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THE COMMONWEALTH OF MASSACHUSETTS  
MASSACHUSETTS GAMING COMMISSION

PUBLIC MEETING #49

CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

Gayle Cameron

James F. McHugh

Bruce W. Stebbins

Enrique Zuniga

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January 24, 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'll call to order the 49th meeting of the Massachusetts Gaming Commission, Thursday, January 24, 2013.

We are going to skip the approval of minutes until we get the draft next week and go straight to item three.

And we usually spend a little time talking about the master schedule, but I'm going to postpone that until we talk with the Ombudsman about scheduling and also the investigations.

The big issue now for the Commission is getting everybody's information in for all of the background checks. That's the primary gating item right now. And we'll talk a little bit more about that. We can only go as quickly as people can get all of their information into us.

So, let's go to 3b, finance update, Commissioner Zuniga.

COMMISSIONER ZUNIGA: Yes, thank you Mr. Chairman. I have included in the packets for your consideration a recommendation to ratify the extension of the current space, the current lease

1 that we have in our headquarters, and make a  
2 commitment for additional space.

3 As you might remember, a year ago we  
4 signed a one-year lease because the nature of our  
5 space needs was evolving, it continues to do that.  
6 And we have now identified the need to extend the  
7 lease for another year and add additional space of  
8 5561 rentable square feet. I believe that this  
9 option --

10 CHAIRMAN CROSBY: Is that the total of  
11 the two floors?

12 COMMISSIONER ZUNIGA: No. We  
13 currently have 7,564 square feet between the two  
14 spaces that we have in the seventh floor. We would  
15 add 5,561 in the 10th floor. This is space that's  
16 very much ready for occupancy. It requires very  
17 minimum in terms of -- There's no tenant  
18 improvements or build out.

19 And it was actually the result of good  
20 work of our Chief of Staff in essentially making  
21 happen that the tenant is vacating early. So, this  
22 is a great opportunity. It's very timely as our  
23 staff continues to grow, especially in the  
24 Investigations Bureau, but also in some of the key

1 staff positions.

2 So, we would be renewing and committing  
3 to another year of the lease. Both leases, if you  
4 will, are an amendment to our current lease. So,  
5 all of the current rights are preserved, both by the  
6 landlord and the tenant. And I believe that this  
7 is a great option that maintains our ability to  
8 continue to study our space needs as we continue to  
9 grow.

10 CHAIRMAN CROSBY: And this motion does  
11 not -- This recommendation does not include the new  
12 space we heard about that's also available on that  
13 floor?

14 COMMISSIONER ZUNIGA: That's right.  
15 There is additional -- I don't know the figure but  
16 it's maybe 1000 square feet or less that could be  
17 contiguous to the 10th floor, but that's not  
18 included here.

19 Again, I think it maintains the -- it  
20 gives us the ability to maintain flexibility. And  
21 then we will, in the course of this year, we will  
22 likely have a much better assessment of the overall  
23 needs and will have a good number of months to figure  
24 out the long term -- a longer than one-year term

1 lease after this extension.

2 CHAIRMAN CROSBY: Great. Any  
3 discussion, thoughts, questions?

4 COMMISSIONER ZUNIGA: Questions?

5 COMMISSIONER MCHUGH: We clearly need  
6 the space. It's there. It's been well planned.  
7 We ought to do it.

8 CHAIRMAN CROSBY: I did mention to  
9 Janice that I thought it was good having somebody  
10 with a professional eye look at this. We've sort  
11 of been doing it on our own. And even if we had to  
12 hire someone, an architect.

13 Some people can see, people whose eyes  
14 are trained can see stuff that we don't see. And  
15 I think maybe we get that from DCAM but it's worth  
16 getting. Even though it's still pretty temporary,  
17 it's worth getting somebody who sees things, sees  
18 space allocations well to take a look at it.

19 MS. REILLY: Yes. I've got a request  
20 in to have DCAM come down and do a walk through with  
21 us.

22 CHAIRMAN CROSBY: Okay. Do we need a  
23 motion on that, probably so.

24 COMMISSIONER ZUNIGA: I would like

1 so. It's a large commitment. So, if there's no  
2 further questions, I would move that the Commission  
3 ratify a commitment with the landlord at 84 State  
4 Street to amend the current lease and extend the  
5 term of the current space for one year, as well as  
6 add additional space which term would be for 14  
7 months so that both spaces would expire  
8 contemporaneously.

9 CHAIRMAN CROSBY: Second?

10 COMMISSIONER MCHUGH: Yes, second.

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

13 COMMISSIONER STEBBINS: Aye.

14 COMMISSIONER ZUNIGA: Aye.

15 COMMISSIONER MCHUGH: Aye.

16 COMMISSIONER CAMERON: Aye.

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

19 Background check finances,  
20 Commissioner Zuniga.

21 COMMISSIONER ZUNIGA: Thank you.

22 I've also included in the packet a memo for a  
23 discussion about three key considerations relative  
24 to the finances of investigations.

1           As Commissioner McHugh reminded us  
2 last week, and in accordance with our regulations,  
3 we should post or publish in our website and  
4 elsewhere the fees, the hourly fees for  
5 investigations.

6           The fees that I've included here as  
7 part of number one, subsection one, are the loaded  
8 fees that we will be paying our investigator staff.  
9 These fees have been aggregated by discipline.  
10 They are here for your consideration.

11           The one thing that we've also discussed  
12 is that we will obtain very shortly, once our  
13 consultants make an assessment of the natural  
14 persons and number of entities that will be  
15 investigated, we will be having or we will obtain  
16 from them what we're calling a forecast in terms of  
17 a breakdown of the number of hours that would be  
18 multiplied by each of these fees where they apply,  
19 and would be a total for the investigations will  
20 calculated at that time. I have included an  
21 example of what that summary information would look  
22 like.

23           COMMISSIONER MCHUGH: Do you want to  
24 go through these section by section?

1                   COMMISSIONER ZUNIGA: We can. This  
2 wouldn't require a vote, in my opinion, unless  
3 somebody else thought otherwise. But I'm  
4 presenting as what we know to this point as to the  
5 level of information that will be available to us  
6 for your consideration.

7                   COMMISSIONER MCHUGH: I was curious as  
8 to where the numbers came from. I recognize that  
9 they are combined numbers for different  
10 disciplines. So, they're a blended number. But  
11 do they come from our costs -- I mean the costs or  
12 the charges that the investigators are making? Or  
13 is there a markup? How are those determined?

14                   COMMISSIONER ZUNIGA: Each one of  
15 these fees include what we're going to be charged  
16 for on an hourly basis. There is a component there  
17 for local travel. So there is a --

18                   COMMISSIONER MCHUGH: But basically,  
19 it's a charge to us?

20                   COMMISSIONER ZUNIGA: It's a charge to  
21 us that we pass through to the applicant. The only  
22 cost that's in addition to that, which will be  
23 forecasted and then communicated to the applicant,  
24 would be international travel whenever that



1 applies. It will not apply, as we understand, to  
2 all applicants.

3 So, this item number one are all costs  
4 that are outside of the Commission, which is why  
5 separated them. But they're all inclusive, there  
6 is no additional costs.

7 CHAIRMAN CROSBY: The only thing I  
8 thought might be worth a look -- These numbers were  
9 bid in their proposal and were substantially lower  
10 than the other bidder. And just eyeballing these  
11 rates, they seem reasonable to me.

12 But the item G, the Research Analyst,  
13 Document Administrator, Project Administrator,  
14 Report Editor at \$170 an hour, I just thought that  
15 was worth a little bit of thinking about. Does that  
16 number really hold water? And then the paralegals  
17 and the administrative assistants are kind of easy  
18 to see what law firms -- I'm sure they're probably  
19 right.

20 COMMISSIONER MCHUGH: Those are in the  
21 ballpark.

22 CHAIRMAN CROSBY: Are they? Okay.  
23 So, then that answers those. I think I feel pretty  
24 clearly that we've really been getting our money's

1       worth out of these consultants. So, I don't want  
2       to nickel, dime them on this. But that \$170 an hour  
3       was the only one that struck me that might be little  
4       bit.

5                       COMMISSIONER ZUNIGA: Right.

6                       CHAIRMAN CROSBY: So, you might probe  
7       on that slightly.

8                       COMMISSIONER ZUNIGA: We can do that.

9                       CHAIRMAN CROSBY: Okay.

10                      COMMISSIONER ZUNIGA: As I mentioned,  
11       our forecast likes what in here on page two would  
12       be made available to this Commission and of course  
13       the applicant in the eventuality that there is a  
14       difference from the available monies from the  
15       initial application fee, a discussion at that point  
16       would ensue.

17                      CHAIRMAN CROSBY: Right.

18                      COMMISSIONER ZUNIGA: For also for  
19       your consideration and discussion, I've included  
20       item number two here relative to the Commission  
21       costs for investigations.

22                      As per our regulations, we can and will  
23       assess a portion of costs that are incurred by the  
24       Commission and directly attributable to the effort

1 of investigations. And what I've outlined here and  
2 I'm recommending and proposing is that we make that  
3 on the basis of the salaries, the direct salaries  
4 of people directly assigned to that effort that are  
5 as part of the Commission staff right now for the  
6 time and duration of those investigations.

7 In addition to that, there would be an  
8 indirect cost assessed also on the basis of those  
9 salaries. And I've submitted here for your  
10 consideration what I propose as the calculation of  
11 that indirect amount.

12 I based it on the salaries that we  
13 projected for fiscal year '13 as well as the  
14 indirect costs for the same fiscal year, calculated  
15 the percentage, and suggest that this could be a way  
16 to reflect what would be attributable as part of  
17 indirect costs to the efforts of investigations in  
18 terms of Commission costs.

19 CHAIRMAN CROSBY: So, the direct  
20 salaries, for example when Commissioner Cameron is  
21 acting as the Director of the IEB, her salary would  
22 be a direct salary cost, right?

23 COMMISSIONER ZUNIGA: Correct. Only  
24 the portion of her effort.

1                   CHAIRMAN CROSBY: The portion of her  
2 time, right. What about the other Commissioners?  
3 For example, are you allocating a share of my time?

4                   COMMISSIONER ZUNIGA: I have not done  
5 that. We can have a discussion about that. What  
6 I was projecting, and I can go back to you with a  
7 detailed number, would be the salaries of the State  
8 Police, the IEB Director and only a proportion of  
9 salaries of some central administrative personnel,  
10 not the Commissioners and not everybody, of course.

11                  CHAIRMAN CROSBY: What I meant, I was  
12 thinking about the overhead. So, Commissioner  
13 Cameron would be a salary expense if she's acting  
14 as IEB Director.

15                  COMMISSIONER ZUNIGA: Correct.

16                  CHAIRMAN CROSBY: Once we have our IEB  
17 Director, if we are going to be spending some of our  
18 time like right now talking about this issue, were  
19 you counting Commissioner salaries as part of the  
20 overhead?

21                  COMMISSIONER ZUNIGA: No, I was not.  
22 I can.

23                  CHAIRMAN CROSBY: Is it just like rent  
24 and light and paper? The 37 percent, what's in the

1 37 percent?

2 COMMISSIONER ZUNIGA: Everything  
3 having to do with rent, supplies.

4 CHAIRMAN CROSBY: How about  
5 reception?

6 COMMISSIONER ZUNIGA: No salaries  
7 other than those directly attributable to effort.

8 CHAIRMAN CROSBY: So, it would seem to  
9 me that there's an overhead salary component that  
10 some of Heather's time would be appropriately  
11 allocated. Some of my time would be appropriately  
12 allocated. Some of all of our times, sort of  
13 central staff time, some of Janice's time.

14 COMMISSIONER ZUNIGA: Right.

15 CHAIRMAN CROSBY: Which wouldn't be a  
16 direct percent allocation, but might get factored  
17 into the overhead number.

18 COMMISSIONER ZUNIGA: I can look into  
19 that.

20 CHAIRMAN CROSBY: Does that not make  
21 sense to you?

22 COMMISSIONER ZUNIGA: Well, the  
23 methodologies -- We may be talking about slightly  
24 the same thing. The methodology was based on

1 salaries that could be directly attributable,  
2 because --

3 COMMISSIONER CAMERON: People who  
4 directly work on the background investigations.

5 COMMISSIONER ZUNIGA: -- there's a  
6 quantifiable -- Yes. I could go down to the 20  
7 percent, let's say, or 10 percent because somebody  
8 spends only -- Chief of Staff, 10 percent for  
9 example because her time is not always  
10 attributable. But once we're done with that  
11 allocation, we're done as it relates to salaries.

12 Then we leave salaries alone. We also  
13 exclude all of the costs that we pay our  
14 consultants, which is part our budget. And pretty  
15 much everything else rent, supplies, etc., these  
16 are the indirect costs that get apportioned, again,  
17 based on the salaries.

18 CHAIRMAN CROSBY: I'm just thinking  
19 that it seems to me that there is a bunch of central  
20 salaries -- Reception is an obvious one. Chair is  
21 an obvious one. -- which is reasonably allocated as  
22 part of that overhead. Maybe the 37 percent is too  
23 low? Does anybody else have an opinion on that?

24 COMMISSIONER MCHUGH: It seems to me

1 that if we're going to take that route, then it would  
2 be worthwhile to classify on a broad scale something  
3 like the receptionist salary as part of overhead,  
4 rather than try to figure out how much time each of  
5 the rest of us is likely to devote to --

6 CHAIRMAN CROSBY: I agree with that.

7 COMMISSIONER MCHUGH: You can't do  
8 that.

9 CHAIRMAN CROSBY: I would count the  
10 receptionist salary as part of overhead. So, the  
11 percent would be a higher percent.

12 COMMISSIONER MCHUGH: Right.

13 CHAIRMAN CROSBY: And the same with  
14 the Commissioner salary too.

15 COMMISSIONER ZUNIGA: The good news is  
16 that we have somebody who is very good and is coming  
17 to work for us very shortly who will be in an  
18 accounting staff position who can spend good time  
19 figuring out what proration makes sense. But I can  
20 do that as well. It's just a matter of coming back  
21 with another calculation.

22 CHAIRMAN CROSBY: I guess that's the  
23 only thing I would add. Should other things that  
24 ought to be included in the overhead.

1                   COMMISSIONER ZUNIGA: Worthy of  
2 noting, since we are at it is that I'm using the  
3 ratio that comes from that approved budget. It  
4 will not necessarily be the actual cost, but it's  
5 as good a ratio as any, in my opinion, to make a  
6 calculation, a proration calculation.

7                   One key point that I wanted the  
8 Commission to weigh in was that perhaps unlike the  
9 direct costs that we talked about in line item  
10 number one, these costs may not change depending on  
11 the level of effort of that investigation.

12                   Or in other words, while it may take one  
13 applicant with many entities, let's say, and many  
14 qualifiers a lot more investigative time, because  
15 there has to be a lot more travel and a lot more  
16 documentation to look at, this may not necessarily  
17 be the case, and I stress the word necessarily here,  
18 for those indirect costs or costs that are incurred  
19 by the Commission.

20                   So, I am proposing that we discuss and  
21 decide on whether those Commission costs should be  
22 divided equally among our 11 applicants at this  
23 point. Or whether they should be some kind of  
24 proration based perhaps on the forecast that I was



1 just talking about in line item number one and  
2 assign those costs proportionately.

3 COMMISSIONER MCHUGH: That question  
4 raises for me the question of what the 37 percent  
5 is a percent of.

6 COMMISSIONER ZUNIGA: The 37 percent  
7 is a percent of overhead as I have initially --

8 COMMISSIONER MCHUGH: What number?  
9 To get a number, you multiplied .37 by what?

10 COMMISSIONER ZUNIGA: The tallying of  
11 all of the salaries. I haven't done that yet.

12 CHAIRMAN CROSBY: You divide by .37  
13 you get all of the salaries.

14 COMMISSIONER ZUNIGA: No, you  
15 multiply.

16 COMMISSIONER MCHUGH: You multiply.  
17 Multiply what salaries, Commissioner?

18 COMMISSIONER ZUNIGA: Our Troopers  
19 who are currently doing the investigations for us.  
20 Those people, the people that are staffing the IEB,  
21 those salaries I see as directly attributable to the  
22 effort of investigations during the time of the  
23 investigations.

24 COMMISSIONER MCHUGH: Oh, I see. I

1 thought the 37 percent was a 37 percent overhead  
2 charge on the hourly charge.

3 COMMISSIONER ZUNIGA: No. I'm glad  
4 you made that distinction. The 37 percent, and I  
5 haven't done that yet, would be applied only to the  
6 salaries of the Commission's staff to determine the  
7 overhead that's a Commission cost.

8 COMMISSIONER MCHUGH: So, it would be  
9 the total Commission salaries -- 37 percent of the  
10 total Commission salaries divided by what period of  
11 time?

12 COMMISSIONER ZUNIGA: Six months if  
13 that's what the investigations take, perhaps seven  
14 months -- rather, I stand corrected. Because we  
15 started this effort a little bit before the actual  
16 investigation with scope of licensing meetings and  
17 whatnot.

18 COMMISSIONER MCHUGH: But if one  
19 applicant's investigation takes two months, then  
20 this question, this next question that you pose is  
21 designed to say whether that applicant should pay  
22 two months worth of that overhead or nine percent.

23 COMMISSIONER ZUNIGA: Nine percent?

24 COMMISSIONER MCHUGH: 1/11, in other

1 words do we divide the number that you just  
2 described by 11 and assess everybody the same  
3 amount, whether their investigation took two months  
4 or seven months?

5 CHAIRMAN CROSBY: He's not really  
6 using length of time. He's using dollars as the  
7 proxy for effort.

8 COMMISSIONER ZUNIGA: Yes, I was using  
9 dollars.

10 CHAIRMAN CROSBY: So, if we estimate  
11 that applicant A is going to cost \$1.2 million and  
12 applicant B is going to cost \$400,000, then  
13 applicant A would have three times as much overhead.  
14 He's using dollars rather than length as the proxy.

15 COMMISSIONER MCHUGH: No, I  
16 understand. But to get the total number, you're  
17 using a length of time?

18 COMMISSIONER ZUNIGA: Yes.

19 COMMISSIONER MCHUGH: You're using  
20 six months or seven months to get the pot.

21 COMMISSIONER ZUNIGA: Correct.

22 COMMISSIONER MCHUGH: And then you  
23 take that pot and either divide it up on a straight  
24 nine percent per applicant basis, or in proportion

1 to the actual charge you've made to the applicant  
2 for the applicant's investigation.

3 COMMISSIONER ZUNIGA: Yes, number  
4 one, the direct costs, which is I believe what that  
5 Chairman was saying.

6 COMMISSIONER MCHUGH: Yes, yes.  
7 That's right, either of those two.

8 COMMISSIONER ZUNIGA: Either of those  
9 two. My point is that while the direct costs that  
10 our consultants will be spending on investigation  
11 are directly proportional to the level of effort of  
12 investigations, number of entities, number of  
13 qualifiers, I don't see that necessarily, but it  
14 could really go either way, that our own costs  
15 including our overhead are directly proportional to  
16 the level of effort, which is why I believe we could  
17 go either way.

18 We're still having meetings. We still  
19 have to send letters. We still have to respond to  
20 responses, and etc., etc. But it's only a  
21 projection at this time.

22 COMMISSIONER MCHUGH: But in every  
23 other context, the overhead charge bears some  
24 relationship to the charges made individually to

1 the person being charged the overhead.

2 COMMISSIONER ZUNIGA: Correct. I  
3 suppose until you were asking about it, another  
4 methodology that I had not anticipated could be to  
5 try to come up with a number, let's call it 40  
6 percent, after analyzing all of the Commission  
7 costs and applied that 40 percent say to each of the  
8 fees on line item number one, which are all the  
9 direct costs. This way would be entirely  
10 proportionate.

11 CHAIRMAN CROSBY: Well, it would be  
12 the same as -- Wouldn't that net out to the same as  
13 just doing it as a percent relative to the totals?  
14 You're either going to apply the 40 percent to each  
15 of the individuals or you can apply 40 percent to  
16 the total number. I think you get to the same place  
17 doing what you just got through saying.

18 COMMISSIONER MCHUGH: You're pretty  
19 close anyway.

20 COMMISSIONER ZUNIGA: Maybe.

21 CHAIRMAN CROSBY: Maybe not. I don't  
22 know. None of this is perfect because the smaller  
23 workload could actually be a lot more workload at  
24 our office if the qualifiers are really late and

1       there's an awful lot of back-and-forth. It might  
2       have hearings.

3               So, it's kind of hard to come up with  
4       a really true measure. I kind of lean towards doing  
5       it pro rata against the labor effort sort of seems  
6       logical, but I certainly wouldn't go to war on that  
7       point.

8               COMMISSIONER MCHUGH: This is not a  
9       war mongering exercise, but I agree with that. I  
10      think that the proportional just has the feel of  
11      fairness and sort of what one would expect the  
12      overhead charges to be billed on while you're right.  
13      So, for that reason, I would favor that.

14              CHAIRMAN CROSBY: I do too. Maybe  
15      what we ought to do is say this is our presumption.  
16      Tell it to Maria, and if she's got a better idea than  
17      she can tell us about it. But we're leaning  
18      towards --

19              COMMISSIONER ZUNIGA: -- a  
20      proportionality of Commission costs relative to the  
21      direct costs.

22              COMMISSIONER CAMERON: And I know,  
23      Commissioner, you have spoken to or are going to  
24      speak to some other individuals who have done this

1 in other jurisdictions, correct?

2 COMMISSIONER ZUNIGA: That's right.

3 COMMISSIONER CAMERON: That may be  
4 helpful as well.

5 CHAIRMAN CROSBY: We talked about it  
6 with our consultants too to know that we are not  
7 going outside the normal box. These costs are  
8 routinely -- these kinds of allocations are  
9 routinely done for background checks. So, we're  
10 not breaking any new mold here or breaking the old  
11 mold. Okay.

12 COMMISSIONER ZUNIGA: The third and  
13 final point for consideration is one where  
14 Commissioner McHugh, since I submitted this for  
15 consideration, alerted me to a specific section in  
16 our regs. that has specific bearing here.

17 But at least at the time I was  
18 considering that in the event that fees are  
19 forecasted to exceed what's available for the  
20 effort, \$350,000 in the case of every applicant,  
21 there are perhaps two ways to collect those  
22 additional fees.

23 And I was suggesting that as per  
24 discussions with our consultants, we could

1 communicate the difference and ask that it be  
2 replenished in advanced. Or we could determine a  
3 minimum amount in an account under which the balance  
4 should never go below and ask our applicants to  
5 replenish accordingly.

6 The particular section in our regs.  
7 does speak to what would appear to be the latter.  
8 And the language is specifically \$100,000 as a  
9 minimum balance to be maintained after which or as  
10 we get under that, the Commission will then  
11 communicate the costs to the applicant that would  
12 have to be replenished for that account.

13 COMMISSIONER CAMERON: As a minimum,  
14 so we could if we felt like -- I think what we are  
15 trying to avoid here is any kind of a stoppage in  
16 progress with the background investigations due to  
17 financial constraints.

18 COMMISSIONER ZUNIGA: Right.

19 CHAIRMAN CROSBY: And we don't want to  
20 be a collection agency.

21 COMMISSIONER CAMERON: Correct. I,  
22 in looking at these two options, thought that the  
23 second option made a lot of sense, because I think  
24 what it does is it allows us to have a more accurate



1 forecast.

2           Because as we're working on the  
3 investigation, those numbers will change. Because  
4 as in any investigation, you're just not sure one  
5 thing could lead to something else, which is time  
6 consuming, requires additional staffing hours.

7           So, I think if we follow your second  
8 recommendation, we'll be well under the  
9 investigation when we've expended say \$200,000.  
10 And we'll have a more accurate forecast in which to  
11 go back to our applicants and say okay, this is where  
12 we are. This is how we've spent the money. This  
13 is our request for additional funds, because this  
14 is what's remaining in the investigation.

15           So, it's just more accurate than our  
16 forecast that are initial, which really don't  
17 include any work that's already been done.

18           CHAIRMAN CROSBY: We talked about this  
19 at great length with the consultants. And  
20 typically what's done, is the investigative agency  
21 does a one-time assessment -- a one-time projection  
22 of what the total cost will be and goes to the  
23 developer and says it's going to be \$1 million and  
24 so we need our million.

1           Now we've got our \$400,000 upfront,  
2           which is unusual. But we were originally urged to  
3           just however much more we think is going to be  
4           required to get it at one time.

5           There was another school of thought,  
6           which says we could take it easy on the developers  
7           and sort of replenish our bucket every time it gets  
8           down to \$200,000 or \$100,000, whatever the  
9           threshold is. But I think we ended up not liking  
10          that idea because that is just too complicated, too  
11          many calls for money.

12          So, the middle ground we talked about,  
13          which I think is what you were anticipating here,  
14          is that we tell the developers what the estimated  
15          cost is. We now have a deposit of \$400,000 of which  
16          \$350,000 goes towards the background. When that  
17          \$350,000 goes down to X, and maybe it's required by  
18          law at \$100,000 rather than two, I'm not sure.

19                 COMMISSIONER ZUNIGA: By regs.

20                 CHAIRMAN CROSBY: By reg., then we go  
21          back to the developer and say okay, the balance is  
22          now due. So, there's one second transaction.  
23          It's not a continual replenishing of the bucket.  
24          And if there's money left over at the end, we return

1 it. If it turns out we need a little bit more at  
2 the end, then we get it.

3 But it's basically designed to be only  
4 one additional ask. And that comes once we hit that  
5 \$100,000 threshold. I think from the consultants'  
6 standpoint, that was a good compromise, a good place  
7 to be.

8 COMMISSIONER CAMERON: I agree with  
9 that.

10 COMMISSIONER MCHUGH: And the regs.  
11 permit that. The regs. say once you get down to --  
12 you can require a balance of at least \$100,000  
13 against which the Commission --

14 CHAIRMAN CROSBY: Oh, at least 100.  
15 So, you can make it 200?

16 COMMISSIONER CAMERON: Yes.

17 COMMISSIONER MCHUGH: You can make it  
18 200, you can make it a million. And you can make  
19 it consistent with the regs. It doesn't have to be  
20 uniform. That was designed for some flexibility.  
21 There was an interest charge there.

22 And then another portion of the regs.  
23 says that once you -- if the cost of the  
24 investigation exceed the initial application fee,

1 you can bill the applicant. If they don't pay  
2 within 30 days, you have the right to deny the  
3 application. So, that helps with the collection.

4 CHAIRMAN CROSBY: Good point. So, I  
5 think we can go back to the plan, the middle ground  
6 plan, make it \$200,000. When each kitty goes down  
7 to \$200,000, we will then send a request for the  
8 balance due, based on whatever our projection at the  
9 moment is for the total cost.

10 COMMISSIONER ZUNIGA: And one more  
11 transaction, not any number.

12 CHAIRMAN CROSBY: Right, not any  
13 number, just the one more transaction, unless  
14 there's something left at the end to fine-tune.

15 COMMISSIONER ZUNIGA: Just to  
16 reiterate, it would be based on our best forecast  
17 at that time.

18 COMMISSIONER CAMERON: Correct.

19 COMMISSIONER ZUNIGA: I wouldn't want  
20 us to wait until we have incurred that cost, for  
21 example, or disbursed it, but rather when we've  
22 committed that cost.

23 CHAIRMAN CROSBY: Right. And many  
24 not all, but most of our bidders have been through

1 this before. They understand that we're guessing.  
2 We're doing our best guess.

3 COMMISSIONER CAMERON: But we'll keep  
4 a clear accounting of our costs and that will be  
5 provided to the applicant. Again, if it cost less  
6 than we had anticipated, that money is returned.

7 CHAIRMAN CROSBY: Right. Okay. I  
8 don't think we need a motion on that. I think it's  
9 a process going forward that we've agreed.

10 COMMISSIONER MCHUGH: The regs.  
11 provide, basically provide for this. Provide for  
12 posting a schedule, provide for --

13 COMMISSIONER ZUNIGA: Assessing  
14 Commission cost and indirect costs.

15 CHAIRMAN CROSBY: What good regs. we  
16 wrote.

17 COMMISSIONER MCHUGH: Great regs.

18 CHAIRMAN CROSBY: Okay. Anything  
19 else, Commissioner?

20 COMMISSIONER CAMERON: Good work.

21 CHAIRMAN CROSBY: Public education  
22 information, Ombudsman Ziemba.

23 MR. ZIEMBA: Thank you, Mr. Chairman.  
24 I continue to have meetings and conversations with

1 applicants and communities including some of the  
2 more recent filings.

3 We're trying to get as much information  
4 as we can out to all of these entities. For  
5 example, as I reported last week, Mr. Grossman and  
6 I attended sort of a very well attended forum hosted  
7 by the Pioneer Valley Planning Commission that  
8 included all of those above parties.

9 We continue to receive general  
10 questions regarding our process, but more  
11 particular questions regarding funding and timing  
12 issues.

13 In regard to the funding issue, I will  
14 report that the community disbursements language  
15 that we submitted last week, we have received the  
16 comments back from the Department of Revenue  
17 Division of Local Services. And the comments were  
18 minor and not material.

19 We anticipate that we will be posting  
20 that grant and that process within the next day or  
21 so. So, hopefully that addresses a lot of the  
22 questions out there about how to get funding for  
23 consultants to evaluate impacts.

24 We have been working with a number of

1 different regional planning agencies to get out the  
2 draft surrounding community's definition.  
3 They've been very helpful to us in that regard. And  
4 I believe that we'll be doing further mailings on  
5 that in the next day or so.

6 The bulk of my time I'd like to just  
7 devote to one issue in regard to timing. We  
8 continue to receive a number of questions regarding  
9 the timing of our process. And we always point them  
10 to chart that we've developed here that includes all  
11 of our anticipated deadlines or anticipated  
12 filings.

13 CHAIRMAN CROSBY: Excuse me John. Is  
14 the current chart up on the website? I know there  
15 was a while when it was not current.

16 MS. GLOVSKY: I believe we requested  
17 it be updated, but I have not double-checked.

18 CHAIRMAN CROSBY: Let's just check and  
19 make sure, because we are referring people to it.  
20 We don't want to refer people to the wrong one.  
21 Okay. Sorry.

22 MR. ZIEMBA: So, particularly we had  
23 questions about the Commission's directive that no  
24 referendum shall occur until the end of the scope

1 one -- the Phase-1 licensing process.

2 Commissioner Cameron and I recently  
3 met with our consultants in order to try to find out  
4 how we can get out the best and the most accurate  
5 advice to communities within the context that what  
6 we're dealing with are projections, scope of  
7 licensing, our licensing investigations, it's a  
8 fluid matter. So, it's very difficult to project  
9 when they will actually be completed. But perhaps  
10 I can turn to Commissioner Cameron to give us a  
11 little more detail about that conversation.

12 COMMISSIONER CAMERON: As we all know,  
13 our consultants were here the last couple of days.  
14 And in conjunction with the State Police, we really  
15 worked hard to find out with each and every  
16 applicant where we were in the process, what  
17 additional documentation was needed, and really  
18 tried to apportion our investigative resources in  
19 a way that would give us a forecast.

20 At this time, as we've announced  
21 before, we really are going to direct resources so  
22 that we can focus on the category two licenses, the  
23 slots, and be in a position to complete those.  
24 We're looking at a three-month period there.



1           Now with the resort casinos, the  
2 category one, and this all has to do I know with all  
3 of the questions John has been receiving about  
4 referendum votes and when can those be scheduled.  
5 It is our goal to work hard to have investigations  
6 completed end of May, early into June. Have  
7 presentations in June for the full Commission to  
8 determine suitability. Of course, there's time  
9 built into the schedule for hearings.

10           It's our understanding that certainly  
11 if an applicant is deemed suitable, there would  
12 not be a hearing. So, we're looking at some time  
13 saved at that point if that's the case.

14           CHAIRMAN CROSBY: Let me just focus on  
15 this. Because I think that this is worth -- I think  
16 that this ties to the question that John is getting.

17           Right now, our plan is this is the award  
18 of the category two license. And that is scheduled  
19 for December 1. And for the time being,  
20 communities can count on that as a reasonable  
21 deadline. We are working, what Commissioner  
22 Cameron has just now said, about shortening the  
23 background check phase, this green phase, which is  
24 as long as six months.

1           We're going to try to shorten that to  
2           as little as three months. If we do that, and even  
3           nothing else changes, we can pull back the license  
4           date for category two by some number of months.  
5           Certainly one or two possibly even a little bit  
6           more. We're not ready to move that stake in the  
7           ground yet, but that's what we're working towards.  
8           And within the next week or two, we hope we'll be  
9           able to do that.

10           So, for people, now to your point, this  
11           is the way I understand this, John. And I'm not  
12           sure if this is right or not. What I think we have  
13           said is we are not going to preclude a community from  
14           setting a date for their referendum, which assumes  
15           the reality of our targeted dates.

16           They will be taking a risk if they do  
17           that. It might not be very smart to do that,  
18           because we'll never be able to guarantee until  
19           things are finally done that we'll actually be able  
20           to make that final date, even on the slots, which  
21           is just the one. I think we will advise people. If  
22           a community is thinking about it and we think  
23           they're off their rocker, we'll say so. But it's  
24           up to them.

1           If we move the deadline back, let's say  
2 we move the deadline back to September 1, we, I  
3 think, are taking the position that although we  
4 don't particularly encourage it, if a community  
5 wanted to target a referendum for what shortly after  
6 September 1 --

7           COMMISSIONER CAMERON: No. That date  
8 is after the Phase-2. The referendum would come  
9 after Phase-1. This suitability --

10          CHAIRMAN CROSBY: I'm sorry, sorry.

11          COMMISSIONER ZUNIGA: Suitability is  
12 in July.

13          CHAIRMAN CROSBY: I'm sorry, right.  
14 I'm sorry. No, that's not --

15          COMMISSIONER CAMERON: Yes. We've  
16 said what we've determined is that the suitability  
17 -- the referendum will not occur, that vote will not  
18 be taken until after we've made a determination of  
19 suitability.

20          CHAIRMAN CROSBY: Right.

21          COMMISSIONER CAMERON: So, that's  
22 what we're trying to help people understand the  
23 dates so that they may have a better understanding  
24 of when that vote could occur.

1                   CHAIRMAN CROSBY: I'm sorry. I  
2 screwed that all up. I apologize. You're  
3 absolutely right.

4                   COMMISSIONER ZUNIGA: So, the  
5 suitability is for 7/25 approval.

6                   CHAIRMAN CROSBY: Is it here?

7                   COMMISSIONER ZUNIGA: Yes, 7/25.

8                   COMMISSIONER MCHUGH: That's the  
9 approval currently.

10                  CHAIRMAN CROSBY: Of suitability?

11                  COMMISSIONER MCHUGH: Suitability.

12                  COMMISSIONER ZUNIGA: For category  
13 two.

14                  CHAIRMAN CROSBY: I'm sorry. And we  
15 might be able to move that date back.

16                  COMMISSIONER CAMERON: Depending.

17                  CHAIRMAN CROSBY: At that moment,  
18 people should assume, can plan on --

19                  MR. ZIEMBA: One of the questions is  
20 that the approval that we have here on our chart,  
21 that follows the hearing period. And as  
22 Commissioner Cameron just said, there may actually  
23 been no hearing period depending on the  
24 applications.

1 CHAIRMAN CROSBY: Right, right.

2 COMMISSIONER MCHUGH: And even if  
3 there is a hearing period, we may be able to squeeze  
4 down the amount of time that we assign to them.

5 CHAIRMAN CROSBY: Right. I apologize  
6 for screwing this up. This date is what, 7/15?

7 COMMISSIONER MCHUGH: 7/25.

8 COMMISSIONER ZUNIGA: 7/25.

9 CHAIRMAN CROSBY: 7/25. So, at the  
10 moment we are committed to having a suitability  
11 decision by July 25.

12 COMMISSIONER CAMERON: Well, again  
13 this was never a commitment this chart. This was  
14 a forecast.

15 CHAIRMAN CROSBY: Right.

16 COMMISSIONER CAMERON: And the reason  
17 I hesitate is because you really never know what's  
18 going to happen in an investigation. But we are  
19 forecasting. We have done a lot of work,  
20 especially in the last couple of weeks because we've  
21 had most of the scope of licensing determinations  
22 made, which allows us to look at the number of  
23 qualifiers, the number entities and have a better  
24 forecast of a timeframe for an investigation.

1           Now, I want to throw a couple of things  
2 out. One is, and every applicant knows where they  
3 are in process as of right now. And they know the  
4 documentation they need to get to us.

5           So, this is a process, which is a  
6 two-way process. And what I mean by that is the  
7 sooner people get us that additional documentation,  
8 the more we're able to streamline that background  
9 investigation. If things are very slow getting to  
10 us, it really does hold up that background  
11 investigation, which then could possibly throw our  
12 numbers off and hold everybody else up, frankly.

13           But we've had a good working  
14 relationship with all of the applicants as far as  
15 dialog and assurances that the paperwork will be in,  
16 the additional documentation. So, all of that is  
17 helping us give us some better ideas, which we hope  
18 would then in fact help municipalities try to plan  
19 for this vote, which they all have to schedule at  
20 some point.

21           So, what we're trying to do here today  
22 is give us just a better idea of where we are, the  
23 timeframes we think we'll be able to meet with our  
24 investigations teams.

1           Again, the other piece of that if there  
2 are really significant issues that could add some  
3 time to this too. So, I want to stress that this  
4 is a forecast and that timing is such that we will  
5 try to meet those forecasts.

6           CHAIRMAN CROSBY: In that context, how  
7 should John advise a community about when they can  
8 set the date for their referendum?

9           COMMISSIONER CAMERON: Again, our  
10 goals are to -- and these are aggressive timetables  
11 to complete investigations. We could be looking at  
12 early May for slots and late May into early June for  
13 category one. Then the next step would be --

14          MR. ZIEMBA: Commissioner Cameron,  
15 can I ask a question?

16          COMMISSIONER CAMERON: Yes.

17          MR. ZIEMBA: The May report, which is  
18 the completion of the IEB report, which will then  
19 be turned to the Commission, I don't know if we've  
20 then determined that that then becomes the public  
21 document until after the Commission actually looks  
22 at it as part of the public meeting?

23          COMMISSIONER CAMERON: Absolutely.  
24 All that is at that point is an investigation

1 report. A document will be prepared for each  
2 Commissioner for review. And then there will be a  
3 public hearing in which a presentation in which the  
4 whole report, everything will be explained so that  
5 everyone --

6 CHAIRMAN CROSBY: When the IEB  
7 recommends to the Commission you're talking about.

8 COMMISSIONER CAMERON: Yes. And I  
9 think that some decisions that we haven't made yet  
10 are along the lines of presentations by the  
11 applicants to the full Commission. So, there are  
12 a few things here that we have to make final  
13 determinations about.

14 But yes, there'll be a time for the  
15 Commissioners to review that report. But we're  
16 just trying to, in speaking with our consultants  
17 this week and in looking at what we think, we're  
18 really aiming to get the end of May into the  
19 beginning of June those completed reports, which  
20 then we'll need a couple of weeks obviously to get  
21 those presentations, to have that hearing, the full  
22 Commission to hear about that investigation in  
23 order that the Commission may vote on suitability.  
24 And then after that, of course, the municipalities



1 would be free to vote at that level after  
2 suitability.

3 COMMISSIONER MCHUGH: Can I just offer  
4 one observation to build on what Commissioner  
5 Cameron has said. I think we can be more precise  
6 and be more helpful with this projection.

7 We can't be precise because these are  
8 targets. But if you look at the orange line, the  
9 red line, in that area there, we can be more precise  
10 and I think more helpful there.

11 That top line is prepare and submit  
12 applications for category two, but preparation can  
13 start now. But the deadline is going to be whatever  
14 the application deadline is. So, that's going to  
15 move in relation to whether we change the overall  
16 deadline.

17 The next line down is surrounding  
18 community agreements are executed. They have to be  
19 executed ideally by the time the application is  
20 submitted. They can begin work on that any time  
21 now. So, we could extend that line back and show  
22 people that they could do it now. And if they're  
23 not executed by the time the application is  
24 submitted, then we take over and there's a 30-day

1 period to force their execution.

2 The next line down is host community  
3 agreements approved by referendum. Now that is one  
4 in which the host community agreement has to be  
5 executed, if I think about this correctly, at least  
6 60 days before the vote is held. The vote could be  
7 held the day before the application is submitted,  
8 but the agreement has to be executed 60 days before.  
9 So, those really ought to be two separate lines.

10 CHAIRMAN CROSBY: I don't know if this  
11 matters. It's 60 days from the request for a vote.

12 COMMISSIONER MCHUGH: Yes, that's  
13 right. That's more precise. That's right. The  
14 host community agreement has to be executed. Then  
15 the governing body has to request a vote. One would  
16 assume that those two would come pretty close  
17 together.

18 CHAIRMAN CROSBY: Very close  
19 together, right.

20 COMMISSIONER MCHUGH: So, we could add  
21 another line there that shows when the host  
22 community agreement had to be executed by in  
23 relation to when the agreement deadline was. And  
24 it basically would have to be about 60 days or a

1 little more before the application deadline. So  
2 that the statutory baking period would be  
3 satisfied.

4 But the host community agreement can be  
5 negotiated and signed at any time up to that 60-day  
6 deadline.

7 And then the scheduling of the host  
8 community agreement is the --

9 CHAIRMAN CROSBY: Referendum.

10 COMMISSIONER MCHUGH: -- the host  
11 community referendum, is the thing that the  
12 communities would have to gamble on a little bit,  
13 but at least they could look at that recognizing in  
14 a chart form that they had to begin to think about  
15 scheduling it 60 days before the application  
16 deadline.

17 Then if we move the application  
18 deadline back, all of that stuff slides back  
19 synchronously so that the dates remain the same.  
20 So, I think that we could do that in an updated chart  
21 fairly quickly. And I think it'd provide probably  
22 as much help as we can give at the moment.

23 CHAIRMAN CROSBY: When he is asked by  
24 a community we want to schedule -- Your approximate

1 deadline is at the moment 7/25.

2 COMMISSIONER MCHUGH: Yes.

3 CHAIRMAN CROSBY: We want to schedule  
4 it for our vote for August 1. John says what?

5 COMMISSIONER MCHUGH: John says that  
6 under the current schedule, we are projecting a  
7 completion of those investigations by 7/25. We  
8 can't guarantee it. So, you may schedule that vote  
9 for August 1, but you're taking a risk if you do.  
10 And we will update generically as we can to help you,  
11 but at the moment that's the best information we can  
12 give you.

13 MR. ZIEMBA: And I would further  
14 clarify that that July date includes the hearing  
15 period, and potentially if there are no appeals then  
16 the date of our issuance of suitability may occur  
17 as much as a month or even further -- sooner.

18 COMMISSIONER MCHUGH: And we have an  
19 obligation, I think, as we've discussed before to  
20 try to get the best information we can about when  
21 the investigations are likely to finish. And  
22 there's some more water to be rung out of those other  
23 dates there. And to compress that schedule to make  
24 up time and give people a better estimate of when

1 they can go. But we can do that within a relatively  
2 short period, I would think.

3 MR. ZIEMBA: So, I would recommend  
4 that we issue another host and surrounding  
5 community's advisory in the near future that  
6 includes this new information just so everybody has  
7 available and it's on our website. So, I can work  
8 on that, make sure that the language is accurate to  
9 everybody's understanding and get that out. We can  
10 also work on making sure that the chart reflects the  
11 understanding today.

12 CHAIRMAN CROSBY: Right. And the  
13 point that you added on that if there isn't a hearing  
14 -- Whether there is likely to be a hearing or not,  
15 the developer will know as much about that as  
16 anybody. Because they'll know whether they're  
17 going to agree if there's still a debate going on  
18 about qualifiers and stuff.

19 MR. ZIEMBA: Exactly.

20 CHAIRMAN CROSBY: So, they'll  
21 presumably be communicating with -- They wouldn't  
22 let a community go ahead and schedule it if they knew  
23 there was going to be contest over a qualifier or  
24 something.

1                   COMMISSIONER CAMERON: Another piece  
2 of this is it's the experience or this is what's  
3 happened in other jurisdictions. There may be one  
4 or two individuals that may be deemed unsuitable.  
5 And in many other jurisdictions those people are  
6 dropped from the project so that --

7                   CHAIRMAN CROSBY: It doesn't kill the  
8 project. They just replace the qualifier.

9                   COMMISSIONER CAMERON: Correct.  
10 Then in other circumstance that I'm aware of, there  
11 was a suitability determination without an  
12 individual. New information was presented at a  
13 later date, which deemed that individual suitable.  
14 And at a later date they were added back into the  
15 project.

16                   So, in other words, if there's a  
17 particular hearing that has to occur on an  
18 individual, that doesn't necessarily have to hold  
19 up the entire project. If the applicant deems to  
20 drop that person because -- at that time.

21                   So, there's many ways that in other  
22 jurisdictions these issues have been handled  
23 without holding up the entire process for everyone  
24 involved.

1                   CHAIRMAN CROSBY: I think we're  
2 torturing ourselves to not preclude them, a  
3 community from scheduling a referendum with a guess  
4 as to when we will make our final suitability  
5 decision. The more we talk about it, the more wise  
6 it seems.

7                   We're also trying to leave it as sort  
8 of a generic schedule. And it's really going to be  
9 very idiosyncratic on a case-by-case basis.

10                  So, you're not going to be able to give  
11 people very much satisfaction. Everybody's going  
12 to want that timeframe to be moved back, and it's  
13 just going to be tough to do.

14                  MR. ZIEMBA: You're right.  
15 Communities need to be advised that it's at their  
16 risk if they choose to make that determination.

17                  CHAIRMAN CROSBY: Right.

18                  COMMISSIONER CAMERON: Well, and the  
19 risk would be though that they schedule one and  
20 they're not able to have it then. And they'll have  
21 to schedule another one a number of weeks later.

22                  CHAIRMAN CROSBY: That's the  
23 downside.

24                  COMMISSIONER ZUNIGA: Do we have any

1       indication as to how much time does it takes for a  
2       community to schedule a special election? I guess  
3       I always tied it to the 60 days but that is not the  
4       case in terms of scheduling an election.

5               MR. ZIEMBA: Actually, I might need to  
6       do further research on that. I don't know if  
7       perhaps a lot of the planning could be done in  
8       advance of when they actually put out the request  
9       for the election. So, that may not delay things,  
10      but that's worthy of further research. Are there  
11      specific statutory deadlines or other deadlines  
12      that might otherwise interfere with a quick  
13      scheduling.

14             CHAIRMAN CROSBY: Right. That's  
15      worth looking into. But my guess is that the  
16      Legislature knew what it was doing when it put in  
17      that 60 days. If there was some problem, the  
18      Secretary of State would have said, hey, you can't  
19      do it within 60 days. It's going to have to take  
20      you whatever. You can check on it, but I imagine  
21      it's okay.

22             COMMISSIONER MCHUGH: Postponement of  
23      an election because this wasn't on time -- I mean  
24      it wasn't done at the projected time. And then



1 rescheduling potentially gives rise to a host of its  
2 own problems.

3 CHAIRMAN CROSBY: Yes.

4 COMMISSIONER MCHUGH: Adding further  
5 to the unwisdom of doing it until there's more  
6 certainty as to when it's going to be available.

7 COMMISSIONER STEBBINS: Is it also  
8 fair to say that a community could run the risk of  
9 again, scheduling an election before the  
10 suitability comes out. And then if I'm not  
11 mistaken, the election is turned down and people may  
12 choose to vote against a project because they don't  
13 know the suitability of the applicant. That puts  
14 them in a six-month waiting window before --

15 CHAIRMAN CROSBY: They couldn't have  
16 the election without the suitability. We wouldn't  
17 let them.

18 COMMISSIONER STEBBINS: That's right.

19 CHAIRMAN CROSBY: Okay.

20 MR. ZIEMBA: That's all I have to  
21 report.

22 CHAIRMAN CROSBY: Any other questions  
23 for Ombudsman Ziemba? Thank you.

24 COMMISSIONER CAMERON: Thank you.

1                   CHAIRMAN CROSBY: Do you want, in the  
2 interest of time, do you want to have your guests  
3 come up out of order? I'd hate to have them sit and  
4 wait through all of the rest of our stuff.

5                   MR. ZIEMBA: I think that makes sense.

6                   COMMISSIONER STEBBINS: I will invite  
7 up Mark Sylvia from the Department of Energy  
8 Resources and Galen Nelson from the Massachusetts  
9 Clean Energy Center.

10                  As we all know, the statute has a number  
11 of provisions with respect to the resort  
12 destination casinos being built. We have LEED  
13 guidelines as well as energy efficiency as key  
14 components. We know that these facilities because  
15 of the nature of their operations will be pretty  
16 heavy utility users.

17                  And we've discussed our interest both  
18 in previous meetings and our policy discussion  
19 about how we can make sure that these facilities are  
20 somewhat unique. And energy efficiency may be one  
21 aspect of appeal for these facilities as we go  
22 forward.

23                  I thought it was helpful to look around  
24 and consider state resources that might be

1 available or are available to other businesses and  
2 that we should make them available to our potential  
3 applicants.

4 Energy savings can certainly help an  
5 applicant turn a profit little bit faster. It  
6 speaks to our mission about creating a robust gaming  
7 environment. So, I thought it would be helpful to  
8 have the folks from DOER and the Clean Energy Center  
9 come in and talk about their possible role. How  
10 they may be able to assist applicants.

11 Some other issues I know they want to  
12 put on our radar screen for consideration related  
13 to green communities and other topics as well as  
14 their interest or willingness to meet with now we're  
15 at 11 applicants even directly to talk about how  
16 they might be of assistance.

17 I have a write-up on the Clean Energy  
18 Center, but I know Galen can probably give a better  
19 intro. of who the CEC is. I had a chance to work  
20 with Galen and the CEC out in Springfield. They  
21 were very helpful in getting some support for a  
22 building that was moving ahead with a geothermal  
23 project.

24 So, with that, Mr. Chairman, I'd like

1 to turn it over to them and have them go through  
2 their presentation. Commissioner Sylvia, if you  
3 want to kick it off.

4 MR. SYLVIA: Thank you very much,  
5 Commissioner Stebbins and members of the Gaming  
6 Commission. Before I begin, I just want to  
7 identify the other members of our team who are here,  
8 Dwayne Breger. Dwayne, raise your hand. He's the  
9 director of my renewable energy division. And Ian  
10 Finlayson who works in the energy efficiency  
11 division. If there are any questions, they're here  
12 to help navigate through that.

13 COMMISSIONER STEBBINS: Let me just,  
14 there was one more point I wanted to add. We had  
15 given you guys some introduction at the meeting that  
16 the AIA had hosted. But I felt it was more  
17 appropriate to allow you to spend a little more time  
18 in front of the Commission and talk probably a  
19 little more in depth about how you might be helpful  
20 that would've extended our forum out a little bit  
21 longer. And that day was probably not the best time  
22 for us to try to do that.

23 MR. SYLVIA: Sure. So, very glad to  
24 be here to talk briefly about what we do, and then

1 to talk about the types of programs and incentives  
2 that may be available to the casino applicants as  
3 they go through the process with you here at the  
4 Commission.

5 Real quickly, the Department of Energy  
6 Resources is one of six agencies within the  
7 Executive Office of Energy and Environmental  
8 Affairs, which is headed by our Secretary, Rick  
9 Sullivan.

10 And I know you've met with Maeve  
11 Vallely-Bartlett who heads up MEPA for the  
12 Executive Office. And she has been designated by  
13 the Secretary to coordinate all of our agency  
14 efforts as it relates to the Gaming Commission and  
15 the casino application.

16 So, we are one of the agencies that is  
17 responsible within the Secretariat for focusing on  
18 the Governor's overall agenda on clean energy.

19 We are the state energy office. Right  
20 here I'll put up a slide view of what our mission  
21 is. Among the things we're responsible for doing  
22 is to ensure the deployment of all cost-effective  
23 energy efficiencies. And I'll go into a little  
24 more detail on that momentarily. Maximize the

1 development of clean energy resources. And I won't  
2 go through all of them, but at the end of the day,  
3 we are the state energy office and our overall  
4 responsibility is to help support the Governor's  
5 clean energy agenda.

6 We are divided into four divisions  
7 within our agency. The energy efficiency  
8 division, the energy markets division, green  
9 communities, and renewable and alternative energy.

10 And there are drivers for us that  
11 direct us in terms of the types of programs and  
12 services we are to provide across the Commonwealth.  
13 You may be familiar with the Green Communities Act,  
14 which was signed by Governor Patrick in 2008, which  
15 really catapulted Massachusetts to the head of the  
16 pack in terms of leading the nation on clean energy  
17 investments and clean energy strategies.

18 It did a number of things including  
19 creating the green communities division, which is  
20 there to help all 351 cities and towns meet their  
21 clean energy goals.

22 It required all of the investor  
23 utilities in Massachusetts to provide all  
24 cost-effective energy efficiency before procuring

1 additional supply for generation. And it  
2 established advance building codes.

3 The advanced building code focused on  
4 a statewide base energy code as well as the creation  
5 of the stretch code, which I'll talk a little bit  
6 more about. That same year the Governor signed the  
7 Global Warming Solutions Act, which developed for  
8 us a pathway forward to reducing our greenhouse gas  
9 emissions by 25 percent by 2020 and 80 percent by  
10 2050.

11 And then the Governor when he came into  
12 office, clean energy was a big part of his agenda.  
13 And he set a number of ambitious goals in the area  
14 of renewable energy development as well as  
15 efficiency.

16 So, I mention those to you because  
17 that's what drives all of the work that we do and  
18 certainly what the Clean Energy Center does, and is  
19 the reason why there are a number of robust programs  
20 that are available to residents, businesses and  
21 municipalities in the Commonwealth.

22 And as a result of this, we have a  
23 really good story to tell here in Massachusetts.  
24 We are number one in energy-efficiency among the 50

1 states. Third in private clean energy  
2 investments.

3 Galen will talk, I'm sure, a little bit  
4 about the jobs report that the Clean Energy Center  
5 issues annually. But it shows that in  
6 Massachusetts there are over 71,000 clean energy  
7 jobs and there's been a significant increase over  
8 the last two years from where we were to where we  
9 are. And I believe it's the fastest-growing job  
10 sector in Massachusetts.

11 We have 110 designated green  
12 communities from Cape Cod to the Berkshires,  
13 including three of the communities for which you  
14 have casino developers who have applied for  
15 consideration by you. Boston, Springfield and  
16 Palmer are all designated green communities. I'll  
17 talk a little bit more about what that means.

18 We have it says here 174 megawatts of  
19 installed solar. It's actually 194. And we have  
20 over 100 megawatts of wind generation. It says 61,  
21 so there's been a lot going on in the last several  
22 months.

23 So, to give you a really quick bit of  
24 context as to why this is important to us and why



1 Massachusetts has tools available, and I want to try  
2 to put it into context for the work that you're doing  
3 here at the Gaming Commission.

4 So, as you're all very familiar with  
5 the Gaming Statute that was enacted by the  
6 Legislature and signed by the Governor, there is a  
7 provision within the gaming law under section 18  
8 subsection 8 which enables the Commission to  
9 consider a number of sustainability principles in  
10 the applicants that are before you or the  
11 applications that are before you.

12 There are six in particular that it  
13 references. Here I provide a summary of those six  
14 areas. Those six sustainable concepts which  
15 includes adoption of the stretch code or building  
16 facilities to the stretch code. Energy Star  
17 related equipment that's installed in the casino  
18 facilities. Monitoring and metering of energy  
19 consumption within the facilities that are  
20 eventually approved. And the potential for LEED  
21 certification. And that's in the category of  
22 energy efficiency.

23 In terms of renewable and alternative  
24 energy, it suggests the possibility of alternative

1 transportation strategies, water conservation and  
2 storm water management and renewable on-site  
3 generation.

4 So, it's important to kind of lay out  
5 those six sustainability principles that are  
6 contained in the gaming bill and to give a sense of  
7 what we can bring to bear in terms of programs and  
8 services and incentives to help strengthen those  
9 projects from a clean energy perspective.

10 So, I'll talk first about green  
11 communities, the green communities division.  
12 There are 110 qualified designated green  
13 communities here in Massachusetts. They have to  
14 meet five very specific criteria in order to be  
15 designated. They have to adopt as-of-right siting  
16 for either renewable energy generation or R&D and  
17 manufacturing. And adopt an expedited permitting  
18 process for those uses.

19 Create an energy reduction plan for  
20 their municipal buildings that's both schools and  
21 municipal general government activities. And  
22 commit to reduce their energy consumption by 20  
23 percent in five years. Purchase only  
24 fuel-efficient vehicles for government activities.

1 And then adopt a stretch code, which we'll talk a  
2 little bit more in a moment.

3 Just to give you a sense of where these  
4 green communities are. As I mentioned, it's from  
5 Cape Cod to the Berkshires, big communities, small  
6 communities, the City of Boston, Springfield,  
7 Worcester, Lowell. And small communities like New  
8 Salem and Lakeville and others.

9 We've been able to provide over \$24  
10 million to those 110 green communities to help them  
11 pursue their clean energy goals. And so in Palmer  
12 and in Boston and in Springfield, they're already  
13 doing a significant amount of work to meet their  
14 clean energy goals. And are well equipped and  
15 well understand the benefits of clean energy  
16 initiatives.

17 In the energy-efficiency area, which  
18 is particularly relevant to this discussion, I  
19 mention energy efficiency as our first fuel. That  
20 it is the law of the land that utilities have to  
21 provide all cost-effective energy efficiency. I  
22 don't need to tell you all that of course using less  
23 energy is our most beneficial strategy and our least  
24 expensive option to reducing energy costs over

1 time.

2 The energy-efficient programs that are  
3 provided for here in the Commonwealth of  
4 Massachusetts are provided through the Mass Save  
5 program. It's coordinated efforts of our investor  
6 owned utilities providing incentives and rebates  
7 across all sectors, residential, commercial and  
8 industrial, and municipal.

9 In addition to the Mass Save program,  
10 which can support a number of different initiatives  
11 at each one of these customer segments, we have a  
12 leading by example program here which is focused on  
13 state facilities. And I mentioned green  
14 communities.

15 To give you a sense of scale in terms  
16 of how the energy efficiency programs are funded and  
17 how the availability of incentives and rebates  
18 work, I wanted to give you some context in terms of  
19 the three-year plans that the utilities follow to  
20 implement the incentives and rebates that are  
21 provided.

22 The first three-year plan was from 2010  
23 to 2012. They just completed their first  
24 three-year plans. It gives you a sense of total

1 investment, over \$1.6 billion in investments, which  
2 will yield close to \$6 billion in benefits over the  
3 life of the measures.

4 For the next three-year plans, which  
5 are before the Department of Public Utilities now  
6 and which we anticipate they will provide their  
7 order or issue their order by the end of this month.  
8 It's over \$2 billion that will be invested over the  
9 next three-year period in a number of different  
10 efficiency initiatives, again across all customer  
11 classes.

12 The benefits for the next three-year  
13 plans are anticipated to be well over \$8 billion.  
14 And you can see from this slide here, there is a  
15 significant amount of both electric and gas savings  
16 that are anticipated as a result of these  
17 investments.

18 So, we are really excited about the  
19 next three-year plans. The first three-year plans  
20 have enabled us to really lead the way nationally  
21 and has helped us to get our number one ranking.

22 So, for the purposes of commercial and  
23 industrial, which is the category that we would put  
24 the casino developments in certainly, this is a

1 great slide, a compelling slide in terms of  
2 investing in energy-efficient and what it yields in  
3 terms of benefits.

4 So, to give you a sense here, the green  
5 bar represents C and I. For every dollar that's  
6 invested in electric efficiency, it yields  
7 approximately six or a little over six dollars in  
8 benefits over the life of the measures that are  
9 implemented.

10 That's an amazing investment return  
11 for the amount of dollars that you put in upfront,  
12 leveraged with incentives and rebates from the  
13 state what it will yield in terms of benefits, which  
14 is in a large sense the savings that you realize from  
15 the measures that are implemented. But there are  
16 a number of other benefits that accrue to this as  
17 well over time.

18 For gas, it's well over three dollars  
19 in benefits for every dollar invested. And then  
20 you can see the combined total and the combined  
21 benefits there.

22 So, it's very easy case to make and it  
23 has, from our experience, yielded these kinds of  
24 results.

1                   COMMISSIONER MCHUGH: I'm sure I'm the  
2 only one in the room who doesn't know the answer to  
3 this. But what is C and I?

4                   MR. SYLVIA: Commercial and  
5 industrial. So, as I mentioned before, the vehicle  
6 that we use to deliver these energy-efficiency  
7 programs is Mass Save, which is the combined efforts  
8 of each of the investor owned utilities in  
9 Massachusetts.

10                  It is a program, and you can see who the  
11 participating utility partners are. We put their  
12 names up here. But they serve a number of different  
13 types of projects. Whether it's existing  
14 buildings, new infrastructure, retrofits, direct  
15 install programs, there are a number of tools that  
16 they provide across customer classes to enable the  
17 building owner to ultimately reduce their energy  
18 consumption, and at the end of the day, their  
19 overall energy costs.

20                  The types of programs that are  
21 available to commercial and industrial customers I  
22 lay out here. We segment them into three buckets.  
23 Design for energy efficiency, so there's  
24 opportunity upfront -- And I'll use casino

1 developments as an example. -- upfront to work with  
2 the investor on utilities to help design and develop  
3 their casino facilities.

4           There is the opportunity for  
5 incentives for, as it says here, up to 50 percent  
6 of the cost for engineering studies. So, we  
7 recognize and it's not just identifying what  
8 measures should be installed, but really working  
9 with the property owner well in advance to help them  
10 to design systems that are the most efficient  
11 systems and that will yield the most savings.

12           On new construction, there are  
13 programs that are provided by that utilities to  
14 support new construction as opposed to retrofits,  
15 which is also a very important segment that we have  
16 here. Our biggest of course is existing buildings,  
17 existing commercial and industrial buildings.

18           So, we have programs that address  
19 issues in existing buildings, the retrofit program.  
20 We have programs to support new construction. And  
21 at the end of the day, as I mentioned, design for  
22 energy efficiency is an important beginning  
23 component to this. And there is support and  
24 funding available for that.



1                   CHAIRMAN CROSBY:  What is the 75  
2 percent new construction incentive?

3                   MR. SYLVIA:  Incentives up to 75  
4 percent of incremental costs related to the  
5 existing code.

6                   So, the incremental costs is the delta  
7 between what you would normally have paid and what  
8 the building code, the energy building code is.  
9 So, the delta between those two.

10                  MR. FINLAYSON:  So, if you get a price  
11 on just building for the code minimum, the worst  
12 building you can build and then you look at doing  
13 something better than that the utility will fund  
14 three quarters of the cost of going beyond the code.

15                  CHAIRMAN CROSBY:  Wow.  So, it says up  
16 to, is it pretty much three-quarters?

17                  MR. SYLVIA:  It depends on the type of  
18 project.

19                  MR. FINLAYSON:  It does depend a great  
20 deal on the project.

21                  CHAIRMAN CROSBY:  Okay.

22                  MR. SYLVIA:  But the maximum would be  
23 up to 75 percent.

24                  COMMISSIONER MCHUGH:  Is that funding

1 in advance or is it a grant? Is it a construction  
2 loan that has to be paid back over the life of the  
3 project or is it money rebates?

4 MR. FINLAYSON: It's generally the  
5 funds are awarded as you hit milestones. So, the  
6 design funding is designed for the design period for  
7 new construction, as you hit construction  
8 milestones. In most cases for energy efficiency  
9 incentives, they're going to come in one chunk at  
10 the end of the project. But it's something you can  
11 plan on, you can take to the bank.

12 COMMISSIONER MCHUGH: So, it's a  
13 grant? It's not a loan?

14 MR. FINLAYSON: Exactly.

15 CHAIRMAN CROSBY: Is this pretty  
16 common knowledge? Do developers know this, know  
17 about these things?

18 MR. SYLVIA: So, the Mass Save -- It's  
19 ultimately our responsibility to promote and inform  
20 each customer class. It's also the utilities  
21 responsibility. So, we focus very heavily on  
22 education, however there is always improvement and  
23 outreach.

24 So, we want to do as much as we can to

1 certainly let your applicants know and be aware of  
2 what's available. And I think this forum is one of  
3 - is the purpose of that.

4 And I know Commissioner Stebbins and I  
5 talked about the opportunity of us meeting  
6 individually with each of one of the applicants to  
7 kind of walk through this presentation, but also  
8 have our technical team available to answer any  
9 questions that they may have.

10 CHAIRMAN CROSBY: Yes.

11 COMMISSIONER MCHUGH: Great.

12 MR. SYLVIA: So, I'll go real quickly  
13 because I know time is limited and we've got to get  
14 Galen up here too.

15 I mentioned in the Green Communities  
16 Act that we now have an established base energy code  
17 in Massachusetts. That base energy code is  
18 applicable to all 351 cities and towns.

19 It's consistent with the IECC, which is  
20 an international energy code. It changes. As  
21 that code changes, the base energy code changes.  
22 So, we are currently under the 2009 IECC code. That  
23 has changed. So, we're working through the process  
24 with the BBRS to update the base energy code.

1           It makes, again, Massachusetts a  
2 leader in energy codes. Energy codes are a big  
3 driver for efficiency.

4           This is a map of the 122 stretch code  
5 communities. I mentioned the base code.  
6 Communities by local option can actually go deeper,  
7 if you will, than the base energy code. Twenty  
8 percent deeper in terms of ability to reduce energy  
9 consumption by up to 20 percent by adopting the  
10 stretch code.

11           There 110 green communities, as I  
12 mentioned. They've adopted the stretch code  
13 because that's a requirement. But there are an  
14 additional number of municipalities that have  
15 adopted the stretch code as well, which again has  
16 helped to catapult Massachusetts to leading the  
17 way.

18           The stretch code, I just mentioned it.  
19 I don't have to go any further. It's 15 to 20  
20 percent more efficient than the existing base code,  
21 which is the law here in Massachusetts.

22           LEED, there is reference in the Gaming  
23 Statute to LEED. We just wanted to bring to your  
24 attention that the stretch code interacts with LEED

1 from a building energy perspective. They both use  
2 ASHRAE as a modeling component, both the stretch  
3 code and LEED. So, we wanted to mention that  
4 because it's referenced in the statute.

5 MEPA, we play a role in the MEPA  
6 process. You heard from Director Bartlett  
7 recently about the role of MEPA in this whole  
8 process. We play a role as it relates to the  
9 greenhouse gas impacts of developments. That's  
10 whether it's the developments that you ultimately  
11 approve or any others that go through MEPA, we  
12 review and analyze the greenhouse gas emission  
13 impacts of those developments as well building  
14 protocols.

15 I only mention high-performance  
16 buildings. I think Galen will talk a little bit  
17 more about this. Only to inform the Commission  
18 that in Massachusetts we take very seriously the  
19 fact that we have these robust programs and we have  
20 these very strong goals. And the Governor was very  
21 clear that if we're going to ask businesses and  
22 residents to meet these goals, then we have to do  
23 the same thing at the state level.

24 So, the leading by example program in

1 an executive order that he signed requiring us to  
2 lead by example at the state-level has yielded great  
3 results. One of which has been our focus on  
4 high-performance buildings. Zero net energy  
5 buildings. And there are two examples that we can  
6 point to today.

7 One that is in existence now at North  
8 Shore Community College. And another one that is  
9 -- we broke ground on recently out in Westborough,  
10 the new headquarters for Fish and Wildlife, which  
11 will also be a state zero net energy building.

12 And we mention that because as we think  
13 outside of the box, and as you're thinking outside  
14 of the box and the casino community is thinking  
15 outside of the box in terms of sustainability  
16 principles for development, we just want to point  
17 to two really good examples. One that's in  
18 development and one that has been developed here in  
19 Massachusetts that are probably good examples to  
20 use for creative ways to design facilities so that  
21 you are consuming at your facility -- you're  
22 generating all of the energy you need to consume all  
23 in the same location, which is in essence what the  
24 concept of zero net energy is.

1           Quickly for renewables, which is the  
2 other side of our house, we have a number of tools  
3 that are available and incentive programs that are  
4 available to support renewable energy development.

5           We have the renewables portfolio  
6 standard, which supports renewable energy  
7 development. It's divided into two classes. Post  
8 the Restructuring Act in 1998, any renewable energy  
9 in class one, for example, wind and solar that is  
10 developed after that date is supported by the  
11 portfolio standard under class one.

12           In essence, this sets a requirement for  
13 utilities and competitive suppliers to purchase a  
14 certain amount of their power from renewable  
15 sources. And those renewable sources are  
16 qualified under our portfolio standard and it  
17 generates renewable energy credits. The renewable  
18 energy credits help to finance projects.

19           We have the alternative energy  
20 portfolio standard, which supports technologies  
21 like combined heat and power. We have other tools  
22 that were established through the Green Communities  
23 Act, like metering, which I won't go into detail.

24           And both CEC and DOER have a number of

1 programs, whether it's the Con Solar program or  
2 programs that we provide to help further incent the  
3 development of renewables. And it's applicable,  
4 each one of these programs is applicable to casino  
5 projects that are being contemplated.

6 Just to brag once more, when the  
7 Governor came into office, there were less than  
8 three megawatts of installed solar PV. As of the  
9 end of 2012, we are up to 194 megawatts. And it is  
10 because of the collective efforts of policymakers,  
11 businesses and residents and the clean energy  
12 community that have really allowed this to happen.  
13 And we can continue that trajectory with these types  
14 of projects as well.

15 Renewable thermal is another option.  
16 We have incentives that are provided for renewable  
17 thermal like combined heat and power of biomass,  
18 geothermal heat pumps, solar hot water. A number  
19 of different technologies that we are providing  
20 through pilot programs. So, there may be other  
21 programs that developers can take advantage.

22 Transportation initiatives that's  
23 another big piece, both from a greenhouse gas  
24 emissions perspective and from an alternative



1 transportation perspective. We have a number of  
2 programs to support the deployment of alternative  
3 fuel vehicles, charging stations for EV. So, there  
4 are resources that are available as well there.

5 I'll stop there. I know I've gone on  
6 for some time, but we're really excited about this  
7 opportunity. My staff and I are here to answer any  
8 questions. And again, we are more than willing to  
9 sit with the Clean Energy Center and some of our  
10 other colleagues with each one of the applicants to  
11 give them further detail.

12 COMMISSIONER MCHUGH: That's great.  
13 Thanks.

14 CHAIRMAN CROSBY: Are we doing this in  
15 some formal way? How are you going to try to make  
16 those links happen?

17 MR. ZIEMBA: At last week's meeting, I  
18 think you and I discussed that we need to come up  
19 with a laundry list of entities that applicants  
20 should make themselves available to. And I believe  
21 that the good folks here who I've been fortunate  
22 enough to work with in prior career would be a good  
23 idea for them be on there. We'll include them on  
24 our list of those organizations.

1 CHAIRMAN CROSBY: Okay. Good.

2 COMMISSIONER CAMERON: I had a  
3 question. The 110 cities and towns that you spoke  
4 about, are they as part of their efforts to meet the  
5 20 percent goal, are they requiring all new  
6 buildings that are permitted in that municipality  
7 to meet these standards?

8 MR. SYLVIA: So, as it relates to the  
9 stretch energy code, because they have to adopt the  
10 stretch energy code, yes. That's a requirement  
11 that commercial construction, I think it's over  
12 100,000 square feet as well as new residential  
13 construction have to meet those standards.

14 As it relates to the 20 percent  
15 reduction plan, the focus is solely on municipal  
16 facilities, so, schools, libraries, etc. But the  
17 stretch code is the energy code for that community.  
18 So, everyone would have to comply with that.  
19 Otherwise, it's the base energy code in other  
20 communities.

21 MR. NELSON: Sorry about the technical  
22 difficulties. Commissioner Stebbins, Chairman,  
23 members of the Commission, thank you for this  
24 opportunity.

1 I just wanted to begin by saying  
2 something that I'll repeat at the end to echo Mark's  
3 comments, we really look forward to working with  
4 individual developers to explore a wide array of  
5 clean energy strategies that are appropriate for  
6 the various sites being considered, really look  
7 forward to that conversation.

8 I'm going to run through this quickly.  
9 I'm going to try to the best of my ability not to  
10 repeat a lot of what Mark said. We are sister  
11 agencies, if you will. And we do work very closely  
12 together and collaborate. And I just want to  
13 underscore a lot of what Mark said and build on that  
14 a bit.

15 First, a little bit of background on  
16 the Mass Clean Energy Center. We were established  
17 under the Green Jobs Act of 2008. And I'm not going  
18 to read all of these slides, I think in the interest  
19 of time. This provides you a sense of what our  
20 mission is and what our primary goals are. We are  
21 dedicated to accelerating the success of the clean  
22 energy economy here in the Commonwealth. And I'll  
23 speak a little bit more about what that industry  
24 actually looks like and its impacts on our overall

1 economy in a moment.

2           Some of our major programs, we do  
3 provide incentives and feasibility study funding  
4 for wide range of renewable energy deployment  
5 including solar, wind, organic waste to energy,  
6 hydropower and solar thermal. We do in fact make  
7 direct investments in clean energy companies here  
8 in the Commonwealth. We support a wide array of  
9 clean energy workforce development programs.

10           We also support the renewable energy  
11 industry and its related ecosystem. The  
12 companies, the R&D facilities that support it, the  
13 academic institutions that are the -- they're  
14 locations where startup companies spin out of into  
15 our incubators. We support all of those activities  
16 through a range of programs.

17           We also operate and have built some  
18 infrastructure. The Wind Technology Testing  
19 Facility located in Charlestown, the largest wind  
20 blade test facility in North America, which is  
21 integral to the wind industry globally actually.

22           And we are beginning to construct a New  
23 Bedford marine and commerce terminal, which will  
24 support our offshore wind industry going forward.

1 That provides kind of a high-level overview of what  
2 we do and who the Massachusetts Clean Energy Center  
3 is.

4 So, I wanted to again underscore  
5 everything Mark said about our nation leading  
6 programs and incentives related to energy  
7 efficiency, building energy efficiency and  
8 renewable energy. But also add a little bit more  
9 kind of the business lens to this discussion.

10 Casino development, as I'm sure you all  
11 know at this point, provides an opportunity for the  
12 state to shine again as it has in so many other  
13 spheres to set a new national standard for  
14 high-performance in casino development that  
15 delivers triple bottom-line benefits to owners,  
16 customers and communities. And of course I've  
17 listed here some of the benefits of  
18 high-performance buildings.

19 The number of high-performance  
20 buildings in the state, both new construction and  
21 retrofits of existing buildings has increased  
22 dramatically over the last decade or so. And yes,  
23 the forward thinking policies are nation leading  
24 policies and incentives that Mark described have

1 played a critical role.

2 But I also want to underscore that  
3 market forces have also driven adoption of the LEED  
4 rating system and high-performance generally,  
5 because building owners and developers  
6 increasingly recognize the value of  
7 high-performance building that it delivers to both  
8 owners and tenants.

9 Owners consistently enjoy higher lease  
10 rate per square foot. Higher building sale price  
11 because operating costs and vacancy rate are both  
12 lower. So, simply put green or high-performance  
13 building is good business and I want to make sure  
14 that we don't lose sight of that.

15 So, while we absolutely are committed  
16 to and are very proud of our greenhouse gas  
17 reduction goals and our clean energy goals, and they  
18 are indeed nation leading, our track record on clean  
19 energy and high-performance building leadership  
20 also makes good business sense. It helps drive our  
21 economy.

22 And there are just a few more figures  
23 here. These are from McGraw-Hill Construction.  
24 Again, the business perspectives on and the drivers

1 for high-performance building, green building,  
2 LEED construction.

3 And of course, high-performance  
4 building as Mark said begins with good design. And  
5 I want to just make sure that while we are talking  
6 about the energy-efficiency and renewable energy  
7 economy here in Massachusetts and the many jobs it  
8 creates, I want to make sure that we don't leave out  
9 the excellent design and engineering talent that we  
10 have here in the Commonwealth. And that is  
11 absolutely part of our clean energy economy.

12 Some of the highest performing  
13 buildings in the world were in fact designed and  
14 engineered by firms located here in the  
15 Commonwealth. And we would urge developers to tap  
16 that rich talent pool from the start.

17 So, Mark mentioned the jobs report.  
18 And I've highlighted the figures again here. I  
19 just want to underscore that again. That this  
20 isn't just about meeting certain energy or  
21 environment or greenhouse gas reduction goals.  
22 But the Massachusetts clean energy economy is  
23 actually a critical part of our overall state's  
24 economy and it's growing more rapidly. And I would

1 add to Mark's comments, growing during the  
2 recession with impressive growth and a wide range  
3 of job opportunities.

4 So, in addition to providing benefits  
5 for building owners and tenants and in this case  
6 those tenants would be casino patrons,  
7 high-performance casinos also create an  
8 opportunity to drive economic activity in this  
9 industry.

10 So, in addition to specifying the  
11 installation of established, fully commercialized  
12 high-performance building and clean energy  
13 products, casino developers can also be -- and  
14 developments can also be early adopters of emerging  
15 clean energy technology that is being developed  
16 right here in Massachusetts. From  
17 high-performance lighting systems to  
18 next-generation heating and cooling equipment to  
19 cutting-edge renewable energy technologies, the  
20 startup companies that are incubating these  
21 technologies right here in the Commonwealth often  
22 have trouble identifying their first customer.

23 And we help facilitate connections  
24 between those companies and early adopters. And we



1 believe that given the multitude of uses, the  
2 complexity of these facilities, the energy loads at  
3 casino developments that they would be excellent  
4 early adopters of homegrown Massachusetts clean  
5 energy technology. And we look forward to working  
6 with them on that score.

7 I did want to point out just shifting  
8 to renewables, Mark cited the statute. We believe  
9 and hope that the 10 percent on-site renewables goal  
10 is indeed a floor and not a ceiling. And that I  
11 think working together we can all do better.

12 There are in fact some examples here  
13 that I've shown of two casinos and then a convention  
14 center on the upper right there. And I added that  
15 given the similarity between the kind of campus  
16 style and load mix that one might find in a  
17 convention center, the similarity to that of a  
18 casino development where in fact those developers  
19 did dramatically exceed a 10 percent.

20 The Harrah's Casino on the upper left,  
21 they recently completed their one megawatt,  
22 actually ground-based solar installation that  
23 provides over a quarter of the energy consumption  
24 for that facility.

1           The ground-based array at the bottom  
2 there is 250KW array. And again, the convention  
3 center there that array also provides over a quarter  
4 of that facility's electricity.

5           I will touch on solar financing in a  
6 moment, but I will mention here that in this case  
7 the developer there, which happened to be a public  
8 entity opted to work with a third-party provider of  
9 the solar, which owns and installed the solar on the  
10 roof of this facility. And then is selling power  
11 through a 20-year power purchase agreement at a very  
12 competitive rate to the convention center  
13 authority.

14           So, two goals have been met. Energy  
15 reductions for the facility, energy savings, I  
16 guess I would argue three goals. Energy savings  
17 for the owner and emissions reduction for the  
18 jurisdiction. So, just wanted to call out those  
19 specific examples as they included casinos  
20 specifically.

21           With regard to more specific resources  
22 that we can provide, with regard to solar PV, solar  
23 photovoltaics, panels that are producing  
24 electricity, the industry is very mature here in the

1 Commonwealth and financing tools are available.  
2 So, we would again in the same way we would urge  
3 developers to tap the rich design and engineering  
4 community in the state, we would urge developers to  
5 tap the rich solar design firm community,  
6 installers and an owner's agent who can help casino  
7 developers navigate the many PV installation and  
8 finance options while tapping maximally available  
9 state and federal incentives.

10 And I did call out that one example in  
11 Atlantic City of a third-party owned array, but  
12 developers may also if the numbers pencil out,  
13 choose to own and operate their own solar arrays.

14 With regard to solar thermal  
15 technology, solar panels that generate heat either  
16 for water or space heating, that technology is  
17 mature but the business models are less so. Solar  
18 thermal systems also require a bit more upfront in  
19 engineering costs. So, that is where we can step  
20 in, specifically to your question, an offer  
21 assistance with regard to feasibility study funding  
22 to help developers explore whether or not that  
23 particular application makes sense at their  
24 particular site and their particular facility.

1           The same could be said of onshore wind  
2 development. Appropriately scaled and sited,  
3 onshore wind turbines require feasibility studies.  
4 Again, we can help in that regard.

5           Looking beyond the facility's  
6 boundaries and thinking about wind, casino  
7 developers could also provide leadership and  
8 realize long-term savings by entering into  
9 long-term power purchase agreements. With  
10 community scale wind developers around the  
11 Commonwealth, providing a community benefit beyond  
12 their parcel boundaries.

13           And then finally a more emerging  
14 technology, though widely deployed in Europe,  
15 organics to energy technologies including  
16 anaerobic digestion can provide facilities with  
17 electricity and heat while consuming food and other  
18 organic waste, which would otherwise of course have  
19 to be shipped away.

20           Casinos are likely to be strong  
21 candidates for such technologies that generate both  
22 heat and electricity, of course even in large  
23 volumes at casinos. And furthermore, developers  
24 could remain a little ahead of the regulatory curve

1 as organic waste will be banned from landfills at  
2 some point in the near future from commercial  
3 facilities here in the Commonwealth.

4 Finally, I just wanted to briefly touch  
5 on kind of looking ahead, in some ways looking back  
6 at least with regard to combined heat and power, a  
7 very proven technology which Mark referenced.

8 Actually, the units on the lower left there are  
9 actually manufactured in Holyoke. So, this is a  
10 wonderful example of a homegrown clean energy  
11 technology.

12 Combined heat and power again being  
13 technology that uses typically natural gas but  
14 could be other fossil fuels to produce both heat and  
15 electricity very efficiently on-site, lowering  
16 emissions, improving efficiency and reducing costs  
17 for building owners.

18 But looking ahead around the world and  
19 across the Commonwealth, building owners, planners  
20 and energy experts are beginning to realize the  
21 economic, environmental and the resiliency  
22 benefits that CHP and on micro-grids or district  
23 energy systems offer. And these new networks  
24 expand our understanding and practice of

1 high-performance buildings beyond the parcel level  
2 to the district scale.

3           So, they often integrate combined heat  
4 and power. And this new energy architecture  
5 provides, as I said, building owners with lower  
6 energy costs, lower emissions, more reliability and  
7 resilience.

8           And I think what Super Storm Sandy  
9 behind us, I think it would be a mistake not to think  
10 about the chance that a casino development might  
11 play an integral role into the future of a district  
12 energy system at one or more of these sites.  
13 Offering, again, to the building owner and to the  
14 community improved reliability, energy savings and  
15 emissions reductions.

16           So, with that, I'd like to again  
17 emphasize what Mark said, which is that we look  
18 forward to being a resource to you and to casino  
19 developers. To sit down with all of you to be  
20 creative and innovative and think about how we can  
21 together design and build casinos that we can all  
22 be proud of.

23           CHAIRMAN CROSBY: Is there anything we  
24 -- Well, I guess we can set standards that's one

1 thing. We can set minimums. We can set standards.  
2 We can encourage these folks to get together with  
3 you all.

4 Is there anything else we can do?  
5 Should we facilitate some kind of brainstorming?  
6 It sounds like it's probably not necessary if you  
7 get together with the companies themselves and they  
8 must be thinking about this. Is there anything  
9 else that we can do that is constructive?

10 MR. SYLVIA: I think we've laid out the  
11 most effective ways that we can work together.  
12 Maeve certainly -- As you continue to contemplate  
13 standards, Maeve will be the point for the Executive  
14 Office. But I think the items that you -- the  
15 issues that you laid out are the ones that are going  
16 to be the most useful for all of us.

17 COMMISSIONER ZUNIGA: I was going to  
18 ask a related question. As we are fine-tuning the  
19 evaluation criteria for the licenses that we will  
20 give out, and we are following section 18 and other  
21 relevant sections for energy efficiency among many  
22 other aspects of the legislation, at least I am  
23 debating this notion of trying to set standards or  
24 prerequisites. Being prescriptive perhaps versus

1 allowing for creativity of the applicants and  
2 allowing for competition, let's say, awarding extra  
3 points for those that get closer to net zero, etc.

4 What can you offer in terms of insights  
5 relative to whether that's a false choice, first of  
6 all. Or whether there's a clear role that we could  
7 continue with these conversation or we can benefit  
8 from your insights?

9 MR. SYLVIA: I do think that that's  
10 part of what we have to think about internally  
11 within EEA. In terms of your looking to us for some  
12 guidance on standards, we can think about that and  
13 get back to you in terms of what we think makes the  
14 most sense. Because certainly that's part of what  
15 you're going to have to wrestle with is whether  
16 you're focused on standards that provide some  
17 prescriptive pathway. Or whether you're allowing  
18 the opportunity for innovation that may not yield  
19 what you're looking to see.

20 So, let us think about that. And as I  
21 said, Maeve will be kind of our overall point on what  
22 we would recommend.

23 COMMISSIONER MCHUGH: You could also  
24 identify objectives, right? As opposed to



1 pathways, and have an objective based set of  
2 criteria, incentives for the closer you come to the  
3 objective. Is the technology, the combined power  
4 and heat technology sufficiently -- does it have the  
5 capability to provide heat and power to a facility  
6 of the type that we're contemplating yet?

7 MR. NELSON: It would likely be an  
8 anchor.

9 COMMISSIONER MCHUGH: What do you mean  
10 by that?

11 MR. NELSON: The facility would still  
12 be grid connected, and please either of you jump in.  
13 But it would provide an important additional source  
14 of energy and heat.

15 MR. SYLVIA: And Dwayne is our source  
16 matter expert. So, he might be best.

17 MR. BREGER: I would just add to that.  
18 Combined heat and power is very matured technology  
19 that wouldn't be classified as emerging. They're  
20 mature companies, all of the big heating,  
21 ventilation air-conditioning companies around the  
22 country and the world offer combined heat and power  
23 technology.

24 But there's also more distributed

1 scale generation of combined heat and power on a  
2 smaller scale as well. Quite a few of our  
3 university campuses have combined heat and power  
4 systems.

5 I would say what's important for  
6 combined heat and power is that there is a robust  
7 and continuous heating load. And to the extent,  
8 depending on the casino design, there may be a  
9 tremendous amount of air-conditioning load in the  
10 summertime, and some heat in the wintertime. So,  
11 also keep in mind that combined heat and power can  
12 provide cooling as well through absorption  
13 chillers, which basically take heat and deliver  
14 cooling with that heat.

15 So, combining a combined heat and power  
16 system with absorption chilling is a very good way  
17 to really reduce electric power demands. Because  
18 you reduce all of the cooling from the grid and  
19 provide that with the combined heat and power plant.  
20 And the electricity from the CHP unit can really be  
21 used for the lighting and the gaming.

22 COMMISSIONER MCHUGH: And is the  
23 success of this technology based on its  
24 cost-effectiveness or on other considerations?

1 MR. BERGER: The cost effectiveness  
2 can be there, particularly in Massachusetts where  
3 we have actually a double incentive for combined  
4 heat and power.

5 We have incentives through our energy  
6 efficiency, the Mass Save programs, which can  
7 reduce the capital cost of the technology. And  
8 then through our alternative portfolio standard,  
9 there's a credit that a CHP unit can receive based  
10 on its operation year after year after year.

11 MR. FINLAYSON: I would add that  
12 particularly in new construction CHP and solar PV  
13 are very profitable right now with the incentives  
14 available. So, as long as you understand the  
15 business opportunity, it's a no-brainer. But a lot  
16 of developers, particularly out-of-state  
17 developers wouldn't be familiar with the local  
18 incentives. I think that's the education barrier  
19 that we're trying to breach. As to the other  
20 technologies, the business case is going to  
21 case-by-case, but CHP and solar PV are pretty  
22 straightforward.

23 CHAIRMAN CROSBY: If we were trying  
24 educate the public that would be one thing. We're

1 only trying to educate 11 people. So, we can do  
2 that on a retail basis, I think.

3 MS. CAMPBELL: Excuse me. I studied  
4 as a LEED Green Associate at the NEXUS in Boston.  
5 And an excellent opportunity to study the casinos  
6 is the ARIA Resort in Las Vegas, 68 acres everything  
7 is renewable. Energy comes from the  
8 air-conditioning from the base of the slot machines  
9 instead of up in the ceiling where it would waste  
10 a lot of energy. It's a really good.

11 CHAIRMAN CROSBY: What's the name?

12 COMMISSIONER ZUNIGA: CityCenter,  
13 it's a new casino.

14 MS. CAMPBELL: MGM.

15 CHAIRMAN CROSBY: Okay. Great.  
16 Thank you.

17 MR. ZIEMBA: Mr. Chairman, one final  
18 point in regard to the role of these folks. As you  
19 recall, we are going to be working with Energy and  
20 Environmental Affairs as part of the evaluation  
21 teams. So, they would likely be called upon for  
22 technical assistance to review our applications.

23 CHAIRMAN CROSBY: Good.

24 COMMISSIONER ZUNIGA: That's a good

1 point.

2 COMMISSIONER MCHUGH: This is really  
3 helpful.

4 CHAIRMAN CROSBY: Very interesting  
5 stuff.

6 COMMISSIONER CAMERON: Excellent  
7 presentation. Thank you.

8 CHAIRMAN CROSBY: Item number five,  
9 regulation update, is that Commissioner McHugh?

10 COMMISSIONER MCHUGH: It's really  
11 Todd Grossman. So, Todd why don't you come up and  
12 present? Todd has been working on this chart.  
13 It's been discussed with the gaming consultants and  
14 with the legal consultants, Anderson and Kreiger  
15 and the gaming consultants.

16 He referred to it last week and wanted  
17 to distribute the index so that everybody could see  
18 it and take a look at it. Then it's designed so that  
19 we can try to meet that schedule that we've set out  
20 of mid-March for the promulgation of the regs.

21 So, Todd, why don't you go through it  
22 and help folks understand what's here.

23 MR. GROSSMAN: Sure. As referenced,  
24 this is the opine that I discussed at the last

1 meeting that was prepared by the consultants in  
2 conjunction with myself and Anderson and Kreiger.

3 We have identified paragraph E, which  
4 is the Phase-2 process as the priority at the time.  
5 Completing those regulations will allow the  
6 Commission to move forward with the licensing  
7 process as was discussed earlier. And then  
8 bringing in the rest of the regulations shortly  
9 thereafter.

10 So, the key that was identified to  
11 ensuring that the Phase-2 process regs. were  
12 brought in on time was an allocation of our  
13 resources, and assignment of specific sections to  
14 particular individuals to take the lead in  
15 drafting.

16 As you can see, we have color-coded the  
17 assignment process. One of the things we can do now  
18 or certainly in the near future is ask whether there  
19 are any particular sections that any Commissioners  
20 would have an interest in taking a lead or being a  
21 part of the drafting process for. And I can assure  
22 that you're able to do that.

23 Otherwise, the plan calls for the  
24 particular section to be drafted, reviewed by our

1 in-house legal counsel and then circulated to the  
2 Commission for review by early March. That's the  
3 game plan.

4 COMMISSIONER MCHUGH: And I think the  
5 plan is that we've already started with at least  
6 some of the regulations is that as some of these are  
7 drafted, to circulate them as they're drafted  
8 because there are a bunch that are standalones.  
9 So, that not all of it comes at one point and one  
10 slug at the end.

11 We've now finished the policy  
12 determinations that underlie a bunch of those. And  
13 then certainly with respect to number 16, and  
14 perhaps others before we actually start to draft  
15 regulations, the factors will be distributed and  
16 discussed. So, we're going to define that further.

17 So, it's going to be an iterative  
18 process, but the overall goal is to reach that  
19 deadline with a fully-informed Commission and an  
20 adequate opportunity to discuss the contents.

21 MR. GROSSMAN: That's exactly right.  
22 Just to follow up with that, I think one of the first  
23 objectives that I will have is to take a look at the  
24 policy matrix and try to identify where those policy

1 decisions that have already been made or discussed  
2 fit into the overall grid, so everyone has a good  
3 sense as to where everything fits in. And then just  
4 try to build it out for your review.

5 So, that's where we are right now with  
6 this. We can certainly go through any of the  
7 sections anyone has questions or concerns. I think  
8 this is certainly intended to be a living document.  
9 It's not set in stone, but it gives us a good  
10 foundation to build on here. And to the extent we  
11 find that other sections are necessary, of course  
12 we will include those. And to the extent we can  
13 combine any of these, we will do that as well.

14 But this just gives us a roadmap as to  
15 where we'd like to take the regulations. And I  
16 think upon completion would give us the robust  
17 gaming regulations that have been discussed for  
18 some time now.

19 CHAIRMAN CROSBY: So, everything from  
20 F on is sort of what we have been referring to as  
21 phase two of Phase-2, right?

22 MR. GROSSMAN: That's right. That's  
23 right.

24 CHAIRMAN CROSBY: In other words, when



1 we get E done, we would turn to everything else. E  
2 is what's going on now. This is all critical path  
3 for the slots license, basically and the license  
4 process.

5 MR. GROSSMAN: That's right. To be  
6 able to meet the guide you posted you mentioned  
7 before, we have to do this.

8 CHAIRMAN CROSBY: And nothing else on  
9 this list is critical path in that sense?

10 MR. GROSSMAN: That's right. And the  
11 understanding is that we will be following up  
12 immediately after these :phase two of Phase-2 with  
13 everything else. So, it's not as though it's going  
14 to put off for a long period of time.

15 CHAIRMAN CROSBY: I understand that.

16 COMMISSIONER MCHUGH: And it looks  
17 like a big load because there's a lot there. But  
18 if you look at what's there apart from some of the  
19 things that are unique, will be unique to us like  
20 equal employment opportunities and some of those  
21 other things, a big chunk of what follows is there  
22 are a lot of models available.

23 COMMISSIONER ZUNIGA: I got a couple  
24 of questions. Number 22 appointment of

1 conservators, what might that refer to? And number  
2 25 disposition of securities also, what might  
3 that --

4 MR. GROSSMAN: I believe there are  
5 statutory provisions dealing with the security's  
6 issue. And I'd have to brush up on what that  
7 pertains to. The conservators is a good question.  
8 I can't recall exactly why that was included.

9 CHAIRMAN CROSBY: Why does mitigation  
10 plans with entertainment venues have its own  
11 category as opposed to a host of other similar  
12 issues either mitigation issue like local tourism  
13 or problem gambling?

14 COMMISSIONER MCHUGH: There is a  
15 specific statutory section and it has to be part of  
16 -- The application has to contain host community  
17 agreement, surrounding community agreement and  
18 mitigation agreements with the impacted  
19 entertainment venues. So, those fall into a  
20 certain category.

21 CHAIRMAN CROSBY: So, the  
22 entertainment venues is pulled out. For example,  
23 they have to have compliance for dealing with  
24 problem gambling and so forth. But this is at a

1 different level of specification.

2 COMMISSIONER MCHUGH: Based on the  
3 application requirements. But the other things go  
4 into 16. There's a host of other criteria that  
5 we'll put into 16. The live entertainment -- the  
6 live entertainment venues has a piece in their for  
7 problem solving in the event that the developer and  
8 the venue can't agree. Its' like the surrounding  
9 community. So, we have a role.

10 CHAIRMAN CROSBY: Okay.

11 COMMISSIONER ZUNIGA: You were  
12 thinking about involving some of us in some of  
13 these, I would like to express my interest in number  
14 five and number eight specifically relative to  
15 minimum capital investment.

16 CHAIRMAN CROSBY: I would like to  
17 express my interest in none. My interest in many,  
18 but my participation in none.

19 MR. GROSSMAN: We'll work you in, I'm  
20 sure.

21 COMMISSIONER MCHUGH: We can easily  
22 satisfy that request.

23 CHAIRMAN CROSBY: At no great loss.

24 COMMISSIONER STEBBINS: No, I didn't

1 say that.

2 COMMISSIONER STEBBINS: Todd, I also  
3 would be interested in number eight as well as  
4 depending on where other interests come in, host  
5 community agreements, surrounding community  
6 agreements and live entertainment agreement  
7 categories.

8 CHAIRMAN CROSBY: Are you going to  
9 turn this into -- This is planned to be done by March  
10 14, this stage of the game, right?

11 MR. GROSSMAN: That's right.

12 CHAIRMAN CROSBY: Are you going to  
13 turn this into more specificity? Is there a draft  
14 time when you want to see drafts? Is there a time  
15 when it's going to come before the Commission for  
16 review before the LGAC step and so forth? What else  
17 is going to get charted here?

18 MR. GROSSMAN> Well, I do have a  
19 schedule. And there are some dates on the plan that  
20 you just discussed that need to be tweaked slightly  
21 just to coincide a little more accurately with the  
22 Secretary of State's publication schedule, but  
23 that's the ballpark.

24 So, the plan was for me by the first

1 week of March at the latest to have draft language  
2 on one through 27 and to be able to submit that.

3 CHAIRMAN CROSBY: To us?

4 MR. GROSSMAN: To you. I will have  
5 reviewed it. It will then be turned over to you for  
6 review for then final initial approval to start  
7 moving through the promulgation process, to notify  
8 the Local Government Advisory Council, to notify  
9 the Secretary of State's office, to publish  
10 notification in the newspaper.

11 So, I will have done a review. You  
12 will have done your preliminary review and then we  
13 will move it towards the public hearing process, at  
14 which point of course you can continue looking at  
15 it, but we'll lock it in at that point.

16 As we move towards that of course, the  
17 hope is that I will be receiving draft language.  
18 And that will be circulated to you on an ongoing  
19 basis so you can review it.

20 What I will be doing or at least what  
21 I'll be planning on doing is maintaining a master  
22 copy of this outline. I'm going to have to renumber  
23 it, again, to coincide with our existing numbering  
24 system in 205 CMR. But this will essentially will

1 be the subject heading that we'll work with, subject  
2 to some tweaking here and there.

3 So, by the time you're looking at it in  
4 mid-March, you will essentially have a listing of  
5 the 205 CMR sections with all of the language in  
6 front of you. And to the extent we need to tweak  
7 any other language in the existing CMR language, we  
8 can do that as well. That's the plan.

9 CHAIRMAN CROSBY: Okay. Well, two  
10 process things. I think it would be good --  
11 Commissioner McHugh and others are working on fine  
12 tuning the project management chart and including  
13 the Secretary of State process and everything else.  
14 We discussed today we might reset this. In a couple  
15 of weeks we may reset the target date for slots and  
16 move various dates back.

17 But getting this step in here, at least  
18 the March 1 deadline I think makes sense. So it's  
19 physically on there so we can see it in conjunction  
20 with all of the rest of the amendments that are being  
21 made.

22 And secondly, and this is obvious,  
23 figuring out how we can get this in a way that isn't  
24 just all of a sudden we have 27 chapters. So,

1 trying to rotate it through or something.

2 MR. GROSSMAN: Well, I had certainly  
3 hoped to be able to do it incrementally like we've  
4 already done with the surrounding community regs.  
5 that the Ombudsman drafted. You looked at those  
6 kind of individually.

7 We actually have another set of draft  
8 language that's in the pipeline dealing with  
9 surrounding communities and resolving conflicts  
10 between applicants and the municipalities that I  
11 would hope to have to you shortly to look at. So,  
12 that's kind of the process that I think we  
13 envisioned when we put this together. It's just  
14 going to be a matter now of digging in and getting  
15 it done.

16 Absolutely, the plan would not be to  
17 drop 27 sections on you on March 5 and say here, I  
18 need these approved by next week.

19 COMMISSIONER ZUNIGA: You are not  
20 planning a vacation between now and May 15th.

21 MR. GROSSMAN: Nothing, no voluntary  
22 vacations.

23 CHAIRMAN CROSBY: Great.

24 COMMISSIONER CAMERON: Great work.

1 CHAIRMAN CROSBY: Yes, it's  
2 impressive.

3 COMMISSIONER CAMERON: Color-coded.

4 MR. GROSSMAN: Color-coded, yes.

5 COMMISSIONER CAMERON: Commissioner  
6 McHugh has his own color.

7 COMMISSIONER MCHUGH: Yes, but I  
8 didn't get to choose it though.

9 There is in the statute a provision  
10 for, and I had forgotten this, there is a provision  
11 in the statute for appointment of conservators for  
12 an operation that has a revoked or failed license.  
13 So, the Commission can appoint somebody to be a  
14 temporary sort of operator. It's good that have  
15 that done here, because if along the way somebody  
16 fails early on, we're going to have that regulation  
17 in place for doing that.

18 MR. GROSSMAN: I knew we did that for  
19 a reason.

20 CHAIRMAN CROSBY: Jim, this is your  
21 work product, right?

22 COMMISSIONER MCHUGH: It is, yes.  
23 It's got to be updated.

24 MR. GROSSMAN: I just sent that along



1 so you kind of see I think the two documents kind  
2 of go hand in hand.

3 CHAIRMAN CROSBY: They do.  
4 That's right. And now since this version was done,  
5 there has been a bunch of decisions made and  
6 additions made. At least we are going to figure out  
7 how to follow up on those kind of open-ended -- I  
8 guess their phase two, so we're not in any rush.

9 COMMISSIONER MCHUGH: They will go  
10 into that matrix before so we have a complete record  
11 of what we've decided, what's opened and we can flag  
12 the things that need further discussion as we do  
13 that. Then we'll have in one place a complete  
14 record of what we decided.

15 CHAIRMAN CROSBY: Yes, that's really  
16 important. Okay. Anything else anybody on this?

17 COMMISSIONER MCHUGH: This is great.  
18 Thank you.

19 CHAIRMAN CROSBY: We'll have a quick  
20 five-minute break.

21

22 (A recess was taken)

23

24 CHAIRMAN CROSBY: Okay. We will

1 reconvene public meeting number 49. And I missed  
2 a topic, an important one under public education and  
3 information.

4 We wanted to talk about -- I don't know  
5 that we had really set a standard for requests for  
6 Commissioners to meet with particularly with  
7 applicants or maybe also surrounding and host  
8 communities. I guess we ought to be clear on both.  
9 So, this hasn't happened, but it might and we need  
10 to figure out what we'll do.

11 If an applicant wants to meet with a  
12 Commissioner or two, there can't be more than two,  
13 do we do that? One of the issues there.

14 COMMISSIONER CAMERON: We do do that  
15 with IEB now.

16 CHAIRMAN CROSBY: You're doing it as  
17 IEB.

18 COMMISSIONER CAMERON: Yes, I know.

19 CHAIRMAN CROSBY: Yes, right. That's  
20 a good point. But as soon as Karen starts, you'll  
21 sort of be involved but phasing out probably pretty  
22 quickly. So, I don't know if it's a big deal.

23 COMMISSIONER MCHUGH: I'm not sure  
24 it's a big deal or not. But I think we have to be

1 pretty careful about that, because we are now going  
2 to get into a competitive process. We need to help  
3 the applicants move forward. We are assembling a  
4 staff designed to do that.

5 It gets back to the discussions we've  
6 had before about the decision-makers meeting with  
7 applicants and inadvertently saying something that  
8 is perceived at least to be a little different than  
9 what's said to somebody else.

10 CHAIRMAN CROSBY: Or beneficial.

11 COMMISSIONER MCHUGH: Or beneficial  
12 or prejudicial. And so, it seems to me that at the  
13 very least the subject matter of the request for the  
14 meeting, what do you want to meet us about, ought  
15 to be in writing. And we ought to take a look at  
16 it before we agree to do that. I don't think that  
17 in the main most of the questions could and should  
18 be handled by our able staff that we're assembling.  
19 It might be thought about as the default.

20 CHAIRMAN CROSBY: I can't really  
21 think of a question, of a topic that would come up  
22 that somebody might want to know where somebody else  
23 couldn't tell them, where staff couldn't tell them.  
24 So, that seems right.

1           So, I guess we're saying we're not  
2 going to preclude it, but it's probably not going  
3 to happen. And if it does happen, we'd look at it.  
4 If a request comes in, we'd look at it very closely  
5 and think about it before we said yes.

6           What about now that we're in this more  
7 formal phase, surrounding and host communities?  
8 This is complicated because there are  
9 representatives of them everywhere we go. And I do  
10 speaking engagements all of the time with people in  
11 the room.

12           What about if surrounding and host  
13 communities want to meet with Commissioners, same  
14 thing?

15           COMMISSIONER CAMERON: I would think  
16 the same thing. I can't right now think of a  
17 scenario in which our staff cannot field those  
18 questions. But I think the same thing though, we'd  
19 say put the request in writing and we'll evaluate.

20           CHAIRMAN CROSBY: If representatives  
21 of a surrounding or host community come to a Chamber  
22 of Commerce meeting or something or come to an RPA  
23 meeting or something where we've been asked to be  
24 a speaker that's fine.

1 COMMISSIONER MCHUGH: Sure.

2 CHAIRMAN CROSBY: But formal  
3 meetings, like the call that I got from the state  
4 rep. to say we'd like to have a Commissioner -- I  
5 forget which state rep., any old state rep. say to  
6 get a rep. wants to convene his or her surrounding  
7 communities and have a Commissioner come, would we  
8 discourage that?

9 COMMISSIONER MCHUGH: I think we need  
10 to think that through. But if it's a group of  
11 communities and say the meeting is both publicized  
12 on our website and open to anybody who wants to come,  
13 that may be one thing.

14 But particularly if there is a  
15 potential for a competitive environment, I think we  
16 ought be very leery of going and speaking other than  
17 at a Chamber of Commerce meetings or other things  
18 that are open to everybody. And the questions are  
19 taken in public and everybody can hear the answers.  
20 I think we ought to be very leery of doing those  
21 kinds of things for this relatively short period of  
22 time in that the competitive process is forming.  
23 Once the competitive process is over, then --

24 CHAIRMAN CROSBY: -- it's a whole

1 different story.

2 COMMISSIONER MCHUGH: Yes, right.

3 CHAIRMAN CROSBY: I think that seems  
4 right. Sort of distinguishing features if it's  
5 kind of an official meeting. If the governing body  
6 of the surrounding community or host community  
7 wants to meet with a Commissioner, as opposed to  
8 representatives of the community coming to a public  
9 meeting.

10 COMMISSIONER MCHUGH: Right.

11 CHAIRMAN CROSBY: Okay. I think  
12 that's an understandable distinction. None of  
13 this is absolutely locked in stone. We would look  
14 at specific requests if they came in, but in general  
15 that makes sense to me.

16 COMMISSIONER MCHUGH: Depending on  
17 the likelihood we're going to requests, it is worth  
18 thinking about perhaps at the next level and  
19 drafting up a policy so that everybody understands  
20 what that policy is and what we can do and what we  
21 can't do. And the very process crafting a policy  
22 I'm sure would help us think through with some  
23 precision whether these defaults really should be  
24 the defaults or whether there's exceptions or

1 something.

2 CHAIRMAN CROSBY: Right. We can also  
3 maybe can we separate -- We represent and work for  
4 -- We have partners in the operating tracks now.  
5 And I was thinking for example, just  
6 hypothetically, that when the season opens, it  
7 would be fun, interesting to go to the opening day  
8 and be a part of it. But they're also both  
9 competitors but they're also both people we work  
10 with licensees whom we work with now.

11 And it seems to me we ought to try to  
12 be able to make that distinction so we can do our  
13 job fully as license regulators and partners of the  
14 racing industry while being careful not to cross  
15 some line.

16 COMMISSIONER CAMERON: And I have to  
17 say that officials at tracks, and I think we have  
18 officials from both tracks here today, have been  
19 very careful to understand that we were attending  
20 in a racing capacity, meaning we were dealing with  
21 issues pertaining to racing and not in any way speak  
22 about gaming. That I must say have been very  
23 respectful of our dual roles.

24 CHAIRMAN CROSBY: Right. I agree

1 with that. So, we can cross that specific bridge  
2 when we get to it, but I think in general. So, is  
3 there a reg. writing opportunity coming up where we  
4 can do that or that would be in the --

5 COMMISSIONER MCHUGH: I don't think we  
6 have to do a reg. I think we can do a policy.

7 CHAIRMAN CROSBY: Just a policy.  
8 Okay.

9 COMMISSIONER MCHUGH: And I think we  
10 ought to do it since the question's been raised.  
11 And I think we ought to try and do it promptly and  
12 circulate it and agree on it. We can do that in the  
13 week or so.

14 COMMISSIONER ZUNIGA: I would be on  
15 the conservative side as well, and know of at least  
16 one jurisdiction that has imposed a very strict  
17 restriction on Commissioners in Indiana as a matter  
18 of course.

19 CHAIRMAN CROSBY: That they can't --

20 COMMISSIONER ZUNIGA: They don't meet  
21 with licensees.

22 CHAIRMAN CROSBY: Even with  
23 licensees?

24 COMMISSIONER ZUNIGA: Even with



1 licensees, yes.

2 CHAIRMAN CROSBY: I'm going to not be  
3 here. I hate to toss it on you, but do you mind if  
4 I tossed it off to you?

5 COMMISSIONER MCHUGH: No. I think  
6 it's important to do as other things. So, I'll be  
7 happy to take a crack at that.

8 CHAIRMAN CROSBY: Okay. So then we  
9 are to the IEB report.

10 COMMISSIONER CAMERON: Mr. Chair,  
11 I've already given a portion of that report in  
12 speaking about our anticipated timelines.

13 In addition to that, with regard to  
14 scope of licensing we really are nearing the end of  
15 those determinations. We have two outstanding  
16 issues with two separate applicants that we are  
17 still finalizing. We needed to wait for a  
18 document. We got it and we're in the process of  
19 analyzing and we will have those completed shortly.

20 As we reported last week, we had six of  
21 our reviews completed. And those applications  
22 were sent out to our investigators to begin those  
23 investigations.

24 CHAIRMAN CROSBY: Six of the 11 are

1 underway.

2 COMMISSIONER CAMERON: Six of the 11  
3 and three more this week. So, now we're at nine of  
4 the 11 with completed reviews, investigations  
5 beginning.

6 So, there are only two remaining.  
7 And those were two of our applications who came in  
8 toward the end of the process. So, that review is  
9 underway. We are awaiting for some additional  
10 documentation. So, we hope to have that completed  
11 and have all of the investigations underway in the  
12 near future. I would hope as soon as two weeks from  
13 now we'll be able to report that we have all of them  
14 underway.

15 CHAIRMAN CROSBY: Great.

16 COMMISSIONER CAMERON: That completes  
17 my report.

18 CHAIRMAN CROSBY: Yes, I think that's  
19 it.

20 COMMISSIONER CAMERON: And it is in  
21 reminder, to please help us by getting your  
22 documentation in.

23 CHAIRMAN CROSBY: Right. People now  
24 who are interested in time, that the green line you

1 remember up here is the background check phase, and  
2 we can only go as fast as we get the information.  
3 So, communities, developers that's the critical  
4 variable at this point.

5 Okay, Racing Division report.

6 MR. MURRAY: Mr. Chairman, I'm subbing  
7 for Dr. Durenberger today. This is just a quick  
8 update on two matters. And then I'll turn it over  
9 to Mr. O'Donnell.

10 First, a little bit of recap. Last  
11 time I was here, we talked about the fact that while  
12 section 7b of the Gaming Act was enough to authorize  
13 some degree of regulation of simulcasting, in that  
14 Act, it does not authorize live racing and it does  
15 not authorize simulcasting takeouts that are  
16 provided for in Chapters 128A and 128C.

17 So, in order for the Commission to  
18 continue to possess the same level of regulatory  
19 authority over both of these matters, there needs  
20 to be some reauthorizing at least the core  
21 provisions of those two statutes on or before July  
22 31, 2014.

23 So, what the review team is currently  
24 working on is putting together a draft single

1 proposed chapter that will incorporate all of those  
2 core provisions that currently enable that broad  
3 regulatory authority in 128A and 128C. And of  
4 course in tandem, we are working on the draft  
5 report.

6 We are substantially through the work  
7 that we have to do for 128A with respect to  
8 extracting those core provisions, putting them  
9 together. And we'll shortly start work on 128C,  
10 which is a little more complicated because as you  
11 might recall we have there to deal with both racing  
12 and non-racing simulcast licensees.

13 If everything goes according to plan,  
14 and they very infrequently do, we hope that we can  
15 get to the Commission a first draft or at least the  
16 draft of this new merged chapter and draft report  
17 by the end of next week. I'll be away the week after  
18 that.

19 And hopefully then we can -- There'll  
20 be enough time for the Commission to digest all of  
21 this material, quite substantial material. And we  
22 can pick it up and get it filed the third week maybe  
23 of February.

24 COMMISSIONER MCHUGH: So, these

1 redrafts would be designed to replace the existing  
2 128A and C when they sunsetted on July 1, 2014.

3 MR. MURRAY: Yes.

4 COMMISSIONER MCHUGH: That would be  
5 the objective.

6 CHAIRMAN CROSBY: So, you're going to  
7 self-consciously draft racing regs., racing law, a  
8 new racing law essentially with the understanding  
9 that there -- there is now a common understanding,  
10 which there was not last week that there does need  
11 to be a new sometimes referred to as omnibus piece  
12 of legislation which authorizes live racing as well  
13 as other things.

14 There is now a clear consensus on that.  
15 The Legislature understands that. So, what we've  
16 said is give us your best -- to the staff is give  
17 us your best judgment about how that ought to be  
18 done. And it's the Legislature's job ultimately,  
19 but I think they would like us to tell them -- nobody  
20 likes that end of the session last minute,  
21 unsunsetting thing. So, this would be a long-term  
22 lasting piece of legislation that could carry live  
23 racing on. Okay. So, that's great.

24 MR. MURRAY: And I might just add that

1 what that will not involve any kind of amendment to  
2 Chapter 23K of the Gaming Act.

3 CHAIRMAN CROSBY: Right.

4 MR. MURRAY: The only other thing is  
5 that over the last couple of days, we've received  
6 approximately 212 emails regarding simulcasting of  
7 greyhound races.

8 And I think it's fairly clear that  
9 they're part of an effort by an organization known  
10 as GREY2K USA. And what at least the vast majority  
11 of these emails demand of the Commission is that in  
12 its report to the Legislature it recommend that in  
13 addition to having banned dog racing within the  
14 Commonwealth that the Legislature also banned  
15 simulcast wagering on dog races that take place  
16 beyond the borders of the Commonwealth.

17 These emails are in the wake of an  
18 exchange of emails between the president of GREY2K,  
19 Christine Dorchak, and myself as to the meaning of  
20 the current law that bans greyhound racing and we  
21 have a difference of opinion as to what that law  
22 means.

23 CHAIRMAN CROSBY: Because her view is  
24 that it also banned simulcast of greyhound racing.

1 MR. MURRAY: Correct.

2 CHAIRMAN CROSBY: And your view is  
3 that it does not, and our collective is that it does  
4 not.

5 MR. MURRAY: Yes.

6 CHAIRMAN CROSBY: Do I remember that  
7 with the 2014 date that the simulcasting of  
8 greyhound racing would lapse?

9 MR. MURRAY: Yes, that is true, Mr.  
10 Chairman.

11 CHAIRMAN CROSBY: So, that if we do  
12 nothing on simulcasting of greyhound racing, it  
13 will not be legal in Massachusetts after 2014?

14 MR. MURRAY: No, not quite.  
15 Currently, section 92 of the Session Law in which  
16 the Gaming Act appears provides a statutory race  
17 meeting license to the former two greyhound  
18 racetracks. And that provision sunsets at the end  
19 of July.

20 CHAIRMAN CROSBY: Of 2014?

21 MR. MURRAY: Yes.

22 CHAIRMAN CROSBY: Okay. So, if we do  
23 nothing, you can't simulcast greyhound racing in  
24 Massachusetts?

1 COMMISSIONER CAMERON: No, the other  
2 two tracks.

3 MR. MURRAY: The other two tracks  
4 could in my view.

5 CHAIRMAN CROSBY: Oh, I see. So, only  
6 Wonderland and Raynham, the tracks which are no  
7 longer live.

8 COMMISSIONER MCHUGH: Wait a minute,  
9 the other two tracks could by virtue of 128C.

10 MR. MURRAY: Yes.

11 COMMISSIONER MCHUGH: But that also  
12 sunsets in July. So, if we just did nothing --

13 CHAIRMAN CROSBY: Relative to  
14 simulcast -- did nothing?

15 COMMISSIONER MCHUGH: Just did  
16 nothing and there'd be no simulcasting.

17 MR. MURRAY: That is true.

18 COMMISSIONER MCHUGH: And if we did  
19 something that didn't include dogs there'd be no  
20 simulcasting of greyhound racing after July 1,  
21 2014?

22 MR. MURRAY: If we did nothing, yes and  
23 no. And the yes part --

24 CHAIRMAN CROSBY: You must be a



1 lawyer.

2 MR. MURRAY: I have to confess to that,  
3 Mr. Chair. The problem for the dog tracks was that  
4 once there was a banned on greyhound racing, they  
5 couldn't simulcast because they had no live racing.

6 COMMISSIONER MCHUGH: Right.

7 MR. MURRAY: So, it is true that if we  
8 did nothing, the lapse of the live racing license  
9 would produce an expiration of the simulcasting  
10 right under 128C, because that right depends on the  
11 existence of live racing in 128A. So, that's the  
12 yes part in the answer.

13 The no part of the answer is that  
14 section 7b of the Gaming Act authorizes, without any  
15 expressed limitations, the Commission to issue a  
16 simulcasting licenses to two categories, entities  
17 that are formally licensed under 128A and C and  
18 gaming licensees. And that would continue to  
19 exist.

20 COMMISSIONER MCHUGH: But if we did  
21 not issue a simulcasting license for dogs under 7b  
22 and we did not issue and did not permit under the  
23 reinvented 128C racing -- simulcasting of dog  
24 races, then there would be no power to do it. In

1 other words, we would not have to affirmatively ban  
2 it. We wouldn't have the power not to  
3 affirmatively authorize it.

4 MR. MURRAY: I'm not sure,  
5 Commissioner, whether your hypothetical includes  
6 the absence of live racing. If it does include that  
7 then I agree with you.

8 CHAIRMAN CROSBY: Say that again.

9 COMMISSIONER MCHUGH: My hypothetical  
10 doesn't. I confuse myself. No, it doesn't. My  
11 thought is that if everything sunsets on July 1,  
12 2014, and we have the power to craft statutes and  
13 regulations that we're going to recommend to the  
14 Legislature thereafter, notwithstanding 7b, which  
15 is permissive, we have a choice as to whether we  
16 exclude simulcasting of dog racing from other  
17 jurisdictions from whatever legislative authority  
18 and regulatory authority we create thereafter. We  
19 have the choice to do that.

20 MR. MURRAY: Yes, we do.

21 COMMISSIONER MCHUGH: Okay. And if  
22 we do not affirmatively include it that kind of  
23 racing, and legislation is passed without  
24 permission to have simulcasting of out-of-state dog

1 racing, then there is no simulcasting of  
2 out-of-state dog racing.

3 MR. MURRAY: That's the bit that  
4 there's an argument on the other side, which says  
5 that because 128C simulcasting right is automatic  
6 if you have live racing. Then once you have live  
7 racing, you don't need specific statutory authority  
8 to simulcast.

9 COMMISSIONER MCHUGH: I understand  
10 that. But that's the existing statute. And if we  
11 were to draft a statute that says a live racing  
12 licensee may simulcast live horse racing from other  
13 jurisdictions, then that's a limitation.

14 MR. MURRAY: We could exclude it, yes.

15 CHAIRMAN CROSBY: What I'm getting at,  
16 probably Commissioner McHugh is too, is whose  
17 decision is it whether we should be simulcasting dog  
18 racing or not? That doesn't feel to me like a  
19 regulator's decision. That sounds to me like a  
20 legislative decision.

21 And if I'm following this right, we  
22 have been directed to propose a reauthorization of  
23 live horse racing. So, we've been asked to do that.

24 As to whether or not we include

1 simulcasting of dogs as well as simulcasting of  
2 horses, are they the same with respect to the -- What  
3 am I trying to say?

4 Is there any difference between our  
5 ability to permit simulcasting of horse racing and  
6 our ability to permit simulcasting of dog racing?  
7 We could leave either one of them in or out depending  
8 how we feel like it?

9 COMMISSIONER CAMERON: I don't think  
10 we consider leaving horse racing out.

11 CHAIRMAN CROSBY: Well, I understand  
12 that. But is that because we like horseracing and  
13 we don't like dog racing? Or is that because  
14 there's a mandate somewhere? I understand that but  
15 there needs to be some reason.

16 COMMISSIONER MCHUGH: Certainly, we  
17 could propose a statute that left anything out,  
18 right? If we're going to recommend to the  
19 Legislature a statute, we could make a  
20 recommendation that simulcasting of X but not Y be  
21 included in the statute. The Legislature may agree  
22 or disagree.

23 It seems to me that under 7b that we  
24 have enormously broad regulatory authority to

1 permit various kinds of simulcasting or not. I  
2 know David doesn't think that it goes that far but  
3 it seems to me that we do.

4 But it would be much better as in other  
5 cases, whatever we do, to have some legislative  
6 basis that indicates the legislative intent before  
7 we go enacting regulations that stretch our  
8 regulatory authority, even if our regulatory  
9 authority is extremely broad. It's always better  
10 to have something that tracks the legislative  
11 intent.

12 CHAIRMAN CROSBY: Do you think that we  
13 should debate whether or not we want to include dog  
14 simulcasting and make a decision one way or the  
15 other? Is that by part of our purview?

16 COMMISSIONER MCHUGH: I would like to  
17 think about that before coming up with an answer.

18 CHAIRMAN CROSBY: Well, I wasn't  
19 looking for it, but I think that's the question.  
20 That is a whole can of worms and policy issues. I  
21 have no idea whether I'm in favor of simulcasting  
22 dogs or not. I haven't thought about it in my life.

23 So, but if we're going to either not do  
24 it -- if we have to do one or the other, then it's

1 a big decision that we need to make. And how we  
2 would get to that decision hasn't really been  
3 factored into this timeframe of rewriting these  
4 regs. --

5 MR. MURRAY: That's correct.

6 CHAIRMAN CROSBY: -- rewriting this  
7 legislation.

8 MR. MURRAY: That's correct.

9 CHAIRMAN CROSBY: So, I think somehow  
10 or another we have to decide on that. So, maybe the  
11 next week while I'm not here you guys can decide  
12 which way you're going go to on this.

13 COMMISSIONER MCHUGH: I think not.  
14 We certainly could have the statute drafted in a way  
15 that preserve the status quo because it's easy to  
16 excise something -- it'd be easier to excise  
17 something rather from a draft than it is to insert  
18 things, new things in it. It seems to me that and  
19 that I assume is the track that you're on.

20 MR. MURRAY: Yes.

21 COMMISSIONER MCHUGH: And we'll have  
22 the draft there. And then we can decide whether we  
23 want to take that up as a policy issue among the many  
24 other policy issues.

1           CHAIRMAN CROSBY: I suppose we could  
2 also -- we could put it in both ways and say we  
3 consider this a legislative decision. It's been  
4 drafter two ways.

5           COMMISSIONER CAMERON: Would it be  
6 helpful Mr. Chair to have some quick research done?  
7 For example, there have been several states who have  
8 banned dog racing. Have they in fact banned  
9 simulcasting of the same? Would that be helpful to  
10 all of us to find what others have done?

11          CHAIRMAN CROSBY: From my standpoint,  
12 I don't think it's appropriate for us to make that  
13 decision. That feels to me like a legislative  
14 decision. So, I would think the Legislature ought  
15 to do that research.

16          COMMISSIONER CAMERON: But we have to  
17 make a recommendation to them.

18          CHAIRMAN CROSBY: Well, we don't. We  
19 don't have to.

20          COMMISSIONER MCHUGH: No, we don't.

21          COMMISSIONER CAMERON: So, leave it  
22 the way it is and leave out any recommendation?

23          CHAIRMAN CROSBY: I'm thinking out  
24 loud here. No, not leave it the way it is. I think

1 at the moment my instinct would be to draft it both  
2 ways, draft it in, draft it out.

3 And in our cover letter, we would say  
4 and there may be other issues like this that we feel  
5 are important issues to be addressed. We didn't  
6 feel it was appropriate for us to make the  
7 substantive decision.

8 COMMISSIONER MCHUGH: Right, right.  
9 That might be the most Solomonic way to do it.

10 CHAIRMAN CROSBY: Right. It's called  
11 kicking the can to the other guys.

12 MR. MURRAY: That's certainly easily  
13 done, Mr. Chairman.

14 CHAIRMAN CROSBY: Presumptively, I  
15 think that's the way we're going. So, let's do do  
16 that and we'll keep thinking about it.

17 COMMISSIONER CAMERON: Draft either  
18 way.

19 CHAIRMAN CROSBY: Draft both, yes.

20 MR. MURRAY: So, then I'll turn it over  
21 to Mr. O'Donnell.

22 MR. O'DONNELL: Mr. Chairman,  
23 Commissioners. What you have in front of you is a  
24 list of tickets that are up for --



1                   CHAIRMAN CROSBY: Excuse me, I'm  
2 sorry. Next week you and Jennifer are going to  
3 bring to us for a vote the proposed medical reg.  
4 changes, right?

5                   MS. HOLMES: I believe so.

6                   CHAIRMAN CROSBY: Yes, I think that's  
7 right. So, I just want to make sure that everybody  
8 is on notice that they're out there. They're being  
9 commented on. And we will probably be voting on  
10 those next week.

11                  COMMISSIONER MCHUGH: What we're  
12 going to be voting on next week is approval of a  
13 draft that we then are going to put into a formal  
14 pipeline which includes a period of public comment.  
15 So, it's the beginning of a process.

16                  CHAIRMAN CROSBY: Got it. Thank you.  
17 Okay. Sorry, Doug.

18                  MR. O'DONNELL: That's okay. What  
19 you have in front of you is a list of tickets from  
20 the 2011 unclaimed tickets of individuals that are  
21 looking to get paid on.

22                  How this works in 128A is that wagers  
23 that are made in a specific, this being 2011, they  
24 have the following year to come forth and to try to

1 claim these tickets. So, they have until December  
2 31 of that year.

3 And what you see is a list of tickets  
4 that individuals have come forward to and it has  
5 been reviewed by our state auditors. And they are  
6 in agreement that these tickets should be paid to  
7 the individuals.

8 CHAIRMAN CROSBY: But we don't know  
9 who the individuals are, right?

10 MR. O'DONNELL: Yes, we do. They have  
11 come forward. These are the ticket numbers. We  
12 don't have their names on here. Because of public  
13 record, we didn't want to put their names on this  
14 docket. But we do have their names.

15 CHAIRMAN CROSBY: All right. So, I  
16 thought this was going to be people that lead to  
17 unclaimed tickets. But these are old claims that  
18 people have come in for.

19 MR. O'DONNELL: Right. Once we get  
20 the approval for that, then 128A 5a then the tracks  
21 have 90 days to pay the unclaimed ticket amount to  
22 the Commonwealth.

23 CHAIRMAN CROSBY: Just so I understand  
24 the lingo, it will then no longer be an outs, right?

1 Now it's an outs, but it will no longer be an outs  
2 because it's been claimed.

3 MR. O'DONNELL: Right, exactly. The  
4 outs are no longer outs.

5 Once that happens, if and when we get  
6 an approval on this, then the unclaimed ticket  
7 monies will be sent to the Commonwealth. They have  
8 90 days through April 1 to make the payments, all  
9 four tracks.

10 Once that happens and the funds are in  
11 place and it's approved by the Commission, the  
12 Commonwealth then in turn deposits the monies to  
13 Suffolk Downs and Plainridge into their purse  
14 accounts. And with Wonderland and Raynham, those  
15 monies go into the stabilization fund. So, once we  
16 get an approval --

17 CHAIRMAN CROSBY: Racehorse  
18 stabilization fund.

19 MR. O'DONNELL: Dogs.

20 CHAIRMAN CROSBY: Dogs stabilization  
21 fund.

22 COMMISSIONER MCHUGH: Greyhound  
23 stabilization.

24 MR. O'DONNELL: So, our auditors have

1 already reviewed the outs books from the tracks.  
2 Then if and when we get an approval on this, we can  
3 move forward with the next section.

4 CHAIRMAN CROSBY: Is there any  
5 controversy?

6 COMMISSIONER CAMERON: No, this is a  
7 routine matter, Mr. Chair. This happens every  
8 year.

9 COMMISSIONER MCHUGH: These are  
10 people who basically walked away from the track with  
11 a winning ticket in their pocket and forgot to cash  
12 it in.

13 MR. O'DONNELL: They lost it,  
14 misplaced it, whatever the case may be.

15 COMMISSIONER CAMERON: Didn't realize  
16 it was a winner.

17 COMMISSIONER MCHUGH: Right.

18 CHAIRMAN CROSBY: Do you want to move?

19 COMMISSIONER CAMERON: I move that we  
20 approve as this document states, we approve the  
21 payment of the 2011 outs book to the individuals  
22 that are unnamed in the amounts enclosed.

23 COMMISSIONER STEBBINS: Second.

24 CHAIRMAN CROSBY: Any further

1 discussion? All in favor, aye.

2 COMMISSIONER STEBBINS: Aye.

3 COMMISSIONER ZUNIGA: Aye.

4 COMMISSIONER CAMERON: Aye.

5 COMMISSIONER MCHUGH: Aye.

6 CHAIRMAN CROSBY: Opposed? Ayes have  
7 it unanimously.

8 MR. O'DONNELL: Great. Thank you.

9 CHAIRMAN CROSBY: Okay. Thank you.

10 I think that's it, right? Anything else? I think  
11 that's everything.

12 Do we have a motion to adjourn?

13 COMMISSIONER CAMERON: So moved.

14 CHAIRMAN CROSBY: Second. All in  
15 favor, aye.

16 COMMISSIONER STEBBINS: Aye.

17 COMMISSIONER ZUNIGA: Aye.

18 COMMISSIONER CAMERON: Aye.

19 COMMISSIONER MCHUGH: Aye.

20 COMMISSIONER CAMERON: Good work.

21 CHAIRMAN CROSBY: We are adjourned.

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23 (Meeting adjourned at 3:44 p.m.)

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ATTACHMENTS:

1. Agenda
2. January 23, 2013 Memorandum Regarding Recommendation to Ratify Extension of Current Space and Additional Space
3. January 23, 2013 Memorandum Regarding Investigations Costs Consideration
4. Massachusetts Gaming Commission Initial Drafting Assignments for Phase-2 Draft Regulations
5. January 15, 2013 Memorandum Regarding 2011 Suffolk Outs Individual Payments

SPEAKERS:

- Dwayne Berger, Mass. Department of Energy Resources
- Ian Finlayson, Mass. Department of Energy Resources
- Galen Nelson, Mass. Clean Energy Center
- Mark Sylvia, Mass. Department of Energy Resources
- Todd Grossman, Staff Attorney
- Danielle Holmes, Staff Attorney, Racing Division
- David Murray, Racing Consultant
- Doug O'Connell, Racing Division
- John Ziemba, Ombudsman

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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 25th day of January, 2018.



LAURIE J. JORDAN  
Notary Public

My Commission expires:  
May 11, 2018