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THE COMMONWEALTH OF MASSACHUSETTS  
MASSACHUSETTS GAMING COMMISSION

PUBLIC MEETING #58

CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

Gayle Cameron

James F. McHugh

Bruce W. Stebbins

Enrique Zuniga

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March 14, 2013, 1:00 p.m.

OFFICE OF THE DIVISION OF INSURANCE

First Floor, Hearing Room E

1000 Washington Street

Boston, Massachusetts

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

CHAIRMAN CROSBY: We will call to order public meeting number 58 of the Massachusetts Gaming Commission on March 14, 2013.

I think we should start today with a moment of silence for Wes Welker.

COMMISSIONER ZUNIGA: That wasn't a moment of silence.

CHAIRMAN CROSBY: I hope they know what they're doing. Approval of minutes, we don't have any minutes, I think.

COMMISSIONER MCHUGH: That's right, that's Tuesday's meeting.

CHAIRMAN CROSBY: On the master schedule, I think everybody knows we are working as hard as we can on the Category 2 license schedule. For the time being, our expected date of award, assuming there aren't too many lawsuits and appeals and so forth is early December. Trying to move that back, but we don't really have any more to add.

We apparently had our third of four

1 sites for the slots parlor clarified yesterday.  
2 That will speed the process up. And as everybody  
3 heard the other day, we're pushing to get the  
4 decision made on the fourth. But beyond that, I  
5 don't think we really have anything to talk about  
6 on the master schedule. Anything else in  
7 administration?

8 COMMISSIONER ZUNIGA: No.

9 CHAIRMAN CROSBY: Director Wells?

10 MS. WELLS: Good afternoon. I expect  
11 to be brief. As Commissioner Cameron mentioned at  
12 the last open public meeting on this topic, the  
13 investigations are proceeding. All of the  
14 applicants are submitting additional  
15 documentation that is being plowed through by the  
16 consultants as well as members of the  
17 Massachusetts State Police.

18 We've had meetings with individuals on  
19 other certain issues and are developing the  
20 strategy going forward to do this in the most  
21 efficient manner possible. Recognizing that the  
22 Commission is looking to expedite the slots two  
23 license, we're doing everything to prioritize  
24 those investigations. And we're monitoring that.

1           And I will update the Commission as  
2 those proceed so that you can get a better idea of  
3 expected timelines. There is some concern about  
4 the April 15 deadline. I'll be perfectly frank  
5 about that.

6           CHAIRMAN CROSBY: You mean that you  
7 can get all of the investigations done?

8           MS. WELLS: Well, for the slots  
9 license, so there's four. We're working with the  
10 applicants. A lot of the investigative process  
11 has to do with compliance.

12           When we send document requests, they  
13 have to send back the documents in order to be  
14 reviewed. So, I've been indicating to the  
15 applicants that as part of this investigatory  
16 process, we need their cooperation. And that has  
17 to be a partnership. And we need those documents  
18 to come in.

19           Generally, I'm getting a decent  
20 response depending on the applicant. So, we just  
21 have an ongoing process going through those.  
22 Obviously, it's not appropriate to give details  
23 about those investigations in the public meeting,  
24 but that's how those are proceeding.

1           And we continue to review qualifiers,  
2 any additional qualifiers. None have been  
3 identified since the last meeting. I will update  
4 the Commission if new qualifiers do become  
5 apparent. And those new qualifiers will then have  
6 to submit the original forms and we'll have to go  
7 through that process. So, we're just monitoring  
8 that with all of the applicants.

9           COMMISSIONER MCHUGH: Do we have  
10 information that's in the hands of third parties  
11 over whom we have no control that's going to be  
12 pertinent to these investigations? For example,  
13 on some of our background investigations, we've  
14 been held up -- personnel background  
15 investigations -- by jurisdictions beyond  
16 Massachusetts not responding to requests for tax  
17 information.

18           MS. WELLS: Yes. I see what you're  
19 saying. For example, we are entering into an MOU  
20 with Maryland so that we can share information and  
21 get information on other background  
22 investigations they've done.

23           So, we are working with other states in  
24 order to expedite that process. I would say the

1       only other third party similar to that situation  
2       you described is when the applicant is submitting  
3       information. So, say they need certain bank  
4       records, they've got to go to their bank. Their  
5       bank has to provide those records which then they  
6       provide to the investigators.

7               So, they need to rely on other parties  
8       as well. So, it's not always within their control  
9       as well. We have to recognize that and just be as  
10      expeditious as possible.

11             CHAIRMAN CROSBY: Tax returns have  
12      been a problem, I think, in our background checks.

13             MS. WELLS: Yes. And I will say as we  
14      look into the individual applicants, there are  
15      some international connections that we are  
16      investigating. Obviously, if an applicant has  
17      international connections that we need to  
18      investigate, that's a little more difficult than  
19      doing a stateside investigation. So, we need to  
20      be mindful of that.

21             And sometimes when we go down a path,  
22      you find out oh, there is this connection over here  
23      that you don't know initially. So, we just have  
24      to be mindful of that and flexible in recognizing

1 that a thorough and complete job is the most  
2 important part of this, because we only get one  
3 chance to do the investigation. So, we're just  
4 mindful of that while recognizing the Commission's  
5 timeline.

6 CHAIRMAN CROSBY: I think we want to  
7 commend you and your staff and also make sure the  
8 public appreciates what a colossal job this is.  
9 And when you have to send back -- Many of these  
10 forms came in, many of these 21,000 pages were not  
11 redacted properly. And we've had to send them  
12 back. And they send them back, we have to check  
13 them again. And it's an incredible process.

14 And appreciation to you and the  
15 troopers and so forth who are doing this. But also  
16 I want the public to understand what a colossal job  
17 it is. And we don't want to send out one item of  
18 information that was not supposed to go out. We  
19 don't want accidentally to put a phone number or  
20 an account number or something like that, a  
21 personal address that we're not supposed to send  
22 out. So, we have to be incredibly fastidious but  
23 it's a massive, massive job.

24 MS. WELLS: Right. And I will comment

1 along those lines that we are very mindful of that.  
2 We are having State Police again go through these  
3 documents. We set up a process. We've set up the  
4 software. We've done it all. And this will take  
5 some time.

6 All applicants will have an  
7 opportunity to review what we've put together  
8 before anything is made public. So, there will be  
9 a second check on that. So, that should alleviate  
10 any concern before anything is made public.

11 CHAIRMAN CROSBY: So, they will sign  
12 off on our corrections?

13 MS. WELLS: Correct, correct. So, I  
14 will have a form and a process for that in place  
15 when those get sent to the applicants. Any other  
16 questions?

17 CHAIRMAN CROSBY: Great.

18 COMMISSIONER CAMERON: Thank you,  
19 Director.

20 CHAIRMAN CROSBY: Ombudsman Ziemba,  
21 public information and outreach. I don't see  
22 Joel.

23 MR. ZIEMBA: I think he might be a  
24 little bit late. We can start without him though.



1 CHAIRMAN CROSBY: Okay. I can  
2 introduce two of our three RPA guests. Stephen  
3 Smith, Executive Director the Southeast Regional  
4 Planning and Economic District. And Timothy  
5 Brennan, Executive Director of Pioneer Valley  
6 Planning Commission.

7 Both of these gentlemen and their  
8 organizations have already been helpful to us in  
9 a number of respects. And as is being proposed,  
10 are willing to be helpful further. But I want to  
11 thank you both for pitching in on a number of  
12 different occasions already in helping us out in  
13 what is a pretty big and challenging task for many  
14 of your member communities. Do you want to take  
15 it from there and kick this off?

16 MR. ZIEMBA: Sure. Thank you. In  
17 addition to these gentlemen, who I want to say  
18 thank you to publicly, they've been a tremendous  
19 support over the last couple months. And they've  
20 done yeoman service, contributed massive number of  
21 hours to help plan what we're going to discuss  
22 today.

23 But I also want to thank a couple  
24 members of their staff Mark Rasicott and Charlie

1 Ticotsky from MAPC and then Jim Mazik from the PVPC  
2 contributed a lot to what we're going to discuss  
3 today.

4 So, what I'd like to do is I'd like to  
5 just provide the general overview of the plan.  
6 You have a memo before you. Then I'll ask Steve  
7 and Tim to briefly describe their agencies and  
8 their regions, how they relate to our function.  
9 I'd ask them to talk about similar multiple  
10 community projects that they've been engaged in.  
11 And why they believe that they can help with  
12 surrounding community issues.

13 After that discussion then I'd like to  
14 address several issues that have been identified  
15 in a number of our conversations.

16 We reached out to numerous host  
17 communities, to applicants and we've heard from a  
18 number of surrounding communities as well about  
19 how we could go about providing assistance on the  
20 surrounding community question.

21 So in overview, we are proposing a plan  
22 whereby the regional planning agencies can help us  
23 on questions relating to potential surrounding  
24 communities. We believe that this should be seen

1 as a service that is provided by the Commission.  
2 And we very much recommend that this should be a  
3 voluntary service that could be adopted by  
4 applicants if they choose to do so, and could be  
5 adopted by communities if they choose to avail  
6 themselves of services.

7 After numerous discussions, we believe  
8 that the voluntary nature of this program is fairly  
9 important to how it should go forward given some  
10 of the other provisions in the statute.

11 Specifically, in regard to applicants,  
12 over the course of the last couple of months we have  
13 identified numerous regulations that we are  
14 proposing regarding potential surrounding  
15 communities and how the process should go forward  
16 with surrounding communities.

17 Notably, what we've outlined is a draft  
18 definition of what a surrounding community may be.  
19 We've also recently adopted as a proposed draft a  
20 process whereby communities could ask for  
21 disbursements of dollars for technical assistance  
22 funding if they indeed they cannot reach an  
23 agreement with an applicant to receive those  
24 dollars.

1           So, I think that there are numerous  
2           protections for surrounding communities included  
3           in the Gaming Act. And we've added very  
4           significant protections for surrounding  
5           communities in our draft regulations.

6           So, given some of those processes,  
7           applicants could very much determine that they  
8           would like to move forward with that process rather  
9           than the process that we're outlining today. And  
10          it is certainly up to them.

11          We note that every applicant will be  
12          judged based on how they will conduct their  
13          outreach activities to surrounding communities.  
14          And they'll also be judged about the quality of  
15          their mitigation efforts towards impacts that are  
16          identified.

17          So, this Commission has focused a lot  
18          on competition. And we think that competition is  
19          a very good thing when it comes to helping to  
20          address mitigation issues on potential  
21          surrounding communities. Because it is in the  
22          interest of applicants to try to do as good a job  
23          as they can in addressing some of these impacts as  
24          they see fit, but they will be evaluated by the

1 Commission.

2           So, given that context, we recommend  
3 that this service that we're about to outline  
4 should be a voluntary service so that an applicant  
5 can move forward on their own devices as they see  
6 under the statute and under our regulatory  
7 structure. Or we could provide the services  
8 through regional planning agencies.

9           And we're recommending this because we  
10 believe that it might be a much more streamlined  
11 process. It might help be a little bit more  
12 participatory. And we believe it might be able to  
13 focus some real energy in a direction that is  
14 useful to both applicants and surrounding  
15 communities and host communities.

16           CHAIRMAN CROSBY: It's a little  
17 counterintuitive. It took me a while to sort of  
18 get my head around it, to think about this process  
19 being started by the applicant. You'd think, well  
20 this is about the surrounding communities. What  
21 does the applicant have to do with it?

22           But it is important to clarify that the  
23 duty in our law is for the applicant to negotiate  
24 agreements with the surrounding communities. So,

1 they are going to the protagonist, if you will, the  
2 proactive party in this part. And if they see the  
3 idea of doing it in a collegial combined way, if  
4 they see that as being an asset to them, then they  
5 would trigger this process.

6 But it is a little counterintuitive to  
7 understand why this has to be started by the  
8 applicant.

9 MR. ZIEMBA: Right. So, notably we  
10 also believe that it should be voluntary on behalf  
11 of the communities. We think that there could be  
12 tremendous efficiencies by this program for  
13 communities, especially communities that are  
14 smaller communities that rely on a lot of voluntary  
15 boards and voluntary personnel to be able to rely  
16 on the expertise of the RPAs in each one of the  
17 regions.

18 And it's potentially a very efficient  
19 process because you could have a situation where  
20 one gaming applicant is surrounded by numerous  
21 communities, each with very similar or the same  
22 questions to answer. So, they could each be  
23 individually going to ask the applicant for  
24 funding to basically look at many same or similar

1 questions.

2           So, potentially you might be able to  
3 avoid a lot of staff time going ahead and procuring  
4 services for consultants and outside specialists  
5 to help advise communities. And this might  
6 actually be a more efficient way so that dollars  
7 are used more efficiently to take a look at  
8 impacts. So, that's quite an introduction to the  
9 services that we're going to describe without  
10 actually telling you what those services are. But  
11 let me tell you what they are.

12           So, there are three tasks that we  
13 envision for each of the regional planning  
14 agencies. And it is up to the applicants to  
15 determine whether or not they would want to avail  
16 themselves of all three of them, two of the three,  
17 one of the three, or none of the three as I just  
18 described.

19           So, the first task is as a convener.  
20 So, what we envision is that the RPAs will organize  
21 up to two informational forums per region. And  
22 region is really basically defined as the region  
23 that is surrounding each of the gaming facilities.

24           Those will be followed by a series of

1 task force meetings for each of the specific gaming  
2 facility. In those task forces, it will be up to  
3 the applicant to help present their application in  
4 the best way that they see forth. And to provide  
5 a lot of information to the potential surrounding  
6 communities about impacts that they've been  
7 identifying throughout their process.

8 The second phase of the scope is  
9 technical analysis and assistance. And this is  
10 sort of what I just described, whereby we are  
11 hoping that we could utilize the services of the  
12 regional planning agencies to take a look at the  
13 data that will be provided by both the applicants  
14 and the host communities. At the appropriate  
15 time, there will probably be a tremendous store of  
16 information about what potential impacts there  
17 could be, not only to the host communities but to  
18 the regions in which they sit.

19 So, it is our proposal that the RPAs  
20 assemble the data that has been compiled by the  
21 applicants. And then in turn take the information  
22 that will very much in all likelihood be produced  
23 by the host communities, take those two big groups  
24 of data and evaluate that data in order to



1 determine impacts on surrounding communities.

2 It is very likely that host communities  
3 will spend a great amount of time evaluating what  
4 the gaming facility may do to their communities.  
5 But after many conversations with host communities  
6 across the Commonwealth, it very much looks like  
7 many communities are going to take the regional  
8 approach, even in their own reviews. So, host  
9 communities are going to take a look at the gaming  
10 facility in the context of the region and within  
11 their neighbors.

12 And that's good news. That's good  
13 news I think to everyone. It's good news to the  
14 host communities so that they can determine what  
15 the real impacts are. But it's obviously very  
16 helpful to us in being able to assemble some of that  
17 data to take a look at.

18 So, why we think that this is a little  
19 bit more of an efficient process, instead of each  
20 individual community asking for an independent  
21 study, what we are hoping to do is to take a look  
22 at the existing data and basically do a peer-review  
23 of that data.

24 So, with the expertise that the RPAs

1 have on-site, they can a look at the studies that  
2 will in all likelihood be put together by very  
3 reputable firms and determine very objectively  
4 whether or not the data is sufficient, whether or  
5 not it addresses a lot of issues that have been  
6 identified in some of these task force meetings,  
7 whether or not further studies need to be done. Or  
8 whether or not tweaking needs to be done to each  
9 of the individual studies.

10 And thereby this might be a lot more  
11 efficient way to take a look at some of the issues,  
12 but it would be able to provide the objectivity to  
13 a potential surrounding community that they would  
14 desire in looking at numbers.

15 As you can imagine, as with any  
16 development, communities are often skeptical of  
17 the data that is being put forward. Not because  
18 of the development itself, but just the way that  
19 it works. So, we think that with the reputations  
20 and the relationships of the RPAs that they've been  
21 grooming for years and years and decades that this  
22 might be a really effective way to objectively  
23 measure impacts.

24 And we have to note that impacts is what

1 the Commission will be looking at. It's what's  
2 called on by the statute to take a look at. And  
3 we're hoping that in the context of all of these  
4 conversations with communities that that's what  
5 they'll be looking at as well.

6 CHAIRMAN CROSBY: As opposed to what?

7 MR. ZIEMBA: As you can imagine, there  
8 are some concerns that you have entities that are  
9 coming into the state and there are views that  
10 there might just be a lot of money available to help  
11 out with services across-the-board.

12 CHAIRMAN CROSBY: I see. This is not  
13 a gratuitous windfall. This is to address  
14 impacts.

15 MR. ZIEMBA: Yes. So, our whole focus  
16 has been on let's determine what the real impacts  
17 are. That's what the Commission will evaluate.  
18 That's what the statute anticipates rather than  
19 atmospheric.

20 CHAIRMAN CROSBY: Right, okay.

21 MR. ZIEMBA: Task three is that the  
22 RPAs would help communities with agreements that  
23 they would enter into with applicants. So, these  
24 could be in many shapes or forms.

1           But notably the statute calls for  
2 surrounding community agreements to be included  
3 within each application before the Commission.  
4 So, it'll be up to each applicant to determine  
5 which communities are surrounding communities for  
6 the purposes of submitting their applications to  
7 the Commission.

8           But as you can imagine, as you go  
9 through the process, initially, numerous  
10 communities will be invited to participate to say  
11 are you interested in learning about the Act? Are  
12 you interested in learning about potential  
13 impacts? And over the course of time, as more and  
14 more of the studies are finalized and more of the  
15 impacts are understood, some communities may  
16 eventually drop out of the process and say well,  
17 okay, I do realize after looking at the data that  
18 potentially I may not be as impacted as I once  
19 thought that I would be.

20           But then you might have a situation  
21 where at the end of the day, the applicant believes  
22 that some communities rise to the level of  
23 surrounding communities such that they are truly  
24 impacted and that their impacts should be

1 mitigated.

2           And that there might be some  
3 communities that are still at the end of the  
4 process that have identified an impact or a lesser  
5 impact. And they may say is there any way that  
6 you're going to address the impacts for us, even  
7 if you don't believe that you are a surrounding  
8 community?

9           And it's up to each applicant on how  
10 they want to address either these regional impacts  
11 or specific impacts to communities that may not  
12 actually be surrounding communities in the eyes of  
13 the applicant.

14           And the applicant could address that  
15 many different ways. Notably, they could either  
16 just include measures to address impacts in their  
17 application. Or even you could imagine that an  
18 applicant could even have a regional agreement  
19 that would address or memorialize impacts that --  
20 measures that they would take to reduce those  
21 impacts with a group of communities even if they  
22 are not a surrounding community.

23           So, what I'd like to do now is I'm going  
24 to let Steve and Tim give a little bit of the

1 background that I described.

2 MR. SMITH: Sure. Let me start by  
3 saying what a pleasure it's been to work with John.  
4 And I think you made a great choice. He's a great  
5 representative of the Commission. He's been  
6 terrific to work with in this process.

7 As the Chairman mentioned, I'm Steve  
8 Smith. I'm with the Southeastern Regional  
9 Planning and Economic Development District, which  
10 is all contained within what you consider Region  
11 C. We have two active Category 2 proposals plus  
12 a Native American proposal in the region.

13 The scope as John described it that we  
14 are offering is what regional planning agencies --  
15 this is what we do. And this is what we've been  
16 doing for basically more than 50 years.

17 While the type of development may be  
18 different, casino as opposed to a mall or a large  
19 transportation project or an industrial park, the  
20 issues are the same. We're dealing with traffic.  
21 We're dealing with housing impact. We're dealing  
22 with workforce impact. So, this is not new  
23 terrain for us.

24 And many of these issues we are also

1 involved in extensive sometimes adversarial  
2 public processes where we have to bring people  
3 together to talk about these issues.

4 And in our case, for example, the South  
5 Coast Rail Project, which has been going on for  
6 years and years and is sometimes contentious, but  
7 we sit as an objective third party bringing  
8 different people together to talk about these  
9 issues.

10 We are answerable to boards, to  
11 regional boards of public officials, elected and  
12 appointed public officials. And we very much are  
13 rely on credibility and trust we've developed over  
14 years by doing objective technical analysis, which  
15 is what we're suggesting here.

16 As John mentioned, this is an optional  
17 process that's being proposed. But I think it's  
18 a good one because it unifies all of the parties  
19 around sort of an objective third party to run this  
20 process.

21 And I can speak from experience.  
22 Being on the other side of the coin with the  
23 Wampanoag proposal in Middleboro in 2008, in which  
24 there was no process at all. The surrounding

1 communities, the host community, the proponent  
2 never spoke to each other. It quickly became  
3 adversarial, fragmented and chaotic, frankly.  
4 And it made it much more difficult for all parties  
5 involved.

6 And I think the proposal that we are  
7 suggesting here would make things run a lot  
8 smoother for you, for the proponents, for the host  
9 community, for the surrounding communities doing  
10 it through a single source.

11 On the technical end, we're not  
12 proposing to reinvent the wheel. There's a lot of  
13 studies being done, but we have a track record.  
14 And we do all of that through MEPA reviews and so  
15 forth doing objective technical reviews of the  
16 impacts of these proposals.

17 So, this is not new to us. The subject  
18 area may be new, but the impacts are pretty much  
19 the same. We're good at it. We've done it for a  
20 long time and we hope to be able to help the  
21 Commission out. And I'll turn it over to Tim.

22 MR. BRENNAN: Thank you. I just  
23 wanted to start by saying *ibid* to Steve's comment  
24 about working with John. He really is a terrific



1 team player and has helped us out a lot and so to  
2 our municipalities.

3 I'm Tim Brennan. I'm from the Pioneer  
4 Valley Planning Commission. Our planning  
5 commission is one of 13 in the state. We exist  
6 statewide. We were put together in the late 1950s  
7 by enabling legislation, which basically said  
8 communities that could sit in a region, which was  
9 defined by the state, could join one with another  
10 to work on problems and solving them or to chase  
11 opportunities that might not be available  
12 individually.

13 Our region, to be politically correct,  
14 is the Midwest of Massachusetts. We are based in  
15 Springfield, our largest city. But you might know  
16 us by the higher education art way, UMass, five  
17 colleges and we have a cluster of colleges in the  
18 Springfield area.

19 Our region is 625,000 people about 1200  
20 square miles. So, a medium-sized metropolitan  
21 area, about the size, just a little less than Rhode  
22 Island spatially. We have every type of community  
23 from the urban core cities such as Springfield,  
24 Holyoke and Chicopee, classic suburbs and lots and

1 lots of tiny towns.

2 Our agenda is A to Z. We work on  
3 everything from aquifer protection to zoning.  
4 And we have I think a stellar group of men and women  
5 who work in planning fields and are specialized,  
6 transportation planners, housing planners, land  
7 use planners and environmental planners. We try  
8 to bring that expertise to bear in teams to work  
9 on, again, issues that are either problems or  
10 opportunities.

11 So, taking John's list of the tasks and  
12 trying to connect those. Convener, our agencies  
13 tend to be the kitchen tables for the region we're  
14 in. This is where communities come together in  
15 small groups or large groups to talk about issues.

16 And I think the one that is most germane  
17 here is the fact that we've actually been involved  
18 for five years with the communities around the Town  
19 of Palmer. Those communities interested and  
20 concerned about what impacts might spill out over  
21 Palmer's borders if a casino were to be developed  
22 in our community. And we have been focused on that  
23 and have gained some knowledge and expertise.

24 We were asked to do this. This is not

1 something we were pushed in to. We were asked to  
2 provide that service, which I think underscores  
3 why the convening function is one of our sort of  
4 bedrock activities.

5 In terms of technical assistance,  
6 probably the most relevant to this kind of  
7 endeavor, because we are as John has underscored,  
8 talking on mitigation of impacts is we review every  
9 MEPA that comes through the region. So, 43 cities  
10 and towns, you can imagine in any given year those  
11 MEPA reviews come through. Sometimes they are at  
12 the entry-level, small impacts. And sometimes  
13 they are very complicated projects that require  
14 environmental impact report.

15 And we would bring obviously, those  
16 skills to bear, and again, in a multidisciplined  
17 sort of way. Traffic tends to be one that comes  
18 up very, very frequently, but environmental  
19 issues, storm-water runoff, historic  
20 preservation, and on and on I can go.

21 And lastly, I think the convener and  
22 the agreement sort of go together. Our ability to  
23 be a convener gives us again a platform from which  
24 to bring communities together. Try to use sort of

1 the wisdom of crowds to come up with agreements  
2 that work.

3 A couple of examples, and these are the  
4 ones that that have been around for decades, we  
5 have some of our region that serve with aquifers,  
6 underground reservoirs. We have compacts among  
7 those communities so that they work together to  
8 protect the common natural resource. And they do  
9 that by making sure they review any project that  
10 could put that aquifer at risk together. Barnes  
11 Aquifer Protection Advisory Committee is that  
12 group.

13 Another example also on the natural  
14 resource side that we've been working on for  
15 decades is the cleanup of the Connecticut River,  
16 our premier resource. We have to get the class B  
17 water. We have that now except from the Holyoke  
18 Dam southerly to the Connecticut line. So, we  
19 have all of the affected communities working  
20 together to get to that class B standard. Not  
21 quickly, but eventually we'll make that happen.

22 So, that's sort of a profile of we're  
23 up to. We think this process makes sense. Again,  
24 as John has said, this is a voluntary process. We

1 don't expect municipalities would come to this  
2 unless they are totally comfortable with it and us.  
3 And many communities have told us who come to  
4 meetings that that is the fact, but in the final  
5 analysis, it's going to be up to them to make that  
6 important decision. So, I'll stop there.

7 CHAIRMAN CROSBY: Our third guest is  
8 Mr. Joel Barrera from the Metropolitan Area  
9 Planning Council. John, are you going to ask him  
10 to speak as well?

11 MR. ZIEMBA: Yes. So, Joel, what  
12 we've been talking about is how the missions of  
13 each of the RPAs fit within the scope that we've  
14 identified. And we've also been talking a little  
15 bit about some of the historical activities that  
16 the RPAs have conducted that relate to this matter  
17 as well.

18 MR. BARRERA: Sure. I would just add  
19 that -- And apologize for being a couple of minutes  
20 late. -- the Metropolitan Area Planning Council,  
21 MAPC is the largest regional planning agency.

22 We are the regional planning agency for  
23 metropolitan Boston, 101 cities and towns in our  
24 region. Our mission is to promote smart growth

1 and regional collaboration. The same sorts of  
2 activities that Steve and Time have talked about.

3 Bringing communities together, which  
4 whether it's around planning for South Weymouth  
5 air station or whether it's planning the Green Line  
6 extension or whether it's coordinating with police  
7 and fire and EMS around Homeland security funds.  
8 That's what we do is we facilitate collaboration  
9 among communities, oftentimes bordering  
10 communities.

11 Again, we did not necessarily seek this  
12 role, although our communities have always been  
13 interested in this issue. Together with  
14 especially the work that Tim did out in Western  
15 Mass., we have pulled together a number of forums  
16 related to the Gaming Commission, pulled together  
17 some ideas in collaboration with our colleagues at  
18 the other RPAs.

19 We actually drafted quite a bit of the  
20 language that made it into the final bill. And  
21 then I would say in the fall, the Gaming Commission  
22 asked us and hired us to put together the forum  
23 related to mitigation.

24 So, I would just say we have close to

1 80 staff people expertise in many areas related to  
2 transportation, land use, environment, all of the  
3 kinds of things that Tim and Steve talked about.  
4 If you choose to use this, we would certainly  
5 welcome the partnership.

6 MR. ZIEMBA: Great. So, Mr.  
7 Chairman, what I was going to do is I was going to  
8 go into some the issues that we identified  
9 throughout our meetings across the state. And we  
10 can just sort of take them one-by-one.

11 CHAIRMAN CROSBY: Let me just ask you,  
12 since we're talking about the geographic  
13 representation, we now apparently have a bidder in  
14 Worcester. And is Danvers in your --

15 MR. BARRERA: Right.

16 CHAIRMAN CROSBY: There maybe one we  
17 apparently we hear in Danvers as well. So, that's  
18 covered. But what about Worcester?

19 MR. ZIEMBA: No. That's the Central  
20 Mass. Regional Planning Commission. We've had  
21 conversations with them quite some time ago. But  
22 we'd need to reach out to them with specifics of  
23 what we've been talking about.

24 CHAIRMAN CROSBY: But the presumption

1 would be bring in another regional planning  
2 agency to do the same thing.

3 MR. ZIEMBA: Yes, correct.

4 MR. BARRERA: And I would just add that  
5 they're colleagues of ours, they've been part of  
6 the monthly conversations that we've had on this  
7 at the MARPA table. And already even if Milford  
8 were to go forward and participate in this, that  
9 borders both of the commissions.

10 CHAIRMAN CROSBY: So, that's between  
11 the two?

12 MR. BARRERA: Milford is in ours, but  
13 everything west of that relates to Central Mass.  
14 And we've had conversations with Vera who is their  
15 chief planner. And we would already be expecting  
16 to work with them if Milford was one of the places  
17 that we decided to work.

18 CHAIRMAN CROSBY: Okay.

19 MR. ZIEMBA: So, the first  
20 recommendation is on the voluntary aspect of the  
21 program. We've gone over that a little bit, but  
22 if I could get into a couple of specifics.

23 Some of the concerns that we heard were  
24 that even though we are putting this forward as a



1 voluntary program, just by the fact that we're  
2 putting it forward could be seen as something that  
3 is pushing bidders into the program.

4 And throughout our conversations, we  
5 have noted to them that no, this is very much a very  
6 voluntary program. And at least I have been  
7 saying is that the Commission will be evaluating  
8 all of the applicants on the quality about their  
9 outreach and the quality of their mitigation. And  
10 I think that would be an important -- I recommend  
11 that the Commission also adopt that as a policy  
12 that just because applicants do not go along with  
13 this program that should have no bearing on how we  
14 take a look at their application.

15 CHAIRMAN CROSBY: Right.

16 COMMISSIONER MCHUGH: Could I ask why,  
17 just because no issue ought to go unchallenged.

18 MR. ZIEMBA: My recommendation flows  
19 from the fact that this program is basically on top  
20 of the statute. It's a voluntary program. The  
21 statute sets out very specific ways in which  
22 applicants can proceed with surrounding  
23 communities.

24 So, we receive questions is this

1 consistent with the statute? And our bottom line  
2 is that I don't think anything, any agreements the  
3 communities reach voluntarily with applicants  
4 would contravene the statute.

5 But certainly, there is a process in  
6 the statute that applicants can follow. And if  
7 they choose to follow that statutory process that  
8 they should not be seen as -- that there shouldn't  
9 be any disadvantage to that.

10 CHAIRMAN CROSBY: Did you think, John,  
11 about making it obligatory? In order to  
12 streamline, in order to standardize, in order to  
13 equalize about making this obligatory?

14 MR. ZIEMBA: I did. I was a little bit  
15 concerned about whether or not we would get  
16 challenges on whether or not we are contravening  
17 the statute if we did make it obligatory, because  
18 the statute outlines the process that each  
19 applicant shall engage in.

20 Again, the Commission does have pretty  
21 plenary authority. But part of the hope here is  
22 that applicants do a very good job at their  
23 outreach. And at the end of the day, this is a  
24 competitive process that the Commission will be

1 evaluating.

2 So, to the extent that we are heavily  
3 engaged in their process and we tell them what  
4 their process should be, that may have an impact  
5 on how they would be viewed by us. But if it's an  
6 entirely voluntary process, it is them making the  
7 determination that they want to engage in these  
8 services. And if for some reason that they don't  
9 like how it's going and they think it's providing  
10 a disadvantage to their application, they don't  
11 have to participate.

12 COMMISSIONER MCHUGH: It's also  
13 voluntary on the part of communities.

14 MR. ZIEMBA: Exactly.

15 COMMISSIONER MCHUGH: But at the same  
16 time, the Commission has an obligation to look at  
17 the regional impact of each of these casinos. And  
18 so, conceivably you could have a community in the  
19 middle of an impacted area that declined to  
20 participate in this process while its neighbors  
21 all did.

22 MR. ZIEMBA: Right.

23 COMMISSIONER MCHUGH: What happens  
24 then? The applicant and that community

1 negotiated, if it's surrounding community. They  
2 don't negotiate if the Commission ultimately  
3 concludes it's not a surrounding community. But  
4 they play a role nonetheless in the regional impact  
5 in terms of roadways through, water usage and the  
6 like.

7 MR. ZIEMBA: Right. Independent from  
8 the surrounding community section, the statute  
9 also calls for applicants to address the regional  
10 impacts.

11 COMMISSIONER MCHUGH: Right, right.

12 MR. ZIEMBA: So, in their  
13 applications, the applicants need to address those  
14 concerns. So, whether or not there's an actual  
15 agreement with that particular community, I would  
16 argue that it's still up to the applicant to show  
17 how they are addressing those regional concerns.

18 COMMISSIONER MCHUGH: I understand  
19 that but I guess my question was inartfully  
20 phrased. And maybe it's a question of encouraging  
21 participation in this rather than requiring it.  
22 Because it seems to me this is a process ideally  
23 suited to the regional aspects of the concerns that  
24 the Commission is required to address.

1           And having a hole in the middle of some  
2 region that doesn't interconnect with its  
3 neighbors, however unlikely, could adversely  
4 impact the Commission's ability to address in a  
5 holistic manner a regional impact.

6           MR. ZIEMBA: Well, we hope that they  
7 see the benefits of this process. And when I  
8 mention that this is a voluntary process, I do have  
9 to include just one footnote.

10           We have an involuntary disbursements  
11 process. So, whereby communities if they ask an  
12 applicant for a study or technical assistance and  
13 the applicant chooses not to provide that  
14 assistance, the community can appear before the  
15 Commission and petition the Commission to get an  
16 involuntary disbursement.

17           Now, one could imagine a situation  
18 whereby if the RPAs are engaged in taking a look  
19 at the needs across the region, but one particular  
20 community decided to not avail themselves of the  
21 services of the RPA, an applicant in a contest of  
22 whether or not they should fund another study for  
23 the same purpose, they could very much raise that  
24 as an issue of saying there is no need for this

1 additional study because it is already been  
2 provided by the RPA.

3 But I still believe that it's voluntary  
4 because the community would still be able to make  
5 the case to the Commission that for whatever reason  
6 they didn't seem that this assistance was  
7 sufficient for their purposes. And they would be  
8 able to make that case.

9 MR. SMITH: I would add that whether or  
10 not a community is a participant in the process,  
11 when we're doing a technical analysis, a review of  
12 that information, we can't ignore whether a  
13 community is a participant or not. We have to look  
14 at all of the communities and all of the impacts.

15 So, from a technical standpoint, there  
16 can't be a hole in the donut and no traffic for  
17 example in a particular community. So, they'd  
18 have to be included from that perspective.

19 COMMISSIONER ZUNIGA: The way you are  
20 laying this out, communities retain the option to  
21 participate. But they also retain the ability to  
22 the arbitration process that comes at the end of  
23 our process as the statute sets forth in case  
24 there's no agreement.

1 MR. ZIEMBA: Correct.

2 COMMISSIONER MCHUGH: Yes, although  
3 this is a process designed to reduce the need to  
4 go to the arbitration.

5 COMMISSIONER ZUNIGA: Right.

6 MR. ZIEMBA: And we would think that  
7 that would be of benefit to many parties including  
8 the Commission but to the applicants themselves  
9 because the uncertainty of what may happen in the  
10 arbitration process --

11 COMMISSIONER ZUNIGA: To work as an  
12 incentive.

13 MR. ZIEMBA: -- should be an incentive  
14 to work in this type of process.

15 I'll put this concern into the  
16 voluntary aspect. I don't know if it exactly fits  
17 here. One of the common concerns that we heard was  
18 that there is a tremendous amount of expense for  
19 all of these technical assistance that's being  
20 provided.

21 We have 11 applicants that each one of  
22 them will be studied by the host community, studied  
23 by the applicant. And then you may have these  
24 other studies that will occur.

1           What we are putting forward we believe  
2           is a way to efficiently do those studies so there  
3           are not five or six or seven studies, but  
4           potentially three studies that might take into  
5           account the whole.

6           But still in the course of our  
7           conversations with applicants and others, there is  
8           the concern that just the general process  
9           regarding surrounding communities is requiring  
10          many, many studies. And many of the studies by the  
11          nature of this is a competitive process and we'll  
12          only have two Category 1 (SIC) licenses that all  
13          of this study will be for not at the end of the day  
14          in a good many situations.

15          So, I think that we are getting a lot  
16          of pushback. I'd like to say maybe not  
17          specifically about our plan, but in more general  
18          terms about how much study could occur within each  
19          one of these different developments.

20          But I think the bottom line is that the  
21          statute does call for this type of a study. The  
22          applicants are required to include numerous  
23          regional impact studies. They're required to  
24          identify impacts on host and surrounding



1 communities and how they're going to address those  
2 impacts. And a lot of these are required by the  
3 statute.

4 And indeed how applicants will  
5 mitigate those concerns is part of the evaluation  
6 process that we've identified. But it's  
7 difficult to get beyond some of those issues in the  
8 first instance.

9 MR. BRENNAN: I think one thing I would  
10 like to underscore is though is our idea is not to  
11 bring another layer of consultant studies into the  
12 mix. The idea is to use the expertise we have and  
13 use the studies that are produced by the host and  
14 the developer. And to parse out this is  
15 satisfactory mitigation for issue A, B or C. And  
16 this one hasn't gotten sufficient attention, needs  
17 more work.

18 Again, the thing that is important to  
19 me is that the best mitigation is the mitigation  
20 that happens well before MEPA at the frontend when  
21 you can work with the developer and tell he or she  
22 here are things that need to be addressed and they  
23 get addressed so that later on the process should  
24 go much more smoothly.

1 MR. ZIEMBA: Within this context, just  
2 because it was an idea that was put forward and we  
3 said that we would bring it forward to the  
4 Commission, one of the alternatives that one of the  
5 entities put forward was that instead of all of  
6 these technical studies that what could occur is  
7 that applicants could be encouraged to just donate  
8 additional funds to the community mitigation fund.

9 And it wouldn't be necessarily -- you  
10 wouldn't necessarily require direct studies of the  
11 actual impacts at the surrounding communities.  
12 But it would be an after effect, after the award  
13 as part of the community mitigation fund.

14 So, the theory would be in order to  
15 address impacts that are likely, more monies go  
16 into the fund and that those could be addressed on  
17 a one-by-one basis through the application  
18 process.

19 I'm not sure if a potential surrounding  
20 community would like that idea or not like that  
21 idea. Again, the mitigation fund is a competitive  
22 process likely where there may be many  
23 applications for a subset of dollars at least in  
24 the first couple of years, but it was an idea that

1 was put forward.

2 COMMISSIONER MCHUGH: But that fund is  
3 really designed to provide remediation for things  
4 that weren't anticipated before the plan was  
5 approved and the application and the license  
6 granted, right? That's the main.

7 MR. ZIEMBA: Yes.

8 COMMISSIONER MCHUGH: So, it can't  
9 really be consistent with the statute, a  
10 substitute for the studies and planning that the  
11 statute requires. It's hard to see how that would  
12 be.

13 MR. ZIEMBA: Right.

14 CHAIRMAN CROSBY: They're not  
15 recommending that anyways.

16 COMMISSIONER MCHUGH: Yes.

17 MR. ZIEMBA: One thing that might be a  
18 good idea is that because there is such tremendous  
19 -- the statute does outline both the community  
20 agreements and also the community mitigation fund  
21 as ways to mitigate impacts. And again, the  
22 mitigation fund should be available to address  
23 impacts that primarily were not identified in the  
24 first instance.

1           But one suggestion is that perhaps the  
2 Commission do a little bit more publicizing of what  
3 the community mitigation fund will be used for, and  
4 how much funding will be available in it for the  
5 next 15 years. Because substantial dollars 6.5  
6 percent of the Category 1 revenues and 10 percent  
7 of the gaming fees that are provided are put into  
8 that kitty. Those funds over time could be rather  
9 substantial.

10           And by letting communities know that  
11 there is a fund available and that it will be  
12 populated by significant dollars, it may relieve  
13 some of the stress on all of the negotiations on  
14 what is a surrounding community or what is not a  
15 surrounding community, since we have previously  
16 indicated that communities that are impacted can  
17 access that fund.

18           So, one recommendation that we have  
19 from the outside world and what we've been  
20 considering ourselves is that perhaps we can put  
21 together more of a concrete estimate. Again, an  
22 estimate since we won't know what the revenues  
23 would be until we actually receive and choose our  
24 applicants, of what type of funding might be

1 available for communities out of that fund.

2 CHAIRMAN CROSBY: I'm not sure that I  
3 like that idea. The other way to look at it is we  
4 really want pressure on communities and the  
5 applicants to identify issues upfront in order  
6 that we don't have to backfill. Because that may  
7 seem like it's a lot of my money, but it could  
8 disappear awfully quickly.

9 I would like to have a real premium put  
10 on making sure that this is done and done  
11 thoroughly and done well upfront. So, what's left  
12 in that other fund is a cushion for the unknown  
13 future rather than a substitute for rigorous work  
14 upfront.

15 MR. ZIEMBA: I agree with you. I  
16 think there's a subset of that, which is that some  
17 communities, which will not be designated as  
18 surrounding communities. So, there's not as much  
19 pressure on that they are by definition --

20 CHAIRMAN CROSBY: They won't feel  
21 quite as bad.

22 MR. ZIEMBA: They won't feel quite as  
23 bad, because they still could have impacts that are  
24 mitigated at a later point.

1                   CHAIRMAN CROSBY: Yes, that's a good  
2 point.

3                   MR. ZIEMBA: One of the other big  
4 issues that we encountered and perhaps this was the  
5 biggest issue that we encountered across the state  
6 is the issue of the fact that creating this process  
7 for allowing or helping communities review impacts  
8 may actually serve to create false expectations  
9 that communities will be surrounding communities  
10 at the end of the process.

11                   Because we think that the only fair way  
12 to at least begin the conversations with  
13 communities is to have perhaps an overly inclusive  
14 group before you define what the actual impacts  
15 are. And throughout the course of time, you will  
16 know which communities or the applicant will  
17 become more comfortable which communities are  
18 truly the impacted communities.

19                   So, the thought or the fear is that this  
20 process may bring in a number of communities that  
21 otherwise would not have thought that they might  
22 be a surrounding community and entitled to a  
23 surrounding community agreement. So that you may  
24 have a number of disappointed communities at the

1 end and that that could result in the effect of  
2 exactly what we're trying to avoid of communities  
3 pursuing either an agreement when there are little  
4 or no impacts.

5 But it's our thought that our process  
6 is designed to evaluate the impacts. So that over  
7 time hopefully those communities, as we stated  
8 before, will understand that there maybe those  
9 little impacts if they are truly one of those far  
10 away communities that have little impacts.

11 I don't know. These gentlemen have  
12 some experience with some of these questions but  
13 I don't know if you want to --

14 COMMISSIONER MCHUGH: I would welcome  
15 hearing from the three of you as to how easy it is  
16 to say no to a constituent community. I'm sure  
17 you've been through this process before.

18 That's among the concerns that you've  
19 said exist. It seems to me that's the only one  
20 that has some legs to it. It's a voluntary  
21 process. It's an efficient process. It takes  
22 into account the enormous amounts of data that you  
23 have. And it obviates in many cases the need for  
24 additional studies rather than producing more

1 studies.

2 But this one, I just wonder how you  
3 anticipate dealing with that? You invite a big  
4 group of communities to participate. And then at  
5 the end you say five or six of you are not in our  
6 view surrounding communities.

7 MR. BRENNAN: Commissioner, I think  
8 we've already tried to say that. We've had a  
9 number of informational forums, one of which John  
10 came out for.

11 I probably don't need to tell you,  
12 there's a tremendous amount of ignorance out there  
13 in terms of what the statute requires, period.  
14 So, we find ourselves in the position of oftentimes  
15 just explaining the law, how it works, how it fits  
16 together. There are nuances as the Chairman  
17 pointed out that people just don't get unless you  
18 walk them through.

19 The second thing is, and we've had this  
20 experience already, is a huge expectation about  
21 this process being more about dollars than about  
22 mitigation. And we keep saying very clearly this  
23 is about trying to focus on the mitigation issues  
24 not about cash or how it's shared. That's a wholly



1 different subject. It's not intended to be part  
2 of this.

3 And it is difficult to say no, but if  
4 we don't say no, we're not believable. If we have  
5 any value, it has to be on our credibility. We're  
6 not going anywhere after this process over. We're  
7 going to be still working with these same  
8 municipalities. They have to know us and they  
9 have to trust us.

10 So, it may sound self-congratulatory,  
11 but you don't come to us for an answer that you want  
12 to hear. You come to us if you want an honest  
13 answer about an issue.

14 CHAIRMAN CROSBY: This is sort of the  
15 same point, Joel. I was thinking something along  
16 the same line. Do the applicants see the RPAs as  
17 objective third parties?

18 MR. SMITH: I would say yes and I would  
19 say that's what's really important about this  
20 process. That in the beginning, we suggest this  
21 be self-selecting in terms of communities  
22 involving themselves in the process because they  
23 all fear of what's going to happen. And they all  
24 fear the worst. And they all believe they're

1 going to have massive traffic tie ups and so forth.

2 But as objective data comes out and as  
3 we put our stamp on it and say yes, we believe this  
4 is accurate, it does narrow it down. And it maybe  
5 a naive hope, but it's the hope that as the data  
6 comes out, it defines what the real surrounding  
7 communities are. And it gets to be a more  
8 realistic list.

9 But in the absence of information,  
10 everyone is going to think they're impacted. And  
11 hopefully as the process proceeds, that  
12 information becomes more clear. And the  
13 surrounding communities sort become very obvious  
14 as driven by the data and not by the absence of  
15 data.

16 MR. BARRERA: I would just underline I  
17 think it's important getting back to your  
18 question, which is yes and no. Only you at the end  
19 of the day will say yes, you're a surrounding  
20 community or not. We're not in a position to do  
21 that.

22 I think what Steve was pointing out,  
23 which is so everybody's struggling with this.  
24 This is an attempt to say what's the common table

1 so that we can have common understandings and  
2 technical expertise on an as objective level as  
3 possible around what is the mitigation so it's not  
4 just kind of rumors and deals but what is the  
5 information that we have in terms of what are the  
6 impacts. And that we can bring to the table and  
7 I think that shapes how people perceive it.

8 Only you have the ability to say yes or  
9 no at the end of the process.

10 COMMISSIONER MCHUGH: No, no. That's  
11 absolutely true. But it's a question of helping  
12 with expectations is really more than making a  
13 decision.

14 COMMISSIONER ZUNIGA: Can I say, I  
15 would flip that argument of the expectations,  
16 which is a good one. On the absence of having the  
17 option to participate, there could be the  
18 expectation that nobody ever told me. I was never  
19 a part of the process. That comes late in the  
20 process, which is something I think that we are  
21 trying to highlight.

22 Everybody can come in. It's  
23 voluntary. There's no guarantees. There will  
24 be data. But if there was no process like this,

1 those expectations negatively could be taking  
2 place. And something tells me that they are as  
3 what Tim says.

4 MR. BRENNAN: Yes. It's also about  
5 something I know from following your work you're  
6 really keen on and that is transparency. The more  
7 we're transparent and the more we have  
8 opportunities for people to get information in a  
9 common, again, format I think you build a  
10 relationship that has trust as its underpinnings.

11 COMMISSIONER STEBBINS: John, how do  
12 you plan to -- let's take this case of this  
13 analysis. I think I'm an impacted surrounding  
14 community. And there's a fair determination that  
15 I'm not.

16 How does that information either get  
17 conveyed to you? Or is it held so that further  
18 down the line in the process when that same  
19 community now comes knocking at our door that we  
20 have access to this information to again help us  
21 make a reasonable determination?

22 MR. ZIEMBA: Well, I think it's  
23 anticipated that all of the data that is available  
24 as part of this process can be part of our process

1 as well. Indeed in determinations whether or not  
2 a community is a surrounding community or not, each  
3 of the different sides will put forth their best  
4 cases on why they think that is so.

5 But sort of as Joel and others have  
6 mentioned, at the end of the day prior to the  
7 application, it is up to the applicant to make the  
8 determination of whether or not that community is  
9 a surrounding community.

10 So that forms what will happen with the  
11 process at the end. Because then the applicant  
12 can strike an agreement with that surrounding  
13 community. It could have a regional agreement.  
14 It could have many forms of what may happen at the  
15 end of the day.

16 Or a community that felt like it  
17 should've been a surrounding community might  
18 actually end up at our doorstep and make the case  
19 that they are a surrounding community or not. But  
20 hopefully at that point, there'll be a very  
21 significant store of information that we can  
22 utilize and both sides can utilize in making their  
23 cases.

24 COMMISSIONER STEBBINS: Okay.

1 Another question somewhat related but I'm taking  
2 advantage of the fact that all three of you are  
3 here. There's a piece of our requirement of the  
4 statute, which talks about how an applicant will  
5 fit into regional economic development plans.  
6 Obviously, I'm familiar with Tim and the ongoing  
7 evolution of the Pioneer Valley Plan for Progress.  
8 Do the other two regions here, do you have similar  
9 economic development plans, which are going to be  
10 suitable information for us to have criteria and  
11 evaluate?

12 MR. SMITH: We do. I'd like to say  
13 it's sophisticated as the one in the Pioneer  
14 Valley. It's probably not, but yes. We all are  
15 designated, I think, by the Economic Development  
16 Administration in the US to do annual economic  
17 development strategies or update them annually.

18 We compile large statistics, we run  
19 processes where we bring together private-sector,  
20 public-sector officials to think about these  
21 issues. So, we all do it to some degree.

22 MR. BARRERA: I would just add that we  
23 also in our Economic Development District, we have  
24 a staff of four economic development specialists

1 who would be available to assist with this.

2 CHAIRMAN CROSBY: Just sort of for  
3 information sake, could you give a sense sort about  
4 the methodology of measuring an impact? One  
5 additional trip is probably not going to require  
6 mitigation, but a million is. In between one and  
7 a million -- same with schools. One kid probably  
8 doesn't require mitigation and 1000 kids does.  
9 How do you measure impact?

10 MR. BRENNAN: Someone once said don't  
11 try to answer a complicated question with a simple  
12 answer. It all depends.

13 On the traffic side, there's all kinds  
14 of criteria that's used depending upon land use to  
15 give you numbers for orders of magnitude. If you  
16 have this type of facility, shopping center,  
17 hospital, whatever you're going to get this amount  
18 of trips. This is done by nationwide analysis.

19 So, one of the easiest ways is you're  
20 going to those guidebooks and you're testing what  
21 the order of magnitude is saying versus what the  
22 proponent is telling you in their analyses. And  
23 if there's a big, big discrepancy, it demands  
24 attention.

1           But it also depends on the location.  
2           What kind of roads do you have to access a  
3           particular facility? You have different levels  
4           of capacity depending upon the entrances and  
5           exits.

6           So, it's going to be very, very  
7           site-specific. It's going to be tied to a lot of  
8           data that's been collected because you're doing  
9           environmental impact analyses for projects large  
10          and small and in between.

11          COMMISSIONER CAMERON: Have you  
12          thought about the fact that -- Well, I'm sure  
13          you've thought about everything, but I know in  
14          Atlantic City there were many surrounding towns,  
15          30, 40 minutes outside of Atlantic City. They  
16          were farming towns. They were very sparsely  
17          populated. With the onset of casino after casino,  
18          developers built housing.

19          And so it wasn't clear initially that  
20          they would be impacted. But after the fact  
21          certain towns built and developers had the idea,  
22          wow, they're going to need housing. So certain  
23          towns just grew enormously. They had roads,  
24          schools all of those things happened



1 after-the-fact.

2 MR. BRENNAN: Again, one of the  
3 things about mitigation on again the traffic side  
4 is the best mitigation measure of all is move the  
5 place of work and the place of residence closer  
6 together. So, I can speak in our region because  
7 our community colleges are working on training  
8 programs to try to hire local workers. So, to the  
9 extent that you move the workers to be closer to  
10 where the casino is, traffic mitigation measure  
11 number one.

12 The other thing again that's different  
13 about casinos, again, as you all know, it's not  
14 like the traffic operates in a peak in the morning  
15 and afternoon. You've got this steady flow.  
16 That has an ability to compensate for the capacity  
17 side.

18 So, each of these are sort of looked at.  
19 You're working off the data that the proponent is  
20 telling you these are the impacts. If the impact  
21 is of a significance, here's how I'm going to  
22 offset them.

23 So, we see the job as sort of a truth  
24 finding about does that all make sense? Does that

1 square with our expertise? Where it doesn't, that  
2 provokes a conversation.

3 I think I used this example when you  
4 were all out in Springfield back in August,  
5 sometimes we both are not sure of what the impact  
6 is going to be. And when that happens, what we  
7 tend to ask for is go forward with your proposal  
8 but have a monitoring study after your development  
9 is on the ground.

10 If you're melting down this  
11 intersection, you come back in and you mitigate  
12 that impact that now has surfaced that's become a  
13 reality. So, those are the tool we've used over  
14 and over and over again working with all kinds of  
15 -- mostly MEPA reviews.

16 MR. BARRERA: I would only add though,  
17 because one of the problems with MEPA is it does  
18 not include housing. Our Executive Director is in  
19 Washington, D.C. So, he was going to be here, but  
20 he's a housing specialist.

21 And I know one of his main concerns as  
22 we look at these developments is what are the  
23 housing impacts? And making sure people put some  
24 attention, because that is an area that people tend

1 to put less attention to, but it's real. This is  
2 not going to be Atlantic City, but it's real.

3 CHAIRMAN CROSBY: Right. What's been  
4 the reaction from the applicants as you've  
5 discussed this with them now?

6 MR. ZIEMBA: I think for the most part,  
7 it's been a pretty positive response. We had many  
8 different applicants say that they would like to  
9 move forward with this process. Some are already  
10 contacting us to move forward with the process.

11 Some applicants may choose not to do so  
12 and they may want to take advantage of just the  
13 statute. You've heard some of the concerns that  
14 they've all put forward.

15 One other concern that I just wanted to  
16 focus on is a matter of timing. Our document  
17 hopefully addresses some of those concerns.

18 There is a big concern with the  
19 applicants that somehow this could disturb their  
20 ability to get a host community agreement. I  
21 think we all realize that unless there is a host  
22 community agreement, there are no surrounding  
23 community agreements.

24 So, you have to allow the parties to put

1 together their plans, put together their studies  
2 and have the conversations at sometime prior to  
3 engaging fully in the surrounding community  
4 negotiation process.

5 With that said we're working under a  
6 concrete or a finite period of time. So, our  
7 recommendation is that timing should be very  
8 flexible. And that we should work with the  
9 applicants, the host communities and working on  
10 the timing of when this begins and when it gets  
11 really ramped up.

12 But there's a caveat there that we have  
13 to take into account that there has to be enough  
14 time before our deadlines to enable surrounding  
15 communities to really understand the impact.

16 And that's not going to the same answer  
17 in each situation. Category 2 applicants  
18 obviously are going to have much less impacts than  
19 others. So, potentially they could move a little  
20 bit quicker. But we're hopeful that we can have  
21 these beneficial scoping sessions with the  
22 applicants on how it should move forward.

23 CHAIRMAN CROSBY: I had two little  
24 points from your memo. If a proponent elects to

1 follow this process, they'll deposit sufficient  
2 funds into escrow with the Commission. What about  
3 the 50k in the 400, is that the first 50 into this  
4 bucket? Is this in addition to that?

5 MR. ZIEMBA: This would likely be in  
6 addition, because in all likelihood the first  
7 50,000 will probably be used up by the host  
8 communities. So, what we are asking is that any  
9 additional amounts either for additional  
10 surrounding communities or for this process would  
11 have to be then deposited into our funds.

12 CHAIRMAN CROSBY: Right.

13 COMMISSIONER ZUNIGA: And the process  
14 would be similar to the host community agreements  
15 or those fees by way of that letter of  
16 authorization.

17 MR. ZIEMBA: That's right.

18 CHAIRMAN CROSBY: There was a sentence  
19 in task two in the middle however in cases where  
20 the project proponent has not yet provided to the  
21 Commission or the public -- What would the project  
22 proponent have given to the Commission at that  
23 stage of the game?

24 MR. ZIEMBA: Likely not anything. I

1 think that's a good point.

2 COMMISSIONER MCHUGH: Can I come back  
3 to the scheduling piece that you mentioned before?

4 MR. ZIEMBA: Yes.

5 COMMISSIONER MCHUGH: What's the  
6 process for determining how long it'll take for  
7 this process to work in a given case or series of  
8 cases so that we can incorporate that in the  
9 scheduling that we're trying to figure out as we  
10 struggle with making deadlines and timelines  
11 realistic? Is there a mechanism or a process for  
12 figuring that out?

13 MR. ZIEMBA: Yes. I'll give the  
14 general answer and then I'll defer to these  
15 gentlemen. What we did when we were providing our  
16 scope is that we came up with aranges of the number  
17 of meetings that would be required for each one of  
18 these different sessions. And the number of  
19 meetings or the number of engagements with  
20 Category 2 applicants would be far less.

21 But it is anticipated that depending on  
22 the complexity of each engagement that may vary,  
23 but we still have the outside ranges of how many  
24 meetings would be necessary.

1 MR. SMITH: I was just going to add and  
2 we're dealing with Category 2 applications that I  
3 kind of thought we would be fitting into your time  
4 schedule and have to meet that. It would be worked  
5 out.

6 We obviously, if we want applicants to  
7 participate in this process, we can't put a  
8 timeline that disadvantages them in terms of the  
9 timing. So, we're prepared to move very quickly  
10 to keep in line and keep them on schedule with what  
11 you propose when you lock that in.

12 COMMISSIONER MCHUGH: Basically, we  
13 go first.

14 MR. SMITH: That's how I had assumed,  
15 but there could be some back and forth.

16 COMMISSIONER MCHUGH: If we endorse  
17 this process, then it seems to me we want to make  
18 it work. And so we want to give enough time for  
19 it to work. That's the issue.

20 MR. BARRERA: I think the most  
21 important thing is to start sooner rather than  
22 later because we don't much time on the later side.

23 COMMISSIONER MCHUGH: Right.

24 CHAIRMAN CROSBY: Right.

1           MR. ZIEMBA: Even with applicants that  
2 are concerned about letting out too much  
3 information before they come to their plans, you  
4 can do things earlier in the process such as having  
5 us come out to the regional meetings to explain how  
6 our statute works and how the process with us works  
7 and what this will be, organizational meetings.

8           Potentially there are things you can do  
9 earlier in the process even for applicants. But  
10 I couldn't agree more, especially with there is a  
11 tremendous amount of pent-up energy out there in  
12 the potential surrounding communities. And they  
13 want information absolutely right now and  
14 potentially even before it exists. So,  
15 applicants may want to weigh that in how they move  
16 forward.

17           COMMISSIONER MCHUGH: Right.

18           MR. BRENNAN: We've also had interest  
19 -- You again ran a forum here in Boston several  
20 months ago on sustainability and design. There's  
21 a lot of interest in trying to replicate something  
22 along that line out our way. So, we think there  
23 is again some general information that can be  
24 helpful, again, at the frontend.



1 CHAIRMAN CROSBY: Great.

2 COMMISSIONER STEBBINS: Taking your  
3 question in a somewhat different direction, as you  
4 sit down with potential applicants, as you kind of  
5 organize host and surrounding communities --

6 COMMISSIONER ZUNIGA: Surrounding  
7 communities only.

8 COMMISSIONER STEBBINS: No. Part of  
9 the convener involves host communities as well.

10 COMMISSIONER ZUNIGA: Host  
11 communities as well?

12 MR. ZIEMBA: Host communities will be  
13 involved in the process because they have to  
14 provide the data that's part of what we're going  
15 to evaluate. Even though the primary  
16 relationship will be between the applicant and the  
17 communities after evaluating these, we think it is  
18 important to allow the host community -- specify  
19 that the host community should be allowed to be a  
20 participant in that process. Very important to  
21 them obviously, what occurs in this process.

22 COMMISSIONER STEBBINS: Instead of  
23 thinking not just narrowly within the lines of  
24 negative impacts, do you feel at all charged or

1       having some interest in talking about what could  
2       be the positive impacts from these projects?  
3       Picking up Joel's comment about housing issue, or  
4       Tim you have a transportation plan which if you use  
5       this intersection as opposed to back here, you  
6       could solve a long-term problem from within the  
7       region.

8                   MR. BRENNAN: Yes. There's  
9       opportunities. We talk with the transit  
10      authority all the time about other than single  
11      occupant automobile access to these facilities.  
12      I sit on the steering committee that the community  
13      colleges have together to try to get workers,  
14      again, from the immediate area of where these  
15      proposals will be, because it goes back to what I  
16      said earlier about mitigating traffic, but also  
17      getting people employed from the region in which  
18      these facilities sit.

19                   So, yes. That's why I said at the  
20      outset we tend to be always thought about as the  
21      problem solvers. But we're also the opportunity  
22      seekers. So, we want to try to leverage the  
23      benefits to the maximum extent possible as well.

24                   COMMISSIONER ZUNIGA: That's a good

1 question.

2 CHAIRMAN CROSBY: That's a great sort  
3 of capstone to this conversation. If you're able  
4 to use this position and this role to help maximize  
5 the impact and communicate constructively with the  
6 bidders and so forth, that's great.

7 I think we should probably have a vote  
8 to accept Ombudsman Ziemba's proposal, do you  
9 think we're ready to do that?

10 COMMISSIONER MCHUGH: Yes.

11 COMMISSIONER ZUNIGA: Yes, very much.  
12 I would like to move that to accept this proposal  
13 that he is putting forward and that this Commission  
14 endorse it and hope that people participate.

15 CHAIRMAN CROSBY: And follow his  
16 recommendations as outlined in his memorandum of  
17 March 12.

18 MR. ZIEMBA: What I would also  
19 recommend, Mr. Chairman, is that if people have  
20 comments on this, we can certainly send it out to  
21 host and surrounding communities, if people have  
22 comments on this process, they can please send  
23 those to us. And we can incorporate those into our  
24 planning.

1 CHAIRMAN CROSBY: Okay, great.

2 COMMISSIONER MCHUGH: I second that  
3 motion.

4 COMMISSIONER STEBBINS: Obviously, we  
5 hope that you'll bring us an update as to your  
6 conversations with the Worcester Planning  
7 Commission.

8 MR. ZIEMBA: Right.

9 CHAIRMAN CROSBY: Yes. That would be  
10 great if you could come in once in a while and John,  
11 maybe some kind of an organized basis, every month  
12 or whatever, and just kind of give us a sense of  
13 what's going on.

14 MR. BARRERA: Absolutely. And  
15 regardless of what happens or what applicants  
16 decide to use this or not, I think John certainly  
17 knows and hopefully the Commission knows that we  
18 are a resource to you. Your questions will go  
19 beyond this process that this entails. And we are  
20 at your disposable.

21 CHAIRMAN CROSBY: Great. Thank you  
22 and one step we've talked about a lot is the process  
23 of evaluation when these proposals command. And  
24 Commissioner McHugh and Commissioner Stebbins are

1 working on plotting that out.

2 Commissioner Stebbins is working on  
3 what resources are we going to need to help us  
4 evaluate, what outside resources. And RPAs are on  
5 that list. I'm not exactly sure. We don't know  
6 exactly who's going to get picked for what, but we  
7 appreciate that offer and probably will be taking  
8 you up on it.

9 MR. BARRERA: Thank you. Thank you  
10 for your time.

11 CHAIRMAN CROSBY: Thank you, great  
12 job. All in favor of Commissioner Zuniga's  
13 motion, aye.

14 COMMISSIONER STEBBINS: Aye.

15 COMMISSIONER ZUNIGA: Aye.

16 COMMISSIONER MCHUGH: Aye.

17 COMMISSIONER CAMERON: Aye.

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

20 CHAIRMAN CROSBY: Let's take a quick  
21 break and we'll be back.

22

23 (A recess was taken)

24

1                   CHAIRMAN CROSBY: We were on public  
2 education and information. We will reconvene at  
3 2:22.

4                   The preparation for Region C  
5 discussion, just a couple of things to say. We  
6 have delayed the meeting. We're not going to  
7 start at one. We're going to start at four.  
8 That'll make it easier for some people to get  
9 there. And also make it easier for people who have  
10 to work to attend. So, the meeting is going to  
11 start at four rather than one.

12                   COMMISSIONER ZUNIGA: Next week's  
13 meeting.

14                   CHAIRMAN CROSBY: Next week's  
15 meeting, sorry, the Region C meeting in Bristol  
16 Community College in Fall River, I guess, right,  
17 yes. Anybody who wants to speak do be sure to sign  
18 up because we do need to organize that.

19                   Representatives of entities or public  
20 officials are invited to speak. But do sign up,  
21 please. That's it for that.

22                   Regulation review, who is leading this  
23 charge? Commissioner McHugh, is that you?

24                   COMMISSIONER MCHUGH: Mr. Grossman

1 was going to give us a brief update. He's at the  
2 wheelhouse of the regulation promulgation process  
3 -- in the wheelhouse at the wheel.

4 MR. GROSSMAN: That's right. Good  
5 afternoon, thank you. I think we are moving right  
6 on schedule. I circulated, of course, the updated  
7 drafts.

8 As you'll observe, there are a couple  
9 of new sections in them that pertain to fees,  
10 transfers of interest, conservatorships and the  
11 issuance of new licenses in the event of  
12 circumstances that lead to an individual not being  
13 able to continue on with holding the license. So,  
14 those are four of the new sections that we haven't  
15 had a chance to discuss that are contained in the  
16 draft.

17 As Commissioner McHugh mentioned  
18 yesterday, we had an opportunity to meet with the  
19 gaming consultants as well as Steve Anderson, the  
20 General Counsel and Commissioner McHugh and I sat  
21 down. And I think we had a very productive  
22 meeting. All of those proposed updates have been  
23 circulated to you for your consideration.

24 As you'll observe in there, there are

1 a couple of policy decisions that still need to be  
2 decided that we will bring before you and hopefully  
3 have resolved.

4 The end date here, at least  
5 preliminarily that we're looking at is March 29.  
6 That is the date, as we discussed yesterday or two  
7 days ago, I can't remember, that we anticipate  
8 circulating our language and our summaries to the  
9 Local Government Advisory Council. So, we'd like  
10 to have our draft language relatively set in place  
11 by that day.

12 Which means that I think we'll need to  
13 set some time aside that week -- The 29th is that  
14 Friday. -- to get together for a session to discuss  
15 the regulations by the Commission in an open  
16 setting like this.

17 If it makes sense, we could set-aside  
18 the 25th, which is that Monday, which would allow  
19 us to go through the regs., answer any questions,  
20 resolve any outstanding policy issues. Then also  
21 give us an opportunity to reconvene on that  
22 Thursday, which would be the 28th to tie up any  
23 loose ends, make any drafting adjustments.

24 And then hopefully be able to set the



1 regs. on the path to the public hearing, which  
2 would be a few weeks down the road.

3 That's the big picture. In the  
4 interim, as Commissioner McHugh mentioned, there  
5 are three areas that we are working on and will  
6 begin active drafting on some of them shortly  
7 involving -- we have the updates to the existing  
8 regulations, the evaluation criteria that you're  
9 presently working and some hearing procedures that  
10 we need to work out so we can bring before you for  
11 review that will kind of define how the issuance  
12 of the license will take place, any surrounding  
13 community issues and things of this sort will be  
14 handled.

15 So, that's where we are. We're  
16 looking to be able to get you some of this language  
17 next week. But in the interim, we have all of the  
18 existing language that we've sent to you that  
19 hopefully we can take a crack at reviewing and  
20 locking into place within the next couple of weeks.

21 I think that's an update as to where we  
22 are right now.

23 CHAIRMAN CROSBY: Thinking about the  
24 scheduling, if we're talking about having another

1 public meeting on the 25th, would that be  
2 something, Commissioner McHugh, we could combine  
3 with another round on the evaluation? Would that  
4 be a good time for that?

5 COMMISSIONER MCHUGH: Sequentially,  
6 the remaining parts of this process feed off of  
7 completing the evaluation matrix -- the evaluation  
8 criteria. It doesn't have to be a matrix. And I  
9 think we could do that.

10 We can take what we did yesterday,  
11 polish up that matrix and finish filling it in.  
12 Use that as a basis for drafting what we're going  
13 to draft about the application contents.

14 We're not going to put everything that  
15 was on that matrix into a regulation. Some of it  
16 is just going to be in the application. And then  
17 fine-tune it and to the extent necessary after we  
18 consider further the evaluation criteria and the  
19 information we are looking for.

20 So, we could do that on Monday the 25th.  
21 And at the same time have before us a draft  
22 regulation that outlines where we are. We are  
23 proceeding on two tracks simultaneously.

24 The same is true of the bigger -- not

1 the data. An equally important piece and that is  
2 the hearing process. I'm going to send to you all  
3 tomorrow -- I tried to get to it today but we're  
4 here a lot. -- a discussion outline of a  
5 processing piece. What do we do when we get these  
6 applications? Who do they go to in what sequence?  
7 When do we have what kind of hearings? And we can  
8 consider that on the same day.

9 By then we will have had a chance to  
10 meet with some of the people that we're going to  
11 meet with at least one to give us an idea of how  
12 other entities look at evaluating competitive  
13 large proposals.

14 CHAIRMAN CROSBY: Right.

15 COMMISSIONER MCHUGH: And in the  
16 meantime, draft some regulations that are general  
17 in scope and may serve the purpose perfectly well.  
18 We want to retain a lot of discretion. And  
19 consider those on Monday, those regulations on  
20 Monday as well as discussing at a higher level the  
21 workflow.

22 So, I think the answer to your question  
23 is yes. And I could have probably just said that.  
24 But I wanted to think out loud.

1 CHAIRMAN CROSBY: I came back just in  
2 time for the yes.

3 COMMISSIONER ZUNIGA: There's always  
4 the transcript.

5 CHAIRMAN CROSBY: Let's plan on a  
6 Monday afternoon, Monday the 25th afternoon that  
7 would deal with as much of both of these issues as  
8 we can. I think that's a good plan. And actually  
9 hearing the process is helpful.

10 COMMISSIONER MCHUGH: To the extent  
11 you did.

12 CHAIRMAN CROSBY: Right. I was  
13 thinking about Wes Welker. Is there anything  
14 else?

15 MR. GROSSMAN: I think that's all.

16 CHAIRMAN CROSBY: It's a yeoman's job  
17 again. Very few people appreciate just how much  
18 work is behind all of these things. And writing  
19 the regs. is one of them. So, thanks to all of you  
20 guys.

21 MR. GROSSMAN: Thank you.

22 CHAIRMAN CROSBY: Director  
23 Durenberger? You are getting many kudos, you and  
24 the Commission, Massachusetts are getting many

1 kudos for leading the pack on fixing the horse  
2 doping and stuff. It's amazing.

3 DR. DURENBERGER: We are trying to  
4 lead you there.

5 CHAIRMAN CROSBY: It's great.

6 DR. DURENBERGER: Okay. This  
7 afternoon I really don't have much of an  
8 administrative update. So, I think we will leave  
9 that for the next meeting.

10 CHAIRMAN CROSBY: This is sort of an  
11 administrative update. I mentioned to you we had  
12 thought about -- I thought about the idea of having  
13 us be as involved as we could in the openings of  
14 the two tracks, April 15 and June 1 I think. And  
15 exactly what that means, I don't know.

16 We certainly want to promote it.  
17 This is our industry. We want to promote it. And  
18 if we can be involved in some way to enhance it or  
19 come up with ideas, I thought that would be  
20 interesting and fun. I did talk with both Chip  
21 Tuttle and Gary Piontkowski. And they both were  
22 enthusiastic about having us be very involved.

23 I got some wild and crazy ideas, which  
24 we can talk about, but I think it would be fun to

1 have us brainstorm a little bit about how we can  
2 be involved.

3 We certainly want to use our media, our  
4 social and our media contacts to promote it. So,  
5 I wanted you to know that they thought it would be  
6 great and we'll brainstorm on that a little bit.

7 DR. DURENBERGER: Okay. Any other  
8 administrative update?

9 CHAIRMAN CROSBY: No.

10 DR. DURENBERGER: Thank you, Mr.  
11 Chair.

12 COMMISSIONER MCHUGH: This is good.

13 DR. DURENBERGER: This is the fourth  
14 or fifth meeting of the week.

15 CHAIRMAN CROSBY: Yes, right. You  
16 can tell, punch-drunk Commissioners and their  
17 staff.

18 DR. DURENBERGER: Duly noted. So,  
19 what we've got here, I think, all of the packet in  
20 front of you is racing related, the regulations.

21 So, I think the easiest thing to do is  
22 to just to sort of point out what's in there and  
23 what it is. There is at the bottom, the thickest  
24 packet is the regulations, the proposed changes as

1 they were first presented to the Commission back  
2 on January 31. That's the big fat packet.

3 In the middle there should be the  
4 written comments received and any other  
5 discussion. I think we had one discussion on  
6 February 25 at the public hearing.

7 And the memorandum at the top of your  
8 packet that's got 7B on it basically talks about  
9 where we are in terms of incorporating those  
10 comments and some additional staff analysis that's  
11 been done since that time.

12 So, the double-sided thing kind of  
13 threw me off. But if you look at the back page of  
14 the memorandum, I guess that would be page two. At  
15 the top there you'll see the comments that we  
16 received from the Secretary of the Commonwealth  
17 office on these. Basically, when they sent back  
18 the long form, they reprinted it. And of course  
19 they changed all references to the Racing  
20 Commission to the Gaming Commission and updated  
21 the gender neutral pronouns and did the  
22 administrative changes that are listed there.

23 Following that is a list of rules that  
24 we have recommended changes to the recommended

1 changes and the reasons why we've done that. So,  
2 that is either incorporating public comment or  
3 staff analysis. I believe there are six of them.

4 So, what you'll see is you'll see the  
5 latest redlined version and then the comment, the  
6 reasons why behind that. And I'm happy to either  
7 go over them individually. I don't think that any  
8 of them rise to that level but if you have  
9 questions, I can certainly answer them.

10 We can kind of do this in a bifurcated  
11 way. One would be I guess I would recommend that  
12 the Commission approve these changes, these  
13 amendments to the amendments. Then the second  
14 part of that would be whether or not -- We have to  
15 go through the emergency process as I explained on  
16 Tuesday because of the unique statutory  
17 requirement for the Racing Division.

18 So, we can do one of two things. We  
19 could go the emergency route so that they would be  
20 in effect prior to the start of live racing. So,  
21 that doesn't mean that the emergency is this  
22 afternoon. So, I can, if you would like, I can get  
23 the long form for you and show that to you. I just  
24 didn't have that document ready today. That would



1 be incorporating the administrative changes from  
2 the Commonwealth as well as these six amendments  
3 that I brought to you today. Or you could just  
4 vote today and we could proceed from there.

5 CHAIRMAN CROSBY: I don't see any  
6 reason to wait, but I'm certainly open to it if  
7 anybody --

8 COMMISSIONER CAMERON: I don't have  
9 any changes or --

10 COMMISSIONER MCHUGH: The changes are  
11 clear.

12 COMMISSIONER CAMERON: Yes.

13 COMMISSIONER ZUNIGA: They appear  
14 technical.

15 CHAIRMAN CROSBY: And the emergency  
16 regs. process seems absolutely crucial. So, I  
17 don't think that's debatable.

18 COMMISSIONER MCHUGH: The only thing  
19 is I assume we are going to go the emergency route  
20 and the formal promulgation route at the same time,  
21 right?

22 DR. DURENBERGER: So, right.

23 COMMISSIONER MCHUGH: So that we don't  
24 have to at the end of emergency period start the

1 formal promulgation period. They are going to be  
2 running simultaneously, right?

3 DR. DURENBERGER: Yes.

4 COMMISSIONER MCHUGH: I'm  
5 particularly thinking about the 60-day waiting  
6 period for the Legislature to act.

7 DR. DURENBERGER: Right. Yes,  
8 they'll be in parallel.

9 CHAIRMAN CROSBY: Any more questions,  
10 discussions? So, maybe we have a motion to adopt.

11 COMMISSIONER CAMERON: I move that we  
12 accept Director Durenberger's recommendations and  
13 we approve the changes as well as the entire 205  
14 CMR 3.00 and 4.00.

15 CHAIRMAN CROSBY: And adopt it as  
16 emergency.

17 COMMISSIONER CAMERON: And adopt same  
18 as emergency regulations.

19 COMMISSIONER MCHUGH: And as  
20 permanent regulations simultaneously.

21 CHAIRMAN CROSBY: Right.

22 COMMISSIONER CAMERON: And as  
23 permanent regulations simultaneously.

24 COMMISSIONER MCHUGH: Right.

1 CHAIRMAN CROSBY: Good.

2 COMMISSIONER STEBBINS: Second.

3 CHAIRMAN CROSBY: So, we're going to  
4 accept the changes, adopt them as emergency regs.  
5 and also proceed with the customary promulgation  
6 process.

7 COMMISSIONER MCHUGH: Right.

8 CHAIRMAN CROSBY: Any more  
9 discussion? All in favor, aye.

10 COMMISSIONER STEBBINS: Aye.

11 COMMISSIONER ZUNIGA: Aye.

12 COMMISSIONER MCHUGH: Aye.

13 COMMISSIONER CAMERON: Aye.

14 CHAIRMAN CROSBY: Opposed? Ayes have  
15 it unanimously.

16 COMMISSIONER CAMERON: The next order  
17 of business is mine, Mr. Chair. As the hearing  
18 officer on behalf of the Commission, I held two  
19 hearings on motions to reconsider decisions for  
20 occupational licensees.

21 This was a new piece to our process, the  
22 first time we had had motions to reconsider. So,  
23 those individuals are being notified of that  
24 tentative decision to their motion. And they will

1 also be notified that they have 30 days to appeal  
2 to the full Commission. That's all I have to  
3 report.

4 CHAIRMAN CROSBY: I guess you're all  
5 set. Thank you very much.

6 CHAIRMAN CROSBY: Research agenda, we  
7 are close but nothing to announce. We talked  
8 about the evaluation criteria. I think that was  
9 all that was on the agenda. Did you have some  
10 thoughts on evaluation?

11 COMMISSIONER ZUNIGA: Yes. I had  
12 additional thoughts that we might as well  
13 follow-up from yesterday's discussion. For good  
14 reasons there's a lot of conversations that we've  
15 had relative to having the best possible or the  
16 best gaming operation as an important major  
17 component of the criteria.

18 And one thing that came to mind after  
19 yesterday's meeting that should be self-evident,  
20 but I wanted to bring it up is that the market can  
21 bear. That achieves the balance of what is  
22 possible here for our state and for our region.

23 I wouldn't want to be in a position  
24 where because of competition -- I don't think

1 anybody is thinking along these lines -- but we  
2 have to be careful as we analyze these proposals  
3 that perhaps the biggest may not necessarily be the  
4 best.

5 And I just wanted to kind of open a  
6 comment along those lines. I know that we have  
7 enough criteria relative to the strength of  
8 financial and otherwise, the marketing plans and  
9 the business plans, etc. But after yesterday's  
10 discussion, I felt I wanted to comment on an idea  
11 of really achieving the goals of the legislation,  
12 which may very well be one of striking the balance  
13 relative to all of the factors that we have.

14 CHAIRMAN CROSBY: Did you think that  
15 there either was an evaluation factor in there that  
16 would distort the process in some way? Or is there  
17 an evaluation criteria that should be added?

18 COMMISSIONER ZUNIGA: I was  
19 particularly thinking of the fifth category.  
20 That we talked a lot about unique branding and the  
21 best gaming operation, if you will, destination  
22 resort, etc., and I think that there's a an element  
23 of balance that may go there.

24 Now I'll make a parenthesis there are

1 all of the other criteria in some way balance  
2 everything. There's a mitigation component.  
3 So, that has a balancing effect by definition.  
4 And there's the job creation and economic  
5 development. So of course, that all becomes part  
6 of the mix.

7 But I was particularly thinking of if  
8 we call out this fifth category, I thought that an  
9 element of what's a strong enduring proposal is  
10 something that I want to just talk about and bring  
11 up.

12 CHAIRMAN CROSBY: Okay.

13 COMMISSIONER MCHUGH: That ties back  
14 into our mission statement.

15 COMMISSIONER ZUNIGA: Absolutely.

16 COMMISSIONER MCHUGH: To have the best  
17 variety of different things plus providing a  
18 reasonable return.

19 CHAIRMAN CROSBY: And we've  
20 repeatedly said we want the competition in order  
21 to push the bidders to really perform up to their  
22 best, but short of either making stuff up or but  
23 more importantly short of compromising their  
24 financial stability.

1 I've used the cable-television  
2 industry model many times. We don't want to push  
3 so hard that we force people into stretching beyond  
4 their ability to really perform. That does nobody  
5 any good.

6 So, I think we're sensitive to that  
7 balance. And maybe there's a place for stating it  
8 more explicitly. When I take a redraft of section  
9 five we can see what you think there. I think  
10 we're very sensitive to that issue.

11 COMMISSIONER ZUNIGA: Right.

12 CHAIRMAN CROSBY: And there are plenty  
13 of places where people just get really greedy and  
14 just say more, more, more, more, more and put their  
15 hands out and put tremendous pressure on bidders  
16 to just promise, promise and promise and promise.  
17 Because they know they're not going to get selected  
18 if they don't over promise. And I think we've been  
19 pretty aggressive about saying that's not what  
20 we're trying to do here.

21 COMMISSIONER ZUNIGA: Right. I for  
22 one have it very clear in my mind that during the  
23 financial evaluation, there's a big piece of that  
24 assessing projections, testing them, testing the

1 models, looking at track record, etc. But I felt  
2 that least in the category five or as a whole as  
3 you're agreeing there's this risk mitigation  
4 element that I think is very important. Whether  
5 we call it balance or all of the above. I think  
6 it's important.

7 CHAIRMAN CROSBY: I agree.

8 COMMISSIONER MCHUGH: And that really  
9 ties back into the discussion we just had about the  
10 host and surrounding communities too. That's a  
11 piece to keep in mind for everybody to keep in mind.

12 CHAIRMAN CROSBY: This is about  
13 impacts not free cash.

14 COMMISSIONER MCHUGH: Right.

15 COMMISSIONER ZUNIGA: Right.

16 CHAIRMAN CROSBY: Yes. Separate  
17 additional point, if you're finished with that, I  
18 sent around a note with Rick Day's comments who had  
19 raised some of the same concerns you had raised  
20 about the operational rigor of the facilities.  
21 And he had sent around a note saying that he thought  
22 we ought to add to our evaluation criteria some of  
23 the things that I think you were talking about  
24 about security and cash management and stuff like



1 that.

2 So, there's a line to be walked between  
3 what is just in our regs., how we will spec out you  
4 must have such and such surveillane and so forth  
5 versus also giving them an opportunity to show that  
6 they really perform the best practice. And that  
7 that would be one of the evaluation criteria. The  
8 operations of the facility itself or the casino  
9 itself will be one of the evaluation criteria. I  
10 thought reinforce the point you were raising.

11 COMMISSIONER CAMERON: Clients  
12 records as well.

13 CHAIRMAN CROSBY: Yes, all of that  
14 stuff. Okay. Anything else? Do we have a  
15 motion?

16 COMMISSIONER MCHUGH: Motion to  
17 adjourn.

18 CHAIRMAN CROSBY: Second?

19 COMMISSIONER ZUNIGA: Second.

20 CHAIRMAN CROSBY: All in favor, aye.

21 COMMISSIONER STEBBINS: Aye.

22 COMMISSIONER ZUNIGA: Aye.

23 COMMISSIONER MCHUGH: Aye.

24 COMMISSIONER CAMERON: Aye.

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CHAIRMAN CROSBY: We are adjourned.

Thank you.

(Meeting adjourned at 2:47 p.m.)

1 ATTACHMENTS:

- 2
- 3 1. Massachusetts Gaming Commission March 14,  
4 2013 Notice of Meeting and Agenda
- 5 2. March 12, 2013 Massachusetts Gaming  
6 Commission Memorandum Re: Regional  
7 Planning Agencies
- 8 3. March 14, 2013 Massachusetts Gaming  
9 Commission Memorandum Re: Recommendation  
10 Regarding Proposed "Phase I" Changes to 205  
11 CMR 3.00 and 4.00
- 12 4. Proposed Changes to 205 CMR 3.00 and 4.00
- 13

14 SPEAKERS:

15 Joel Barrera, Metropolitan Area Planning Council  
16 Timothy Brennan, Pioneer Valley Planning Commission  
17 Dr. Jennifer Durenberger, Director Racing Division  
18 Todd Grossman, Staff Attorney  
19 Stephen Smith, Southeast Regional Planning and  
20 Economic District  
21 Karen Wells, Director Investigations and Enforcement  
22 John Ziemba, Ombudsman

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C E R T I F I C A T E

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

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

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

WITNESS MY HAND this 15th day of March



A handwritten signature in black ink that reads "Laurie J. Jordan".

LAURIE J. JORDAN                      My Commission expires:  
Notary Public                              May 11, 2018