equipped to do  
23 that.

24                   But there is this whole operation





1 that's going to have to do all of the rest of the  
2 licensing and do the regulating and the law  
3 enforcement and this, that and the other thing,  
4 about which we know very little.

5                   We have begun to pull in some pretty  
6 strong people. But I do think that's a very apt --  
7 pleased that you see it that way. Because I think  
8 the bifurcation not total at all, but substantial  
9 of the Commission focusing on the initial licenses  
10 with some support from you and your staff. And you  
11 and your staff with some interaction with us, really  
12 focusing on building that infrastructure, which  
13 needs to be in place pretty soon. So, that fits with  
14 my idea of this too, which is a hopeful sign.

15                   Any other questions, Commissioner,  
16 anybody?

17                   COMMISSIONER ZUNIGA: Would you share  
18 with us your personal interest in the prospect of  
19 this job and moving to Massachusetts? What  
20 interested you to this point?

21                   CHAIRMAN CROSBY: Just couldn't wait  
22 for that 24-inch snow storm. I know that's why.

23                   COMMISSIONER MCHUGH: There's snow in  
24 Washington.



1                   MR. DAY: There is on the eastern side  
2 of the state, not too much on the western side of  
3 the state. So, it comes down all in the form of  
4 water for the most part. It is quite extensive over  
5 the years.

6                   More back to the question is when I was  
7 contacted about this particular position and asked  
8 just kind of a, by the way, would you be interested.  
9 And it gave me pause just for a minute because in  
10 that process we discussed the new law and the  
11 complexity of the law and the new commission being  
12 created. It basically interested me.

13                   I've been 11 years actually going on 12  
14 years with the Washington State Gambling  
15 Commission. I feel at this point we've got a solid  
16 staff, great morale, even in the process of becoming  
17 accredited as a law-enforcement agency in the not  
18 too distant future, probably this year some time.  
19 So, I feel real comfortable with the role I played  
20 there and the ability to move on.

21                   So, as kind of discussed that  
22 possibility with my wife Jan. But also thought we  
23 haven't seen much of the Northeast. So, at the same  
24 time it gives us a chance, me professionally to do



1 something that's really remarkable and help create  
2 a brand-new agency and see it successful.

3 On the other hand, we can as well get  
4 acquainted with a new part of the United States and  
5 new people and new organization. So, we decided  
6 we'd give it our best try.

7 CHAIRMAN CROSBY: We left Pete Carroll  
8 behind. You're going to have to leave Pete Carroll  
9 behind.

10 MR. DAY: Already ready to trade my  
11 Mariner hat in. I've been there a lot, but it's just  
12 been tough going.

13 COMMISSIONER MCHUGH: I said finally a  
14 minute ago, but your last response, Mr. Day,  
15 provoked -- because in looking at your resume, you  
16 started the Montana Department of Corrections,  
17 reorganized that. You started the first gaming  
18 enforcement unit, did I read that correctly, in  
19 Montana. You started big important public agencies  
20 in the past.

21 Are there general principles that you  
22 have put -- used repeatedly to derive the success  
23 that you've obviously had in starting up new and  
24 important public agencies?



1                   MR. DAY: Commissioner McHugh, I'd  
2 have to say it's not always the success part but the  
3 experience. I can say that and I do mean this  
4 sincerely as I watch the Commission's process and  
5 its effort to reach out and listen to various  
6 different interests and take some time to make  
7 decisions. That I think to me has been my best  
8 recipe to success in those occasions where I've had  
9 to do that.

10                   As a matter of fact, when we were  
11 reforming the Department of Corrections in Montana  
12 and basically rebuilding it, we held a statewide --  
13 the word I'm looking for -- strategic planning  
14 session, involved law enforcement from all over the  
15 state and corrections personnel, legislators that  
16 were spoken victims.

17                   So, I found that making sure that the  
18 process used includes a lot of people because I know  
19 you are already aware of it, but you'll be going out  
20 to issue licenses that will impact millions. And  
21 the iceberg we talked about, I don't know if it'd  
22 sink, but it's not going to get very far if those  
23 operations are not successful in the State of  
24 Massachusetts.





1                   COMMISSIONER MCHUGH: Okay. Thank  
2 you.

3                   CHAIRMAN CROSBY: Anybody else?

4                   COMMISSIONER STEBBINS: I asked all of  
5 my questions already.

6                   CHAIRMAN CROSBY: Well, you get the  
7 pleasure of having us talk about you now.  
8 Commissioner Stebbins has recommended that we move  
9 forward with hiring Director Rick Day as our  
10 Executive Director. Anybody got reservations  
11 about that or questions?

12                   COMMISSIONER ZUNIGA: I will only say  
13 that his resume and responses today are very  
14 impressive, very extensive, very apropos of  
15 everything that's on our plate, building agencies,  
16 dealing with Indian gaming, dealing with Indian  
17 commissions in several states. So, I am very happy  
18 that we have him as a finalist and equally impressed  
19 with his qualifications and responses.

20                   COMMISSIONER CAMERON: Yes. I would  
21 echo that, those thoughts. A resume is just that.  
22 Sometimes you see something on paper but in having  
23 a brief opportunity to speak to Director Day and talk  
24 about philosophies, I love the task force



1 philosophies, which you are certainly someone who  
2 has used successfully that is very impressive.  
3 That is very impressive that's the way to move  
4 forward.

5                   Your experience is exactly what we  
6 need, your personality. I also had the -- and just  
7 maybe it's my background, but I knew of one  
8 individual who had worked with you in the past and  
9 did make a phone call. And this is someone who I  
10 think is a tough critic and really had such favorable  
11 things, described you as a fixer.

12                   That's probably a term we don't use in  
13 this part of the state, but I think understood  
14 exactly what this individual meant and really could  
15 see those skills as something we could very much use  
16 and would be valued here.

17                   So, I concur that this is an excellent  
18 candidate for us. And I think we are fortunate to  
19 have Director Day move across the country if he  
20 accepts and lend his expertise our way.

21                   COMMISSIONER MCHUGH: I've spent a lot  
22 of time looking at the resume, at Director Day's  
23 resume and particularly at the startup of, as I said  
24 a minute ago in my questions, important public



1 institutions and the success in doing that.

2                   And spent a lot of time on the website  
3 of the Gambling Commission in looking how they  
4 operate. And looking at the parallels and the  
5 differences, but the parallels between their  
6 operations and our operations. And have spent some  
7 time analyzing the results, the figures, the  
8 financial figures in Washington, the steady growth  
9 over the years and the kinds of things that that  
10 website reflects, the reaching out to the public,  
11 the trying to figure out what the public perception  
12 is, the vision statement is really right on the  
13 money, it seems to me, in terms of the priorities.

14                   The emphasis that Director Day has on  
15 technology and the recognition of the role that it  
16 plays in this. And then seeing all of that and then  
17 having a chance finally to ask some questions. And  
18 to sense not only from the answers not only a  
19 substantive command of the subject matter of we're  
20 asking the director of our organization to do, but  
21 a quiet strength that I think will be enormously  
22 helpful to this Commission as we go forward in  
23 building what we're all committed to build, which  
24 is a first-class public institution of the kind that



1 you've had experience building elsewhere.

2                   So, I feel very good that you're here  
3 and I'm delighted that you've made the choice to join  
4 us and to put your hat in the ring for this position.

5                   MR. DAY: Thank you, Commissioner.

6                   CHAIRMAN CROSBY: My own two cents,  
7 in addition to that would be that one of the things  
8 that's concerned me is there is the relationship  
9 between the Chair and the Executive Director. And  
10 there will need to be a kind of a personality on both  
11 sides, hopefully, that can be flexible and interact  
12 and don't let egos get in the way. And split up,  
13 help figure out these new responsibilities, as well  
14 as come into a new situation.

15                   We have hired a bunch of strong, we  
16 think, very capable directors. Hopefully, the same  
17 kind of a personality that will be able to get to  
18 know these folks and work with them as you begin to  
19 take leadership.

20                   But the contact that I've had has  
21 suggested to me that you do have that kind of  
22 personality that will have the flexibility and the  
23 lack of veto to really work things out and get this  
24 thing off on the right foot. And help us deal with





1 and manage our way through all of the tremendous  
2 stress that's inherent in this process and is going  
3 to continue to get better.

4                   So, that's an asset that's hard to  
5 really measure, but as I've heard you now and talked  
6 to you now that seems to me something you bring to  
7 the table, which I appreciate a lot and I think will  
8 be really important. Anybody else?

9                   MR. DAY: Chairman Crosby, just from  
10 the aspect, I kind of what to reinforce that part  
11 of the question. I've had positions at this point  
12 where I've come in several times and I have a  
13 tremendous confidence in the people that are there  
14 and their ability and capability to do the job. The  
15 Commission here, I look forward to working with the  
16 Commission.

17                   And yes, I'm confident that you and I  
18 will have a great working relationship. And I just  
19 want make sure that the staff are aware that's not  
20 issue. I don't carry any big ego that I'm the best  
21 person to hire anybody. And I understand the jobs  
22 of the Commission and the need to move forward. So,  
23 I appreciate -- As a matter of fact, if there were  
24 even more staff, it would be much easier.



1 CHAIRMAN CROSBY: Right, good point.

2 MR. DAY: Anyway, thank you.

3 CHAIRMAN CROSBY: Good, thank you.

4 Okay. Any more love in? Anybody else?

5 Commissioner Stebbins, do you want to  
6 take the next step?

7 COMMISSIONER STEBBINS: Sure, Mr.

8 Chair. I would move that this Commission approve  
9 of the hiring of Mr. Rick Day to be our first  
10 Executive Director and charge me with completing any  
11 of the financial terms and arrangements we need to  
12 conclude prior to his official coming onboard.

13 CHAIRMAN CROSBY: Second?

14 COMMISSIONER MCHUGH: Second.

15 CHAIRMAN CROSBY: Any further  
16 discussion? I do have one question I meant to ask.  
17 Have you talked about the timing more or less? What  
18 would you anticipate, assuming that you two close  
19 this deal after this vote, more or less when you  
20 might expect to be here?

21 MR. DAY: Chairman Crosby, we have  
22 generally but not knowing how the vote would go for  
23 sure, we have not touched on it in any great extent.  
24 And I'll have to review that with my current chairman



1 in Washington. But I'm hopeful that 30 days,  
2 something like that would be acceptable on both  
3 sides.

4 CHAIRMAN CROSBY: Great. That would  
5 be terrific. It's very important to us, obviously,  
6 that you close the door that you close appropriately  
7 and professionally. So, we're totally supportive  
8 of that, whatever it takes. Any other discussion?

9 All in favor of the motion to hire  
10 Director Rick Day as the founding director of the  
11 Mass. Gaming Commission say aye. Aye.

12 COMMISSIONER ZUNIGA: Aye.

13 COMMISSIONER STEBBINS: Aye.

14 COMMISSIONER MCHUGH: Aye.

15 COMMISSIONER CAMERON: Aye.

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

18 MR. DAY: Thank you very much.

19

20 (Applause)

21

22 CHAIRMAN CROSBY: You are invited to  
23 take a seat and sit with us for the rest of our  
24 meeting. We will make you available to the press,



1 if there are press here for a few minutes after the  
2 rest of the meeting.

3 MR. DAY: Thank you, Chairman. I will  
4 do just that.

5 CHAIRMAN CROSBY: Thank you. Great.  
6 Okay. It's all downhill from here.

7 By the way, just for the record, Jim  
8 Larosa from JuriStaff is sitting in the back of the  
9 room and has been integrally involved in this. This  
10 was not an easy hire. We talked about this. It's  
11 a very small world. We're asking a lot having  
12 people move here. And JuriStaff has really  
13 distinguished themselves with their thoroughness  
14 and follow through on this. And I personally as  
15 well as professionally want to say Jim and  
16 JuriStaff, thank you very much. We appreciate  
17 that.

18 MR. LAROSA: I'd like to thank the  
19 Commission too for -- It's been great working with  
20 you guys and working with Bruce. It's been a long  
21 process but a fun process.

22 CHAIRMAN CROSBY: Great. Thank you.

23 CHAIRMAN CROSBY: Public information  
24 and education, the Ombudsman.





1                   MR. ZIEMBA: Thank you, Mr. Chairman.  
2 As is typical, I've had numerous conversations with  
3 communities over the last couple of weeks. The  
4 focus has been on establishing procedures with both  
5 host and surrounding communities so that everybody  
6 can understand our process and how they can  
7 participate in our process to the greatest extent  
8 possible as we move forward.

9                   These conversations have involved how  
10 the regional planning agencies can be involved and  
11 it can help facilitate our process. Typical  
12 questions that have been raised over the last couple  
13 of weeks are -- many are related to how communities  
14 should understand our timeline.

15                   In regard to timeline, communities are  
16 working very hard to determine when they need to get  
17 involved. Specifically, you have a lot of energy  
18 out there in surrounding communities that are trying  
19 to determine when they need to get involved in the  
20 process. And on the other side, you have host  
21 communities that are working hard to try to  
22 determine the impacts that may occur to their  
23 particular host community.

24                   What is happening is that applicants



1 are putting forth designs. They are putting  
2 forward studies. And there's a lot of  
3 back-and-forth between host communities and  
4 applicants to try to understand what those impacts  
5 may be.

6           In that regard, there are a number of  
7 issues about how quickly surrounding communities  
8 can get involved in the discussion. Because I think  
9 all parties want to make sure that everybody  
10 involved in the discussion has the best available  
11 information at the appropriate time.

12           So, I think over the next couple of  
13 weeks, we will continue to refine our approach to  
14 how information gets out to all parties. I think  
15 at least now, initially we need to focus on making  
16 sure that surrounding communities understand what  
17 the process is and what our timeline is.

18           In that regard, I understand that the  
19 Commission earlier today we discussed some  
20 potential modifications to our timeline. And all  
21 of my conversation that I have with communities, I  
22 point to our master schedule. And I say, hey, this  
23 is our best projection of the time deadlines that  
24 we will be working under. And based on how our



1 investigations go, we anticipate these will be the  
2 deadlines for applications. These will be the  
3 deadlines for final awards.

4           So, in regard to the conversation that  
5 we had about ramping up that timeline, I guess I  
6 would recommend that we continue to have  
7 conversations with applicants, with host  
8 communities and surrounding communities to make  
9 sure that everybody can live within our timelines  
10 and that we can give out information to all of the  
11 parties within a reasonable process.

12           It's difficult because you have sort of  
13 many different needs on when things need to go and  
14 sequencing is really becoming quite an issue. I am  
15 not saying that we can't move quicker. I think that  
16 we should move quicker. I think that's generally  
17 the expectation. But I think that there are a lot  
18 of conversations that need to occur and people need  
19 to understand our deadline.

20           In that regard, I recommend that I  
21 continue to work with all of those parties to take  
22 a look at the anticipated deadline that we discussed  
23 earlier to see how reasonable that is. And I don't  
24 know if that makes sense to the Commission.



1                   CHAIRMAN CROSBY: Well, it's very  
2 important. We have, as you know, we have carefully  
3 resisted people complaining about our speed because  
4 we want to make sure that we set expectations that  
5 we can meet and that we give ourselves time to do  
6 everything right, even in the face of people being  
7 annoyed by that.

8                   So, we've considered carefully about  
9 pulling the slots license back. And (A) it is  
10 aspirational. (B) It's subject to things which are  
11 beyond our control. And (C) we might not make it.  
12 So, you keep us absolutely four-square apprised of  
13 what's fair and appropriate.

14                   Everybody wants the feet to the fire.  
15 I think we are beginning to understand the process  
16 now. I think we can begin to move these deadlines  
17 a little bit, but we don't want to compromise the  
18 good work that we've been doing -- We've already  
19 taken our hits for being slow. So, if we need to  
20 slow down in order to do this right, then we will.

21                   So, I am with you completely on that and  
22 let us know exactly what the feedback is and what  
23 your thoughts are and everybody out there in the  
24 communities as well.





1                   COMMISSIONER MCHUGH: I think that's  
2 something we, at least I -- Let me just speak for  
3 myself. -- tend to overlook. We set these  
4 aspirational deadlines and my focus has been working  
5 collectively how we can shrink things down.

6                   So, when you find something where you  
7 can shrink it down, it's sort of an Aha-moment. But  
8 maybe that's shrinking it down beyond where  
9 everybody else can go. So, I think we need to  
10 continue to revisit that project that out.

11                   CHAIRMAN CROSBY: Right. Totally.  
12 And I completely agree with that. We are not locked  
13 into these. And it's very important that we stick  
14 to our guns saying we are going to take the time to  
15 do this right.

16                   So, if there's an issue there, we will  
17 put it right smack on the table and revise the  
18 schedule, not compromising getting it right is much  
19 more important than getting it done quickly.

20                   COMMISSIONER ZUNIGA: Can I deal for a  
21 moment on a point that Commissioner McHugh made when  
22 the schedule was here. And John, if you could sort  
23 of illustrate us on those conversations that you  
24 had.



1                   It occurs to me that the host community  
2 by default, an applicant conversation and  
3 negotiation is the first one that takes place, it's  
4 the one that's most advanced. The steps that you've  
5 recommended with the role of the regional planning  
6 agencies is "subordinate" to that effort.

7                   And that is something that we need to  
8 start putting in our schedule and reflected to that  
9 end. Would you share how that is being perceived  
10 or not or advanced? That distinction of host versus  
11 surrounding communities.

12                   MR. ZIEMBA: I think that, as I  
13 mentioned, there's a tremendous amount of energy and  
14 a number of questions that exist out there by  
15 surrounding communities. And they want to get  
16 these questions resolved as quickly as possible.

17                   But in many regards, a lot of those  
18 questions cannot be answered at this point  
19 appropriately because a lot of the information just  
20 has not been finalized, specifically conversations  
21 between the host communities and the applicants.

22                   So, even though there is all of this  
23 energy to get some answers now, it just may not be  
24 there. So, part of what I have been learning a



1 little bit more over the last few weeks is that,  
2 obviously, we are all under tremendous pressure to  
3 make sure that this moves quickly. But we are  
4 trying to do it correctly.

5                   The thought at least in my mind had been  
6 that there could be a lot more contemporaneous  
7 conversations that could occur whereby  
8 conversations could occur over here with  
9 surrounding communities. Conversations could  
10 occur over here with host communities. But for the  
11 reasons that I just detailed, there might be a need  
12 for sequencing a little bit more than at least what  
13 I anticipated.

14                   That the conversations that occur  
15 right now could be more focused on here is what the  
16 process is. Here's what the anticipated deadlines  
17 are. Here are the plans that existed today. Here  
18 are our projections for when the impact studies will  
19 be available for everybody to review.

20                   And so once those things come about,  
21 there could be some sequencing of the conversations  
22 with the surrounding communities. It might need a  
23 little more nuance than well, these things are  
24 happening now, let's just have all of these things



1 happen at the same time and it will all work out.  
2 It may just not be that way, especially since  
3 inevitably you'll have situations in a community or  
4 two that may not be a big supporter of a neighboring  
5 application.

6                   And that potentially could have  
7 traumatic impacts upon the conversations that  
8 happen within the host community. So, I think the  
9 goal is to make sure that the surrounding  
10 communities have the appropriate information so  
11 that they can make their decisions. And that they  
12 have it in a tremendous -- that there is ample time  
13 for them to review any potential impacts.

14                   But I don't know if the intention is to  
15 get ahead of the host communities when they haven't  
16 even made some decisions themselves.

17                   CHAIRMAN CROSBY: John, I'm sorry.  
18 Before you move on, I have to do one more quick break.

19  
20                   (Chairman Crosby exits meeting room)

21  
22                   COMMISSIONER MCHUGH: Maybe we can  
23 just while the Chairman's out, just continue this  
24 conversation a little bit.





1                   What you are talking about is obviously  
2 in many of these conversations it's difficult to  
3 have a sensible conversation unless somebody starts  
4 with something more or less concrete, right?

5                   MR. ZIEMBA: Yes.

6                   COMMISSIONER MCHUGH: And the  
7 applicant really has to take the lead in that.  
8 Until somebody knows what the applicant is  
9 proposing, it's very hard to begin to measure or even  
10 discuss the impacts that that's going to have.

11                   So, the applicant and the host  
12 community are the first to have a conversation,  
13 logically. But there's no reason that one can't  
14 find a mechanism to encourage fairly quickly a  
15 conversation that includes surrounding  
16 communities. So, that as the plans evolve from the  
17 conversations between the host and applicant, the  
18 surrounding communities can be aware of what's going  
19 on and be thinking about it as well.

20                   MR. ZIEMBA: Right.

21                   COMMISSIONER MCHUGH: So, if we could  
22 come up with a plan in our master plan and verbally  
23 to encourage that kind of sequencing, is that the  
24 kind of thing that you think would be helpful?



1                   MR. ZIEMBA: Right. In many regards,  
2 the contemporaneous conversations, I think we  
3 should encourage those because there's such bottled  
4 up energy that it may be detrimental to applicants  
5 if conversations are just out there without any  
6 facts.

7                   That said, we have to be cognizant of  
8 the fact that conversations have to be based on  
9 something. And to the extent that they're based on  
10 real information that is probably in the best  
11 interest.

12                   So, in terms of sequencing, I think  
13 it'll take a little bit more of an art of what is  
14 the proper sequence to make sure that you accomplish  
15 both of those missions as quickly as possible  
16 mindful of our deadline that are coming up in the  
17 fall.

18                   COMMISSIONER MCHUGH: Right, right.

19                   COMMISSIONER CAMERON: John, as  
20 you're aware, we have two applicants who have yet  
21 to disclose location. Do you see that as  
22 problematic as far as having all of those necessary  
23 agreements in place, conversations first and then  
24 agreements?



1                   MR. ZIEMBA: I would imagine it would  
2 be fairly difficult for some of these to proceed.  
3 Again, the aspirational deadline it is pretty far  
4 out. So, perhaps that would work.

5                   But in regard to there is a need for  
6 applicants to as soon as they can determine what  
7 their locations are so that they can proceed and  
8 allow communities to have enough time to have these  
9 types of discussions. And they should be mindful  
10 that it is not only the sequencing of the referendum  
11 vote and the host community vote, but that our  
12 process probably unlike any statute in the country  
13 weighs very heavily what will happen with the  
14 surrounding communities. So that there has to be  
15 time for those conversations to occur.

16                   COMMISSIONER CAMERON: From your  
17 conversations, and I know you've had conversations  
18 with every single applicant, do you believe the  
19 applicant has a thorough understanding of how  
20 important that is?

21                   MR. ZIEMBA: It is something that we  
22 continually stress to all of the applicants. It has  
23 been something that the Commission has talked --  
24 many times has been a point of our conversations.



1 So, I think that the applicants do have a very good  
2 understanding of the importance of the issue to the  
3 Commission.

4                   But again, it's really a matter -- If  
5 a tremendous number of conversations have not  
6 occurred to date, I wouldn't necessarily point to  
7 that someone doesn't understand the importance of  
8 surrounding communities.

9                   It might be to the points that I just  
10 raised that in order to have a worthwhile  
11 conversation there has to be some bear there.

12                   COMMISSIONER MCHUGH: Right. It  
13 can't be a pure abstraction.

14

15                   (Chairman Crosby re-enters meeting  
16 room)

17

18                   MR. ZIEMBA: So, one other  
19 recommendation that I have for the Commission is  
20 that as soon as the Commission can reasonably do so  
21 that it actually establishes firm deadlines  
22 regarding applications and award dates. And I  
23 understand this is probably not likely before we are  
24 very, very far along in the investigations before





1 any sort of firm deadlines can be made. But giving  
2 communities the ability to work backwards from a  
3 firm date would be very useful.

4 CHAIRMAN CROSBY: You're saying  
5 setting the date by which we will require the Phase  
6 II applications?

7 MR. ZIEMBA: Correct, correct. And  
8 as soon as possible, again, this is an art rather  
9 than a science. And I think that we probably are  
10 not in that position now or in the very near future  
11 to actually set those dates.

12 But giving communities a specific time  
13 that they can work backward to figure out when they  
14 need to do the referendum vote. When do they need  
15 to go to town meeting if they need to do any sort  
16 determination of consistency with zoning or changes  
17 in zoning. All of these things have to be filtered  
18 in.

19 CHAIRMAN CROSBY: Right.

20 MR. ZIEMBA: Another point that I'll  
21 note that since our last meeting, the community  
22 disbursements form has been put on the web. It's  
23 available. And no communities actually have taken  
24 advantage of that yet, but we've heard from a couple



1 that will be utilizing that form very soon.

2 I'll also mention that we have extended  
3 our deadline on the surrounding community's  
4 definition to February 11 at 2:00 p.m. Related to  
5 this but not specific to the definition,  
6 Commissioner McHugh referenced the protocols and  
7 procedures that communities will - if in the event  
8 that a surrounding community and an applicant are  
9 not able to reach agreement on an agreement, we have  
10 established these protocols and procedures to  
11 remedy that lack of agreement.

12 This is an issue that has come up many  
13 different times in my conversations with either  
14 applicants or with communities on what will those  
15 procedures be. How will that work. I don't think  
16 that there's a tremendous level of concern that that  
17 information is not out yet. But to the extent that  
18 we are going to be working on that I think that's  
19 important.

20 But just because I've had different  
21 conversations with different entities at different  
22 times, and the folks have said would it be okay if  
23 I submit comments on that issue to the Commission?  
24 I would just recommend to the Commission that we



1 should just note to all of those parties that they  
2 should feel free to send comments or ideas to us at  
3 any time.

4                   The proper place for us to review those  
5 comments will be during in regulation period when  
6 we review our regulations. But if anybody has any  
7 ideas about that they should probably feel free to  
8 send it our way. I just wanted to make sure that  
9 if I talked to one party, I've gotten it out to every  
10 party.

11                   COMMISSIONER MCHUGH: I think it is  
12 surely that's right. And surely they'll have an  
13 opportunity to comment during the regulation  
14 promulgation process. But if we take some of these  
15 things as we have been in chunks, there's no reason  
16 why we can't make them available as we have with the  
17 surrounding community definition available for  
18 preliminary comments earlier so that we can get the  
19 benefit of those comments well before the formal  
20 regulation promulgation process goes on. So, for  
21 that one it seems to me we could try to do that as  
22 well.

23                   MR. ZIEMBA: There are a couple of  
24 dates that are coming up very soon.



1                   February 11 is the date whereby  
2     Springfield may make its decision. As you know, it  
3     just recently extended it to February 11. March 5  
4     has been set aside as a date by which the Board of  
5     Selectmen in the Town of Danvers will -- to discuss  
6     the issue of a potential facility in Danvers before  
7     the Board of Selectmen.

8                   CHAIRMAN CROSBY: March 8?

9                   MR. ZIEMBA: March 5. And lastly, I  
10    wanted to just mention one issue that I had, concern  
11    that I had received from a number of different  
12    applicants. It's related to a matter that is on the  
13    agenda a little bit later. So, I won't go into too  
14    much depth.

15                   There is an issue regarding how we are  
16    going to treat the public records request. How are  
17    we going to treat confidentiality of information  
18    that has been submitted as part of the application.  
19    There is a level of concern out there about how we  
20    are going to treat this information.

21                   Are we going to treat this information  
22    in a similar manner to other jurisdictions? Are we  
23    going to go beyond the scope of what was anticipated  
24    in the statute? So, to the degree if we determine





1 that we are going to go beyond what is strictly  
2 anticipated in the statute, we've received a request  
3 that potentially we could open this up for comment  
4 before a final decision of the Commission. So, I  
5 just put that out for the Commission to probably  
6 discuss at the time that this matter is up for the  
7 agenda.

8 CHAIRMAN CROSBY: This is talking  
9 about the confidentiality of background information  
10 about the application, not Phase II.

11 MR. ZIEMBA: Right.

12 CHAIRMAN CROSBY: Okay. Yes, it's on  
13 the agenda.

14 MR. ZIEMBA: Thank you.

15 COMMISSIONER CAMERON: Thank you.

16 CHAIRMAN CROSBY: Thank you. Item  
17 number five, regulation update, policy questions  
18 update. Is that Commissioner McHugh? Who is  
19 that?

20 COMMISSIONER MCHUGH: No. Attorney  
21 Grossman is going to take the lead on that and I'll  
22 supplement to the extent necessary.

23 CHAIRMAN CROSBY: Surprised?

24 MR. GROSSMAN: A little bit.



1                   COMMISSIONER MCHUGH: Oh, then I'll --

2                   MR. GROSSMAN: No, no. Not that you  
3 threw me --

4                   COMMISSIONER MCHUGH: Not that I threw  
5 you a curveball.

6                   MR. GROSSMAN: No, I'm happy to  
7 discuss it. We are in the process, of course, of  
8 continuing to draft the regulations. We sent  
9 around the update grid for your review and certainly  
10 welcoming of any recommended tweaks to that. It was  
11 just a way that we could keep track of the process  
12 as it moves forward since there are so many moving  
13 parts, including outlining the policy decisions  
14 that were made and weaving them in with all of the  
15 subject matters.

16                   A number of the topics that have come  
17 up for discussion here today are subjects that we  
18 are actively writing regulations on. And we hope  
19 to have those to you within the next couple of weeks,  
20 so you can begin to review the draft language, with  
21 an eye towards the beginning of March having  
22 everything before you and not having to review it  
23 all at once.

24                   So, that's where we are with all of



1 this. And we are hopeful that by next week, you'll  
2 be able to start looking at some of this language.  
3 And as we move forward, we can discuss whether we'll  
4 need to perhaps set aside a whole day at the  
5 beginning of March to just start plowing through  
6 these regulations.

7                   But it's an ongoing process and it's  
8 started to pick up some steam. So, hopefully we can  
9 have a more in-depth discussion next week.

10                   CHAIRMAN CROSBY: Your best judgment,  
11 mindful of Commissioner McHugh's concern that we not  
12 push ourselves too hard, March 14 still feels to you  
13 like a plausible deadline?

14                   MR. GROSSMAN: Yes. I think we're  
15 starting to really work on some of what I perceive  
16 to be the most difficult areas of the regulations.  
17 And I think we've made some really good progress in  
18 that area.

19                   And I think that's realistic at this  
20 point. I've had discussions with both the legal and  
21 the gaming consultants in the drafting areas. We  
22 are getting set plans in place. And I think it's  
23 very realistic to hope that we have everything  
24 together by the beginning of March in its draft form,



1 of course, as you mentioned that can be tweaked as  
2 we move after the public airing.

3 CHAIRMAN CROSBY: Great.

4 COMMISSIONER MCHUGH: Starting with  
5 some of the things, the surrounding community  
6 regulation, some of the other ones we are going to  
7 follow up on that. If we can get those out of the  
8 way in a general sense, then the rest of it becomes  
9 somewhat easier.

10 So, I think Todd's on the right track.  
11 In addition, that chart that he distributed that we  
12 haven't yet approved, we can look at that and keep  
13 track of how things are going over the next two  
14 weeks.

15 He distributed the policy matrix.  
16 It'd be worthwhile for everybody to take a look at  
17 it and see if there are any errors. Maybe everybody  
18 has and there are no errors. So, we can get that  
19 posted because one of the things we had anticipated  
20 doing was giving applicants, surrounding  
21 communities, host communities an idea of what the  
22 policy was even before we put it into regulation.  
23 So, if we can get that up that will help get some  
24 additional information out.





1                   CHAIRMAN CROSBY:  Would that be on our  
2 agenda next week?

3                   COMMISSIONER MCHUGH:  No.  If you  
4 have any corrections -- Basically, the policies are  
5 all decided.  And that matrix that was distributed  
6 is simply a statement of what I think we decided.

7                   And if you see any mistakes in that you  
8 can feed them to Todd and we just put it up.  And  
9 if we can set maybe a deadline of no later by the  
10 next meeting so we can say it's up, that would be  
11 great.  But I don't think we have to go and look at  
12 it again here in a meeting.

13                  CHAIRMAN CROSBY:  Great.

14                  MR. GROSSMAN:  I guess in conclusion,  
15 I would just say we were basically looking, the first  
16 regs. that I think we were looking to get to you for  
17 review are the surrounding community regulations.  
18 We have permitting regulations and the timing of  
19 that and some of the host and live entertainment  
20 regulations.  I think those are the ones that you  
21 can expect to see in the coming week or two.

22                  CHAIRMAN CROSBY:  Great.

23                  COMMISSIONER CAMERON:  Thank you.

24                  COMMISSIONER ZUNIGA:  Thank you.



1                   CHAIRMAN CROSBY: IEB report,  
2 Director Wells.

3                   MS. WELLS: Chairman, members of the  
4 Commission. The first item on the IEB report agenda  
5 is scope of licensing. Determinations have been  
6 made about qualifiers and most information has been  
7 provided by the applicants to IEB. The expectation  
8 is that the remaining information will be provided  
9 this week.

10                   Any applicant with outstanding  
11 information that has not been provided at that will  
12 have to explain them self to IEB. And a  
13 determination on additional time will be made  
14 bearing in mind that we're on a very tight time  
15 schedule that we intend to meet. So, that's where  
16 we are. Coming in here and looking at what's been  
17 done so far, I'm very proud to see we've got an  
18 efficient system going. And it looks like we are  
19 on schedule to meet our deadline.

20                   Second item is the investigation  
21 status report. Ten of the 11 applications, the  
22 information has already been sent to our  
23 consultants and the background investigations are  
24 underway. The one remaining will be sent to



1 Spectrum Gaming upon receipt of some additional  
2 supplemental information. So, I expect that will  
3 be shortly.

4           The next item is the processing of  
5 public records requests for applications and the  
6 review of requests for confidentiality. As you're  
7 aware, we have received public records requests for  
8 the applications and there may be more requests that  
9 are forthcoming.

10           The applicants were required to submit  
11 a second redacted version of the application  
12 according to the specimen form that was provided to  
13 them. While the majority of those redacted  
14 versions have been received, applicants were  
15 allowed some additional time to provide those  
16 versions. And all are expected to be in by the end  
17 of next week.

18           The redacted versions are under review  
19 by the Massachusetts State Police troopers assigned  
20 to the Gaming Enforcement unit to insure they are  
21 in compliance with the specimen requirements before  
22 there is any kind of public disclosure.

23           Any applicant who has additional  
24 requests for confidentiality is able to submit a



1 petition in writing. And that petition will be  
2 reviewed by the legal department. Any applicant  
3 who's not satisfied with the decision of the legal  
4 department has a right to appeal that decision  
5 before the full Commission in the open meeting.

6           On that issue, a determination will  
7 need to be made regarding whether the Massachusetts  
8 Gaming Commission responds to individual public  
9 records requests one by one or disseminates the  
10 redacted applications all at once. A method of  
11 dissemination will also need to be determined.

12           I'm not sure if that's something the  
13 Commission wishes to discuss at this time or whether  
14 that would be put off. That is going to be important  
15 for planning purposes and for individuals that are  
16 dealing with these public records requests. They  
17 need to figure out how we're going to do that.

18           COMMISSIONER MCHUGH: I think that  
19 that issue has been on the table on the surface, just  
20 below the surface for some period of time. And I  
21 think we ought to just talk about it now and come  
22 to at least a tentative conclusion consistent with  
23 Mr. Ziemba's suggestion. Perhaps give a week for  
24 public comment on that and then implement it.





1                   The idea was that the redacted version  
2 would be put on the web for everybody to see. And  
3 the theory there is that in this day and age, many  
4 of the requests, the Freedom of Information Act  
5 requests have come from media entities. And  
6 there's a high degree of likelihood that when they  
7 get the responses, they'll put them up on the web.  
8 So, they're going to be there. I think that's  
9 almost a foregone conclusion. So, this information  
10 -- we ought to take the initiative and put it up on  
11 the web.

12                   I think there is the process that  
13 Director Wells just pointed out is one that  
14 accommodates the concerns of every applicant.  
15 There are certain things that are in the specimen  
16 application that categorically we are going to treat  
17 as confidential in a manner consistent with the  
18 statute and our regulations.

19                   But if there are some additional things  
20 either categorical or specific to an application  
21 that somebody believes for some reason invade their  
22 interests, they can request with a statement of  
23 reasons that we add to that. And then we'll decide  
24 that. But beyond that it seems to me that the



1 material is public and ought to be available to the  
2 public.

3                   COMMISSIONER ZUNIGA: Is it fair to  
4 say that all of our applicants understand that last  
5 piece that Commissioner McHugh was talking about  
6 requesting that specific categories for information  
7 be made confidential?

8                   MS. WELLS: The process? I would have  
9 to check with those who are in direct communication  
10 with the applicants over the last month or so since  
11 I just started. But what I can do is confirm that  
12 with each of the applicants, which I think is a good  
13 idea. That way if there is a kind of decision here,  
14 it makes sense to give some kind of notice to those  
15 applicants that this is whatever decision the  
16 Commission ultimately makes so that they can respond  
17 accordingly. And they are on full notice that this  
18 is what's the plan going forward.

19                   COMMISSIONER MCHUGH: I should also  
20 add, I think, based on some of the commentary that  
21 I've heard and some of the written material that I've  
22 seen is that there is a belief that in taking this  
23 approach, we are departing from practices that exist  
24 elsewhere throughout the country with respect to



1 these applications.

2                   Throughout the country, they are  
3 treated as confidential pieces of information, at  
4 least this part of it is. And we are so far as I  
5 can tell dealing with it different name. And we are  
6 dealing with it differently because we have a  
7 statute that says applications are public records  
8 with the exception of the three categories of  
9 material.

10                   And we have drafted regulations to deal  
11 with those three categories of material in a  
12 sensible functional way. But that differs from the  
13 way other jurisdictions do it and from best  
14 practices in other jurisdictions and the like is a  
15 creature of the legislature and not some invention  
16 of our own. I think people have to understand that.

17                   COMMISSIONER ZUNIGA: Along those  
18 lines, is there a question of time, timing, if you  
19 will? If there's still an investigation with  
20 qualifiers or partial information, information that  
21 we've requested supplement what we have. Is there  
22 a pragmatic reason to temporarily -- I don't want  
23 to say withhold, but not make that available because  
24 it's information that has not been yet complete.



1                   MS. WELL: I think as the information  
2 comes in, I think it does make sense that as the  
3 redacted versions come in and get evaluated, it  
4 makes sense to put them all out together instead of  
5 posting them piecemeal on the website, if that's the  
6 decision of the Commission.

7                   There is certain forms that specimen  
8 form that's part of the application. So, that in  
9 and of itself is complete and the same for each  
10 applicant. I expect during the course of the  
11 investigation we may be requesting and receiving  
12 additional information, but that's not necessarily  
13 part of that initial application.

14                   So, I would differentiate those two and  
15 start with just the initial specimen application,  
16 because that gives you uniformity among the  
17 applicants. And it's more of a fair process. And  
18 then we can look at the rest as that comes in.

19                   I also think that the nature of these  
20 investigations, it will be complex and it is a moving  
21 target. We will never get -- It would be too  
22 difficult to set a date and get all of that  
23 information out. And I think it would delay getting  
24 the information out, being transparent and open and





1 in accordance with the statute as Judge McHugh has  
2 said.

3 COMMISSIONER ZUNIGA: Perhaps let me  
4 ask the question perhaps another way. Would it make  
5 sense to wait until the investigation is complete  
6 for us to release the specimen form because there  
7 could be changes along the way? Maybe I'm just --  
8 It's an area that we cannot really anticipate.

9 COMMISSIONER CAMERON: Can I speak to  
10 that as being part involved in this process, and  
11 pleas if you disagree.

12 I don't think it would be wise to wait  
13 until the end of the investigation. We are talking  
14 many, many months. I think that as we've just  
15 heard, it is a public record.

16 I think we could be in a position  
17 however we choose to release that information to do  
18 that in the near future. I know that we are  
19 expecting the rest of the redacted versions in the  
20 near future. We have given deadlines for that to  
21 be received.

22 What there will be, and probably with  
23 every single applicant, is additional qualifiers  
24 who may be added. So, we will be receiving



1 additional information that will need to be  
2 submitted to us in both a complete form and a  
3 redacted form.

4                   So, I wouldn't see any issue with just  
5 adding to what's already public information, the  
6 additional information as we go along rather than  
7 waiting until the end, which may give the appearance  
8 of us being less than transparent. That's just how  
9 I would see that issue.

10                   But along those lines, knowing that we  
11 are not in a position yet because we are still  
12 reviewing. It's a time-consuming process to review  
13 those redacted versions for -- to make sure they are  
14 in compliance with what the regulation states. And  
15 then there are others that we do not have yet. So,  
16 we need that whole redaction process review to take  
17 place.

18                   So, I see no problem with taking a week  
19 for comment. That may be of interest to us to see  
20 what those comments are. And is there anything  
21 legitimate in those comments since we would not be  
22 prepared within the next week to do that anyway.

23                   MS. WELLS: Yes, that makes sense to  
24 me.



1 COMMISSIONER ZUNIGA: Thank you.

2 CHAIRMAN CROSBY: I just would add I  
3 agree with that. I agree with that  
4 characterization. And I would certainly defer to  
5 Director Driscoll and Director Wells on doing it all  
6 at one time or piecemeal. I think we've agreed that  
7 all at one time, sometime pretty soon. It's going  
8 to be a moving target, as you said. We are going  
9 to sort of make an arbitrary decision. Okay, the  
10 baseline is done. This goes out now. And as  
11 changes come, we do it. I agree with that.

12 COMMISSIONER MCHUGH: So, could we  
13 post some kind of we invite public comment on this  
14 issue?

15 CHAIRMAN CROSBY: With the issue  
16 being?

17 COMMISSIONER MCHUGH: The release of  
18 these on the web, the non-private portions, the  
19 public portions, subject to additional requests  
20 beyond what's in the specimen in accordance with our  
21 regs.

22 COMMISSIONER CAMERON: And I know  
23 Director Driscoll did some research into this  
24 matter, since she's been fielding many of these



1 questions. And there is precedent. Pennsylvania  
2 does in fact post the redacted versions on the web.  
3 So, this would not be a first if we were to make that  
4 decision.

5 MS. WELLS: Would the Commission  
6 prefer that I hold off on notifying the applicants  
7 about that until after the public comment or should  
8 I go ahead and do that?

9 CHAIRMAN CROSBY: I'd go ahead and  
10 tell them to make their comment.

11 MS. WELLS: Okay. Use it for that.

12 CHAIRMAN CROSBY: Yes. This is what  
13 we are planning on doing. If you've got any ideas,  
14 let us know.

15 MS. WELLS: Okay. I'll take care of  
16 that. That's all I had on the third item. The  
17 fourth item is the license category declaration  
18 requirement. As the Commission is well aware, two  
19 applicants have yet to declare whether they are  
20 seeking a category one or a category two license.

21 Given that the Commission has decided  
22 to prioritize the slots, or the category two  
23 license, the IEB needs to know which applicants to  
24 prioritize to start those investigations and put





1 those at the forefront so they can be completed in  
2 time in accordance with the proposed timeline.

3               So, I will be sending out letters  
4 tomorrow, weather permitting, to the two applicants  
5 that have not yet declared indicating they must  
6 declare which category of license they are seeking  
7 by February 15. If for some reason, I can't get it  
8 out tomorrow, then we would give them to the  
9 following Monday. So, they would have the full  
10 week.

11               But I don't see any other way. We've  
12 been communicating with them. We've been notifying  
13 them. This has all been part of the public process  
14 that we need this information. And I think without  
15 a deadline in writing, it's going to be hard to pin  
16 everyone down. That is the plan going forward.

17               COMMISSIONER CAMERON: We did discuss  
18 this issue with our consultants who have  
19 considerable experience with these matters. And  
20 they absolutely believe that that was a reasonable  
21 request to make of the applicants at this point.

22               COMMISSIONER MCHUGH: I just wonder if  
23 it's really more of a question of phraseology rather  
24 than whether we should do it or not. Surely, if we



1 want to deal with the slots first, then we have to  
2 know where to concentrate our energy.

3                   But does it make sense to say in that  
4 letter, rather than you have to make a choice, one  
5 or the other that if you want to be considered for  
6 a slots license, you have to have the information  
7 by X. Leaving open the possibility that they might  
8 want to be considered for a slots -- leaving open  
9 the possibility that they have a couple more weeks  
10 to make that decision as to whether they get us the  
11 information by then. And that by saying we want to  
12 be considered for a slots facility, they are not  
13 taking themselves out of the running for a category  
14 one facility later. I don't know. I just put that  
15 out.

16                   MS. WELLS: I guess my comment to that  
17 would be that I think that's in some ways what  
18 they've already done, because why wouldn't an  
19 applicant then say yes, I would to be considered for  
20 both. That's sort of what they've done.

21                   So, we would then as the IEB need to go  
22 ahead and investigate both of those on a priority  
23 where they may not be doing. And we may waste that  
24 precious time investigating them when we could speed



1 up the process on some others who are actually going  
2 for the slots. That's my only concern.

3 COMMISSIONER MCHUGH: I hear that.  
4 And that's surely a legitimate concern. Suppose  
5 one having in mind trying to keep the competition  
6 for category one at maximum, how about if the ante  
7 were upped. If they wish to be considered for a  
8 slots license, they've got to let us know by such  
9 and such a date. And commit to taking the slots  
10 license if they're awarded. That puts a little more  
11 pop.

12 COMMISSIONER CAMERON: That was our  
13 concern in discussing this matter was that would be  
14 very difficult if we were in a position to award and  
15 someone were to refuse because they're keeping  
16 another option available. That was not something  
17 we thought was advantageous to the process. So,  
18 that I that makes sense.

19 COMMISSIONER MCHUGH: I guess to put  
20 it in concrete terms, and this might be a  
21 hypothetical that we don't have to worry about, but  
22 suppose somebody is alternating now between the two  
23 and has inchoate but viable opportunities for both.

24 This is a fisher cut bait, but the slots



1 thing gives them a little time to assess where  
2 they're going to go. But it doesn't make them  
3 declare now that they're not going to go after the  
4 other one if they don't get the slots.

5 CHAIRMAN CROSBY: That would be the  
6 substantive difference between the original idea  
7 and what you are now talking about would be that it  
8 would permit somebody to declare for the slots, be  
9 required to accept the license if awarded, but still  
10 be in play for a casino if they don't get the slots.

11 COMMISSIONER MCHUGH: Yes. The time  
12 is getting short here. But I don't think it's  
13 inconceivable that somebody might be faced with that  
14 dilemma and want to take that opportunity.

15 COMMISSIONER CAMERON: The timing is  
16 not -- We're going to be investigating everyone.  
17 Every applicant we are moving forward. We are just  
18 prioritizing. Meaning if it takes additional  
19 resources to get this done in a timely -- we will  
20 use our resources accordingly.

21 I think it would be very difficult for  
22 someone to wait until we are awarding and then try  
23 to go in a different direction at that point with  
24 a new community. I think that would be very





1 difficult because those investigations would maybe  
2 be only a month behind. And we would be willing --

3 CHAIRMAN CROSBY: I agree. And I  
4 think Commissioner McHugh does too. But there is  
5 no real reason not to do it. If there is a one in  
6 100 chance that keeps another casino competitor in  
7 the game or a one in 1000 chance, there is no downside  
8 to be.

9 COMMISSIONER MCHUGH: That's why I was  
10 looking for the downside. And I just can't see one  
11 from our standpoint. I agree with you.

12 CHAIRMAN CROSBY: Right, from our  
13 standpoint.

14 COMMISSIONER ZUNIGA: Isn't the risk  
15 effectively borne by the applicant? If they are  
16 ultimately really pursuing a slots, a category two  
17 license and don't identify. And the IEB moves  
18 forward and all of a sudden -- and we move forward  
19 with the RFA-2 for the category two, their ability  
20 to respond shrinks because our deadline continues  
21 to be the same. Their ability to put together a  
22 proposal, let's say, a thoughtful proposal unless  
23 they already have it and they're playing really two  
24 options. Or I guess I'm rhetorically asking



1 whether we just proceed with who's made the  
2 declaration.

3                   CHAIRMAN CROSBY: So, play that out.  
4 Let's say there are two known bidders now for slots.  
5 We move ahead on them. We don't make anybody else  
6 make a decision. So, at the end of the two  
7 background checks for the two who are in, we say,  
8 okay. It's now closed?

9                   COMMISSIONER ZUNIGA: No. It's not  
10 necessarily closed. Remember our timeline has us  
11 projecting an April, give or take decision on the  
12 background investigations of the slots parlor, but  
13 continues until June for the rest of the  
14 investigations.

15                   Assume that we get to April and we only  
16 have the two known applicants for the category one  
17 (SIC) license. And the investigation on the other  
18 entities has progressed to some degree, maybe or  
19 maybe not.

20                   Our process for bidding out the  
21 licenses will continue on those slots parlor  
22 license.

23                   COMMISSIONER CAMERON: Meaning we  
24 have the Phase II application ready to go to those



1 individuals.

2 COMMISSIONER ZUNIGA: Correct.

3 COMMISSIONER CAMERON: That's where I  
4 think we --

5 CHAIRMAN CROSBY: So, those two keep  
6 moving ahead. Meanwhile, there's somebody lagging  
7 behind. And in July, the third group says I want  
8 to be in the slots.

9 COMMISSIONER ZUNIGA: If they have  
10 first been investigated and found suitable, which  
11 may or may not be the case and they can respond to  
12 the RFA Phase II by the deadline.

13 CHAIRMAN CROSBY: By that time we will  
14 have set a deadline for RFA Phase II.

15 COMMISSIONER ZUNIGA: For RFA Phase II  
16 slots parlor, as long as they can meet that. I guess  
17 I'm speculating whether --

18 CHAIRMAN CROSBY: Do we need to force  
19 them to decide or does the process in effect do it  
20 without us forcing?

21 COMMISSIONER ZUNIGA: Right. I'm  
22 imagining that they run the risk of if they haven't  
23 developed a viable option, drawn drawings, made  
24 studies, etc. for a category two because they don't



1 know because they have two options, then they run  
2 the risk of not being able to respond on their own  
3 to the RFA Phase II. I don't know. I'm  
4 speculating.

5 COMMISSIONER CAMERON: My experience  
6 is unless we set deadlines, they want more time and  
7 will take more time and ask for extensions. Then  
8 you're in a position where are we being fair to the  
9 communities. We're saying you're asking for more  
10 time and everyone else has done this by the numbers  
11 and let us know what category, which allows us to  
12 use our resources properly.

13 I see issues along, okay, I'm getting  
14 the application late. I'm going to need more time.  
15 Then we're in a position of saying no, you can't have  
16 more time. And the communities are probably the  
17 ones to suffer at that point. I wonder if --

18 CHAIRMAN CROSBY: How did you come up  
19 with the February 14 date?

20 MS. WELLS: That had been recommended.

21 COMMISSIONER CAMERON: It was in a  
22 discussion with our --

23 COMMISSIONER MCHUGH: Valentine's  
24 Day.





1                   COMMISSIONER CAMERON: No, the 15th I  
2 believe is the date.

3                   MS. WELLS: Yes, the 15th, right.

4                   COMMISSIONER CAMERON: It was a  
5 discussion with the consultants, all of us. We had  
6 identified a potential problem which was everyone  
7 else has advised us which is really allow us to use  
8 our resources and make those plans accordingly.  
9 And two have not. There have been conversations.  
10 But what's the date is what they're asking.

11                   CHAIRMAN CROSBY: They meaning the  
12 other two?

13                   COMMISSIONER CAMERON: Yes. When we  
14 give a date for something, whether it's a redacted  
15 version, whether it's the application itself,  
16 people tend to wait until the very end. And they  
17 know what the date is. And they get it to you at  
18 the 11th hour in some cases.

19                   COMMISSIONER ZUNIGA: Perhaps along  
20 the lines of what Commissioner McHugh was saying,  
21 could we simply communicate that if you don't  
22 declare, you will not be investigated at the  
23 forefront. We will not assume that you are a  
24 category two. And you will be placed at the end of



1 the line. And you run the risk, whatever those risks  
2 are because we will focus our investigations, like  
3 we've always maintained on those people that  
4 declared the category two licenses upfront.

5 COMMISSIONER MCHUGH: There's a  
6 problem there with what are the consequences,  
7 unless we make you declare -- unless we do it with  
8 an opt in and a pop. You've got to take it if we  
9 give it to you, because the suitability  
10 determination for the category one license doesn't  
11 have to be made by us until after the deadline for  
12 the Phase II application.

13 So, it's entirely possible that  
14 investigations are still ongoing, including that  
15 applicant at the time the Phase II applications are  
16 received for the category two license. And it is  
17 entirely conceivable that we get a completed Phase  
18 II application from one of the people in this  
19 category before the investigation on their  
20 suitability is concluded and they've been declared  
21 suitable. Then what do we do?

22 We are going to get a request to hold  
23 off acting on their application until we finish the  
24 suitability investigation. And that throws back



1 the whole, potentially, process for the category two  
2 license.

3                   So, it seems to me that we really ought  
4 to make people go into the category two pool and  
5 devote the attention we need. Then there's a whole  
6 bunch of other things, the host community agreement  
7 piece. You can't get to the host community  
8 agreement until you've been declared suitable. You  
9 can't have the referendum. So, it seems to me you  
10 either go into that pool and get this done or you  
11 --

12                   COMMISSIONER CAMERON: And I believe  
13 both applicants know that. But they're almost --  
14 They will stretch it out until we give them a  
15 deadline.

16                   CHAIRMAN CROSBY: Is there something  
17 material about the 15th? Is there a difference  
18 between the 15th and say March 1?

19                   COMMISSIONER CAMERON: Yes, our  
20 investigative resources.

21                   CHAIRMAN CROSBY: So, there's  
22 beginning to be a practical impact on our allocation  
23 of resources.

24                   COMMISSIONER CAMERON: There is.



1 There is. Because our timeframes are fairly tight.  
2 And we really -- That can become problematic if we  
3 wait that long. Again, I think in that discussing  
4 this with everyone involved with investigations  
5 that was a date everyone thought was reasonable  
6 because of what's needed to make those deadlines.

7 CHAIRMAN CROSBY: Maybe we are over  
8 thinking this. And it sounds like there have been  
9 conversations going on with these two  
10 organizations.

11 COMMISSIONER CAMERON: Yes, there  
12 has. Yes, there has.

13 CHAIRMAN CROSBY: They're expecting  
14 that at some point we are going saying here's the  
15 deadline.

16 COMMISSIONER CAMERON: Which is why we  
17 kind of had the idea that we had to set one, because  
18 the continual answer is, well, how long do I have?

19 CHAIRMAN CROSBY: Right. Maybe  
20 rather than -- I kind of like Commissioner McHugh's  
21 idea because theoretically it may be keep something  
22 open, but maybe we're thinking harder about this  
23 than the applicants are. We ought to just say pick  
24 one. You were supposed to pick one, now pick one.





1 And that's the end of it.

2 COMMISSIONER ZUNIGA: They haven't  
3 made a decision, so they're not thinking.

4 COMMISSIONER MCHUGH: Well, we didn't  
5 say that they were supposed to pick one.

6 CHAIRMAN CROSBY: Well, we've sad that  
7 at some point you would have to pick one.

8 COMMISSIONER CAMERON: And we made  
9 those decisions quite a while ago that we were going  
10 to try to expedite the slots license.

11 CHAIRMAN CROSBY: So, the market is  
12 probably pretty ready for us just to make the  
13 decision that you suggested we make.

14 MS. WELLS: That seems to be the case.

15 CHAIRMAN CROSBY: I kind of lean, I  
16 think, towards the simpler just tell us what it's  
17 going to be by February 15. I don't feel terribly  
18 strong about it.

19 COMMISSIONER ZUNIGA: I like the idea  
20 that Commissioner McHugh was putting forward. I  
21 don't know if that's in conflict with your idea.

22 CHAIRMAN CROSBY: Yes, because he's  
23 saying. It feels odd to me to say to somebody you  
24 have to promise to take it. It's an unenforceable



1 promise. It's kind of an awkward mechanism.

2 COMMISSIONER MCHUGH: It is.

3 CHAIRMAN CROSBY: So, I guess if we  
4 have a difference of opinion, maybe we should vote  
5 on it.

6 COMMISSIONER MCHUGH: No. I think it  
7 is an awkward -- I don't feel strongly about it, but  
8 I did want us to think about that the alternative.  
9 You can get a sure, I'll take it now. But I'm going  
10 to do a lousy job and I'm not going to give you a  
11 very good deal. I can give you a much better casino.

12 CHAIRMAN CROSBY: I don't want it.  
13 No, take it. I don't want it. No, you promised.

14 COMMISSIONER MCHUGH: Right. So,  
15 maybe just pick it is the best alternative.

16 MS. WELLS: So, I'll send that out.  
17 If whatever I can't it out tomorrow, then I will give  
18 them to the following Monday, so that will be the  
19 18th.

20 COMMISSIONER CAMERON: Give them a  
21 week.

22 MS. WELLS: That's all I have unless  
23 there are any other questions.

24 CHAIRMAN CROSBY: There was one other



1 issue that came up that I think we were going to tee  
2 up for discussion. Commissioner McHugh I believe  
3 raised the issue about or somebody about contingency  
4 licensing. If we're going to be giving contingent  
5 licenses, contingent upon a bunch of other things  
6 happening what happens to the license fees. And I  
7 think we decided --

8                   If somebody gets a contingent license,  
9 do we require the \$85 million for a category one?

10                   COMMISSIONER CAMERON: Do you mean a  
11 conditional license?

12                   CHAIRMAN CROSBY: What did I say?  
13 Yes, conditional license. Conditional or  
14 contingent upon certain performance measures, yes,  
15 like get federal approval to fill in the swamp or  
16 whatever.

17                   And the question was raised when do we  
18 take the license fee? Is it once we get past the  
19 conditional license or is it as soon as we give the  
20 conditional license, when the conditions are gone  
21 or not?

22                   If we take the license fee at the award  
23 of a conditional license, and the conditions are not  
24 met, what happens to the licensee fee? Is it gone?



1 Does it go back? What happens?

2 We can talk about it here a little bit,  
3 but I think we wanted to raise this issue, give our  
4 partners in this conversation time to think about  
5 this, because I think it's a nontrivial issue, big  
6 time.

7 COMMISSIONER MCHUGH: It's also a  
8 nontrivial issue because the budget proposals that  
9 are now coming out are allocating those license fees  
10 or taking into account the existence of those  
11 license fees, which go into the funds which are going  
12 to the people who are planning. So, we need to  
13 decide that. We don't need to decide that today,  
14 but we need to tee that up.

15 CHAIRMAN CROSBY: To expand on that,  
16 the Governor's office did ask us, me, whether it was  
17 legitimate to count on those license fees as coming  
18 in this year. And I thought by our schedule, it was  
19 pretty likely that we would have all of the licenses  
20 award during the fiscal '14, which would end in June  
21 30, 2014.

22 However, I did not think about this  
23 issue of conditional licenses and whether that  
24 changes what we've told the Governor's office and





1 the Legislature or not is the issue we have to  
2 consider.

3 COMMISSIONER CAMERON: I am aware of  
4 other jurisdictions that have given conditional  
5 licenses and they do take those fees upfront.  
6 Because it is incumbent upon -- the burden is on the  
7 licensee.

8 CHAIRMAN CROSBY: Yes. Well, I'm not  
9 taking a position on that. That maybe right. I  
10 just think it's something we've never talked about  
11 and we do need to think it through.

12 COMMISSIONER CAMERON: Maybe some  
13 research is needed?

14 COMMISSIONER MCHUGH: I think it'd be  
15 helpful to find out what other jurisdictions have  
16 done, Commissioner. Maybe we could get some  
17 research done this week and put it on for next week  
18 or the week after.

19 CHAIRMAN CROSBY: And invite  
20 participants to give us their views of this if you  
21 want to.

22 COMMISSIONER MCHUGH: Right.

23 COMMISSIONER ZUNIGA: I'll just  
24 mention, it's good to do research, but one of the



1 fundamental conditions of the license is submitting  
2 the fees. I see it as an upfront. If you get a  
3 license you submit a fee as one of the conditions.

4 COMMISSIONER MCHUGH: That maybe  
5 where we wind up.

6 CHAIRMAN CROSBY: It's just never been  
7 thought about. So, I think it's important enough  
8 that we should think about it. Maybe we could ask  
9 our consultants what --

10 COMMISSIONER CAMERON: That's how I'm  
11 aware.

12 CHAIRMAN CROSBY: There must have been  
13 other such models. Anything else for Director  
14 Wells? Thank you very much.

15 MS. WELLS: Thank you.

16 COMMISSIONER CAMERON: Thank you.

17 COMMISSIONER MCHUGH: Thank you.

18 CHAIRMAN CROSBY: Director  
19 Durenberger, if she's still here, item number seven,  
20 the Racing Division.

21 DR. DURENBERGER: Good afternoon, Mr.  
22 Chair, Commissioners. This will be a brief  
23 administrative update because you're going to see  
24 a lot of me over the next couple of weeks. So, this



1 is just sort of where we are at this time.

2 I would like to commend the Commission  
3 on its earlier vote for its candidate finalist for  
4 Executive Director. I was not able to speak with  
5 Mr. Day and meet him when he was here visiting with  
6 other senior staff, but I do look forward to working  
7 with him. So, welcome.

8 I reported to you, I believe, two weeks  
9 ago that our transition from the old SRC was  
10 complete. And as it turns out, there is still some  
11 ongoing issues with the financial reporting system,  
12 our software program.

13 IT staff has been working trying to  
14 figure out what the problem is. We are assured  
15 that the data that we need to proceed is there, we  
16 just have trouble accessing it. You have now  
17 exhausted my knowledge of our IT process.

18 But this does impact a couple of things  
19 that I wanted to put before you. One is the local  
20 aid payments. Because they are calculated and paid  
21 out six months -- because it's a six-months arrears  
22 process, typically in years passed in January, late  
23 January, a letter has gone out to the communities  
24 that receive local aid, outlining what the payments



1 are going to be for the upcoming year. And we have  
2 not been able to do that. But that should be  
3 forthcoming.

4                   We also have out of the racing  
5 stabilization fund a number of greyhound licensees  
6 that have checks that were payable in January. So,  
7 those are also being held up. We have staff in  
8 place. The numbers are going in from the field into  
9 the system. We have staff in place on our end in  
10 Boston with the vendor codes and the ability to send  
11 it out once we can access those numbers. But for  
12 some reason, there's a piece that's missing. So,  
13 we need to complete that link.

14                   I still don't have a date certain for  
15 that, but I'm told it's forthcoming. So, I just  
16 wanted to let you be aware of that.

17                   COMMISSIONER MCHUGH: Who's working  
18 on this?

19                   DR. DURENBERGER: Well, the software  
20 system itself is the proprietary system that is  
21 still serviced by its creator. It's a number of  
22 years old. And we've been working with him. The  
23 IT group that the Commission uses, which I think  
24 comes through A and F, but as you know that





1 individual that's helping us is also committed to  
2 some other agencies. So, it's a mixture. Then  
3 we're working with as well the IT group, I believe  
4 it's H-E-D that DPL uses. And we can go into the  
5 alphabets if we want to.

6 COMMISSIONER MCHUGH: So, we have  
7 three groups working on this?

8 DR. DURENBERGER: We do but not on a  
9 daily basis because they all have other duties as  
10 well.

11 COMMISSIONER MCHUGH: But we're  
12 holding up -- This is holding up payments to -- Is  
13 it holding up payments to cities and towns or just  
14 the notification?

15 DR. DURENBERGER: It's holding up the  
16 letter with the calculation, notification letter  
17 that has the calculations. But it is holding up  
18 payments to former greyhound licensees.

19 COMMISSIONER MCHUGH: Town meetings  
20 are coming up here soon, right?

21 DR. DURENBERGER: Yes, they are.

22 COMMISSIONER MCHUGH: Should we think  
23 about helping to expedite this in some fashion? It  
24 seems to me that this has been going on for a couple



1 of months, right?

2 DR. DURENBERGER: Well, it's now  
3 February 7, so about four weeks.

4 COMMISSIONER MCHUGH: Yes. And  
5 basically, the data we are told is there but we can't  
6 read the data anymore for some reason?

7 DR. DURENBERGER: Yes, for some  
8 reason.

9 COMMISSIONER MCHUGH: And we don't  
10 know why we can't read the data anymore for some  
11 reason?

12 DR. DURENBERGER: Correct.

13 COMMISSIONER ZUNIGA: Could we  
14 entertain a provisional payment option? Let's say  
15 look at a prior payment, prior quarterly payment and  
16 take 75 percent of that and advance that to everybody  
17 so that not one person or city is held up on the  
18 entire amount.

19 CHAIRMAN CROSBY: You must know to a  
20 pretty high degree of likelihood what the number is  
21 going to be more or less. There's at least two  
22 different solutions that have been suggested, both  
23 of which I think are good.

24 One is just approximate it and go with



1 that, discount it a little and go with that. And  
2 another is to intervene and we can contact whoever  
3 we need to contact at higher levels to make sure this  
4 is a higher priority. We can do either or both of  
5 those things.

6 COMMISSIONER MCHUGH: It seems to me  
7 both would be good because -- It seems to me both  
8 would be worthwhile. I obviously don't understand  
9 the complexity of this, but if the data is there.  
10 And we've got a program that used to read the data  
11 and the program hasn't been crashed. And we still  
12 have the creator of the program, it seems to me that  
13 I've got other things to do, I can't help you doesn't  
14 work right.

15 CHAIRMAN CROSBY: My only amendment to  
16 that is I don't really know how big a deal this is.  
17 I don't know whether we really are imposing on some  
18 people's lives and on their finances. If we are,  
19 I think we should move heaven and earth to fix it.

20 DR. DURENBERGER: I agree with you.

21 CHAIRMAN CROSBY: If it's small  
22 potatoes and it's not really going to be an issue,  
23 then let's let nature take its course. But I just  
24 don't have a feel for how important this is. But



1 if real people are being affected by this --

2 DR. DURENBERGER: They are, they are.

3 CHAIRMAN CROSBY: Then I agree with  
4 Commissioner McHugh. I think we should move both  
5 of those. And we can raise the level of  
6 intervention either who calls the people you've been  
7 talking to or who calls somebody above them.

8 DR. DURENBERGER: Okay.

9 CHAIRMAN CROSBY: And also think  
10 through the idea of the partial.

11 COMMISSIONER ZUNIGA: There will be  
12 subsequent payments too. We could always true off.

13 CHAIRMAN CROSBY: We can also discount  
14 back, yes.

15 COMMISSIONER ZUNIGA: Then we can  
16 agree it's a mistake, not mistake but overpayment  
17 let's say. We could net it out out of a subsequent  
18 one.

19 CHAIRMAN CROSBY: Right.

20 DR. DURENBERGER: Okay. We have been  
21 inventorying the old files dating back to 1935 that  
22 we're in possession of. And we have actually almost  
23 completed that. We are going to be trying to find  
24 a library intern, a library science intern to help





1 archive all of the old minutes from the old meetings  
2 dating back.

3                   There's tremendous history in racing  
4 in Massachusetts. So, that will be a fall project,  
5 a fall semester project for a library science  
6 intern. But we know what we have now.

7                   COMMISSIONER MCHUGH: That will be  
8 great.

9                   DR. DURENBERGER: Yes. And I think it  
10 will be a very exciting project. We were looking  
11 at some of the old binders. Some of them are bound  
12 in these old beautiful leather covers. But I think  
13 digitizing them and making them available --

14                   I'm also going to contact the Keeneland  
15 Library, which is in Lexington, Kentucky. It's the  
16 largest library, probably, devoted to horseracing  
17 anywhere in the world, quite possibly. So, we'll  
18 see if they have interest in that as well. Because  
19 I think it would be great to have that available.

20                   We are in the middle of seasonal staff  
21 recruitment. We start early because racing will be  
22 upon us in the middle of April. And as you know,  
23 our background check process does take some time.  
24 So, we've initiated that process. We'll be doing



1 a large number of interviews over the next two weeks.

2 We will have David Murray back with us  
3 next week where we will come before you with an  
4 update on where we are with the legislative review.

5 And I just want to remind folks that the  
6 proposed changes to 205 CMR 3.00 and 4.00 are on the  
7 website. A public hearing has been scheduled for  
8 Monday, February 25 at 1:00. I think it's in this  
9 room, certainly in this building. But those are  
10 there. They are open for public comment and we  
11 welcome that.

12 CHAIRMAN CROSBY: Great.

13 COMMISSIONER CAMERON: Thank you,  
14 Director.

15 COMMISSIONER MCHUGH: Thanks a lot.

16 CHAIRMAN CROSBY: I think we are about  
17 done. Anything else? Before we adjourn, Director  
18 Driscoll was going to set up for a follow-up with  
19 the press. I'm not sure there's enough press here  
20 to worry about. So, we'll just let you organize it  
21 with Dan.

22 Do I have a motion to adjourn?

23 COMMISSIONER MCHUGH: So moved.

24 CHAIRMAN CROSBY: All in favor, aye.



1 COMMISSIONER STEBBINS: Aye.  
2 COMMISSIONER ZUNIGA: Aye.  
3 COMMISSIONER MCHUGH: Aye.  
4 COMMISSIONER CAMERON: Aye.  
5 CHAIRMAN CROSBY: Let's do it. Thank  
6 you.

7  
8 (Meeting adjourned at 3:52 p.m.)

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24



1 ATTACHMENTS:

2

- 3 1. Agenda
- 4 2. January 17, 2013 Massachusetts Gaming  
5 Commission Meeting Minutes
- 6 3. January 24, 2013 Massachusetts Gaming  
7 Commission Meeting Minutes
- 8 4. January 31, 2013 Massachusetts Gaming  
9 Commission Meeting Minutes
- 10 5. Resume of Rick Day

11

12 SPEAKERS:

- 13 Rick Day, Executive Director (finalist)
- 14 Dr. Jennifer Durenberger, Director Racing Division
- 15 Todd Grossman, Staff Attorney
- 16 Karen Wells, Director IEB
- 17 John Ziemba, Ombudsman

18

19

20

21

22

23

24





## 1 C E R T I F I C A T E

2

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

7

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

12 I, Laurie J. Jordan, further certify I neither am  
13 counsel for, related to, nor employed by any of the  
14 parties to the action in which this hearing was  
15 taken and further that I am not financially nor  
16 otherwise interested in the outcome of this action.  
17 Proceedings recorded by Verbatim means, and  
18 transcript produced from computer.

19 WITNESS MY HAND this 9th day of February, 2013.

20

21

22 LAURIE J. JORDAN My Commission expires:

23 Notary Public May 11, 2018

24

