

March 21, 2013

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THE COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION

PUBLIC MEETING #59

CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

Gayle Cameron

James F. McHugh

Bruce W. Stebbins

Enrique Zuniga

March 21, 2013, 4:00 p.m.

BRISTOL COMMUNITY COLLEGE

777 Elsbree Street

Fall River, Massachusetts

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

CHAIRMAN CROSBY: It is my pleasure to call to order the 59th public meeting of the Massachusetts Gaming Commission on Thursday, March 21, 2013, held in the wonderful facilities at Bristol Community College.

And as our first order of business, I would like to invite our host to welcome us. Before you do, let me say thank you very much. You've been great to help us to set this up. Your people have been terrific. It's a wonderful facility and we're glad to be here.

PRESIDENT SBREGA: Thank you, Mr. Chair. Welcome, everyone. It's our pleasure to host this great event. It's a part of the community college philosophy to make ourselves available for community events. And this is certainly an important topic.

Just a little commercial about Bristol Community College. We have four locations Attleboro, New Bedford, Fall River and Taunton. So, this matter is of great importance to us at

1 Bristol Community College. We're the third
2 largest of the 15 community colleges. And we're
3 very grateful that you've selected Bristol
4 Community College to hold this meeting, very
5 important meeting.

6 Anything that you need, please let us
7 know. Thank you, Mr. Chair, for your graciousness
8 in letting us speak here.

9 CHAIRMAN CROSBY: Thank you,
10 President Sbrega for your hospitality.

11 We're going to do a few other orders of
12 business. This is our regular meeting. The
13 Commission meets, so far this year has met once a
14 week. And we do a regular series of items. So, we
15 have a few other pieces of business before we get
16 to the big business, which is how do we proceed in
17 Region C, Southeastern Massachusetts.

18 First item on the agenda then is
19 approval of minutes, Commissioner McHugh.

20 COMMISSIONER MCHUGH: Mr. Chairman, I
21 distributed to everybody yesterday, I believe it
22 was yesterday, the minutes for our last meeting in
23 February, February 28. So, if there are no
24 corrections or amendments or other things that

1 people think should be there, I move to take the
2 approval.

3 CHAIRMAN CROSBY: Second?

4 COMMISSIONER ZUNIGA: Commissioner, I
5 have just a couple of typos but I will make those
6 available to you at a later time.

7 COMMISSIONER MCHUGH: All right.
8 When those types are corrected then they will be
9 inserted.

10 CHAIRMAN CROSBY: Any other
11 questions, issues? All in favor of accepting say
12 aye.

13 COMMISSIONER STEBBINS: Aye.

14 COMMISSIONER ZUNIGA: Aye.

15 COMMISSIONER CAMERON: Aye.

16 COMMISSIONER MCHUGH: Aye.

17 CHAIRMAN CROSBY: Opposed?
18 Unanimously accepted. Are you doing the other
19 minutes as well?

20 COMMISSIONER MCHUGH: No, that's what
21 we have for minutes today, Mr. Chair.

22 CHAIRMAN CROSBY: Okay. You've come
23 a long way for only one set of minutes.

24 COMMISSIONER MCHUGH: Well, yes, I

1 know. but we have some other things we can fill the
2 time with, I'm sure.

3 CHAIRMAN CROSBY: Next item on our
4 agenda is public education and information.
5 That's an important part of what we've been doing.

6 When the Commission first set up, we
7 established that we wanted to make this process a
8 process that would be in fact and in appearance
9 participatory, transparent and fair. Our mission
10 we feel is that if we can persuade the people of
11 Massachusetts and the applicants and the parties
12 involved in this process that the process is indeed
13 participatory, transparent and fair, then we will
14 have the maximum opportunity to have you all have
15 confidence in our decisions.

16 So, the integrity of this process and
17 the transparency of the process is our highest
18 priority. A big part of that has been this topic
19 on the agenda, public education and information.
20 And we have an ombudsman who works full-time with
21 us whose job it is to facilitate relationships with
22 communities who might have a casino in them, a
23 gaming facility in them or near them. And to work
24 with the operators as they interface back and forth

1 with the communities, with the casino operators as
2 they work back and forth with the communities. So,
3 Ombudsman Ziemba, do you have anything to report to
4 us?

5 MR. ZIEMBA: Thank you, Mr. Chairman.
6 My only item today is a follow-up to last week's
7 meeting. As you know, we had a discussion
8 regarding how regional planning agencies could
9 provide assistance on issues related to which
10 communities may experience impacts as a result of
11 the placement of a gaming facility in a region.

12 We have reached out to nine of the 11
13 existing applicants to determine whether or not
14 they will be interested in utilizing this service
15 that was voted on last week.

16 The two that were not reached out to are
17 one facility has not indicated a site, and the other
18 facility just recently indicated a site. And we're
19 working on arrangements on how regional planning
20 services could be arranged within those
21 communities.

22 We've given each of the applicants
23 about a week to get back to us to express their level
24 of interest and whether or not they want to take

1 advantage of this service that we have created.

2 And hopefully I'll have more to report next week.

3 CHAIRMAN CROSBY: I do have a question
4 about this. One of the RPA, this is the regional
5 planning authorities, the RPA director called me on
6 the way down here. And he was under the impression
7 that if a surrounding community or potential
8 surrounding community does not participate in the
9 RPA process, that that community would not have
10 access to any monies to help them assess mitigation
11 or negotiate with the operator. That is incorrect,
12 correct?

13 MR. ZIEMBA: That's absolutely
14 correct. This is a voluntary process for
15 applicants and also for communities. So,
16 communities have multiple options on how they
17 should go about getting assistance and evaluating
18 impacts.

19 And one of those is to reach out
20 directly to applicants. And on a voluntary basis,
21 the applicant and the community will reach an
22 agreement on the level of technical assistance that
23 needs to be afforded to that community.

24 Then the other option is involuntary

1 disbursements. A few weeks ago, the Commission, as
2 you know, voted on a draft policy to enable
3 communities to get funding for technical assistance
4 even in the absence of an agreement from an
5 applicant. There is a certain showing that they
6 have to make to the Commission at that point. And
7 it is at a time so that we can encourage
8 conversations between applicants and communities.
9 But no, that's not correct.

10 CHAIRMAN CROSBY: I don't know. This
11 was the ED of MAPC. And I don't know how he got that
12 impression, but we should go back and fix that.
13 Okay. Great.

14 MR. ZIEMBA: Thank you, Mr. Chairman.

15 CHAIRMAN CROSBY: Anything else more
16 for our Ombudsman? Thank you, John.

17 We are in the process of writing the
18 regulations, which will underpin both the licensing
19 process and the regulatory process once we get these
20 casinos and slots parlor licensed. There are pages
21 and pages and pages and pages and pages of
22 regulations to be written to be reviewed, to be
23 talked about with the public. And we are just going
24 to get a quick update, I think, on the status of

1 regulations from Commissioner McHugh.

2 COMMISSIONER MCHUGH: Yes, Mr.
3 Chairman. We are in the final stages of writing the
4 regulations for the formal approval process. The
5 Commission, as you know, is meeting on Monday for
6 a public meeting at which we will take a look at the
7 draft regulations, the final look at the draft
8 regulations as a body.

9 The staff has been working diligently
10 to prepare them. And different drafts have been
11 circulated. But we haven't had a group meeting and
12 we haven't had a public meeting to look at them.

13 So, we'll have that on Monday. At the
14 same time, we'll finish the discussion that we
15 started two weeks ago at a public meeting about the
16 evaluation criteria we are going to use. We'll
17 finish that discussion on Monday. Then begin to
18 discuss a little bit the flow process for when we
19 get the applications.

20 Our plan then is to have those
21 regulations put in the formal process for approval
22 beginning on Friday the 29th. That process will
23 include periods of public comment. They'll be
24 available on our website no later than next Monday,

1 a week from next Monday.

2 There will be a public hearing on the
3 regulations. We have to see if we can do something
4 similar to what we did the last time, a period of
5 public comment. Then we'll assemble all of the
6 public comments, look at them, look at the
7 regulations in light of those public comments, make
8 adjustments to them. And they'll be promulgated by
9 no later than June 7, which is when we anticipate
10 the Phase-2 site specific applications will be
11 ready for dissemination. So, that's the plan that
12 we're on.

13 CHAIRMAN CROSBY: Great. That's this
14 coming Monday at one o'clock.

15 COMMISSIONER MCHUGH: This coming
16 Monday afternoon at one o'clock. That meeting,
17 like all of our other meetings will be streamed live
18 on our website so that anybody who is interested in
19 attending can. Anybody who is interested in
20 hearing what goes on, can look at the website.

21 It will not be a meeting like this where
22 we are we take public comment. That will come
23 later. But there will be an opportunity for public
24 comment, and a period when people will have the

1 draft regulations available so that they can make
2 thoughtful comments as they usually do.

3 CHAIRMAN CROSBY: Great. Thank you.
4 The last item before we get to the Region C, the
5 Southeastern Mass. discussion, is a very important
6 one. Any of you who have heard me speak around the
7 state over the course of last year have heard me say
8 that the legislation that the Legislature and the
9 Governor passed giving us the tools to do expanded
10 gaming in Massachusetts was a very, very fine job
11 of writing and passing legislation.

12 Other regulators across the country
13 tell us that they wish they had our statute to
14 operate under. The Legislature took a long time
15 and did this very, very well. One of the things
16 that they did singularly well is assign us a mandate
17 to do a very, very comprehensive research project
18 on the socioeconomic impacts of introducing
19 expanded gaming into the Commonwealth and into
20 various regions of the Commonwealth.

21 We are mandated to do a comprehensive
22 baseline study of the pre-existing conditions
23 before the casinos or the slots parlor opens so that
24 we know what the status of problem gambling is

1 before we do this. We know what the status of prime
2 is. We know what the status of property values are.
3 We know what the incidence of domestic violence is.
4 We know what traffic patterns are. A comprehensive
5 baseline study, and then once we introduce the
6 casinos and the slots parlor, we will repeat that
7 study and be able to track forever what happens when
8 we make these -- when we introduce these facilities,
9 and what happens when we try to moderate the
10 problems.

11 If we see traffic problems that were
12 not anticipate, if we see problem gambling that is
13 expanding, we design intervention strategies. And
14 the research project will help us track whether or
15 not we're doing our job to mitigate the negative
16 aspects of this.

17 Out of this research project will come
18 probably -- I would say certainly the most rich and
19 comprehensive study ever done on the socio and
20 economic impacts of the introduction of gambling,
21 expanded gambling into a new jurisdiction. It's
22 something that the Legislature did. It's not us
23 doing it. It's the Legislature doing it.

24 We have been in the process of

1 executing -- a search process and an RFP, a request
2 for proposal process to get the vendor to do this
3 multimillion dollar many year long job for us. And
4 Commissioner Enrique Zuniga has been the project
5 manager. And I pass the ball to you.

6 COMMISSIONER ZUNIGA: Thank you, Mr.
7 Chairman. I have submitted a memorandum
8 describing the process that we have undertaken up
9 until this point that started relative to the RFP
10 that you just described. And included two other
11 members of the procurement management team to
12 provide recommendations to this Commission
13 relative to the vendors that responded to this RFP.

14 I will attempt to quickly summarize it
15 and we can have some discussion if there are any
16 questions.

17 This process started back when we
18 received those -- we issued the RFP in November
19 2012. The responses were back to us on January 7.
20 We received four responses, very thoughtful
21 responses, narrowed the field down to effectively
22 two. And I've really, I will say, struggled a
23 little bit relative to really evaluating those two.

24 These two groups are very capable,

1 really multidisciplinary. We expanded perhaps a
2 little the scope of what's in the legislation to
3 include not just social impacts, but economic
4 impacts. And the responses were very thoughtful
5 and very well-prepared.

6 As part of the review process, we've
7 realized that their methodologies slightly or in
8 important ways, it's different. The unit of
9 analysis, which we did not really anticipate when
10 we started this RFP, because we did not dictate what
11 that analysis would be, is different. That
12 difference in my view has different repercussions.
13 First, perhaps a little bit on cost, but also
14 importantly on what the analysis will eventually
15 be.

16 That's what I tried to describe here in
17 this memo. I can take any questions or have any
18 comments relative to those differences. But we
19 have effectively a split recommendation. In some
20 ways, perhaps due to these differences from the
21 procurement management team relative to one of
22 those venues.

23 CHAIRMAN CROSBY: Are you going to
24 make a recommendation? The difference in

1 Commissioner Zuniga's memo will, I think, well
2 explain and is very significant.

3 One bidder, Cambridge Health Alliance,
4 basically wanted to take a study, a large study of
5 6000 people. And do a baseline study of those 6000
6 people. This was a major part of their project, not
7 the whole project. Take 6000 people and study
8 those people forever.

9 Even if they moved out of to
10 Massachusetts, continue to happen to see what
11 happens to a cohort of people, 6000 people when
12 expanded gaming is introduced. It's an and
13 extraordinarily interesting study. And we'll get
14 a tremendous amount of information about what
15 happens to those people.

16 The other group, which is
17 headquartered at the University of Massachusetts
18 Amherst had a 17,000 sample. And their job was to
19 take a snapshot of those people representing the
20 whole population of Massachusetts. And then would
21 replicate that same sample but with different
22 people every few years. So, that they could study
23 and happened to community not happened to a cohort
24 of people.

1 The people will leave Massachusetts.
2 And we don't care what happens to them from the
3 standpoint of what's going on in Massachusetts.
4 So, that was a very big distinction.

5 There's also a difference in the sample
6 size. The 17,000 sample is a huge sample. But
7 when you're trying to study small groups, what
8 happens with Native American population when you
9 introduce -- what happens with the incidence of
10 problem gambling in a small population where
11 problem gambling is a small segment of the
12 population. You need a big enough sample that you
13 can look at small segments of the community, small
14 geographic regions, small demographic groups. So,
15 having a sample size that big is a phenomenal
16 analytic tool to track different aspects of the
17 community.

18 So those understandings of the -- their
19 understanding of what kind of an analytic tool we
20 needed and the survey approach we needed was very
21 important to us. That they really got it in a way
22 that was much closer to what the legislation needed
23 and wanted and mandated than the other proposal.

24 COMMISSIONER ZUNIGA: And I should add

1 that this is a central component to their proposal
2 for both and a central distinction. But both
3 proposals are certainly very much comprehensive and
4 excellent. And there's very important additional
5 factors, economic research, economic researchers
6 as part of their team. But this is a key
7 distinction that I think we are highlighting
8 appropriately.

9 CHAIRMAN CROSBY: And there's one
10 other key distinction.

11 COMMISSIONER ZUNIGA: Right, right.
12 This has a cost implication. And we took that into
13 account when it comes to our analysis and
14 scoring.

15 The difference is about \$1 million more
16 for the -- It's a \$1.2 million. It's about 20
17 percent difference when it comes to the cohort
18 versus cross-sectional survey. But the difference
19 is not all attributable to the survey necessarily.
20 There's important differences, one of which is
21 overhead for example.

22 COMMISSIONER CAMERON: Commissioner,
23 the key points that I took from your memo and just
24 let me know if I'm summarizing and this is what was

1 important to me is that at the end of the process
2 there was a virtual tie with these two respondents;
3 is that correct?

4 COMMISSIONER ZUNIGA: Yes.

5 COMMISSIONER CAMERON: And then I
6 think the reason this recommendation is being made
7 is you summarize very well in the last paragraph,
8 which is better informed programs, target specific
9 population subgroups, it's information that
10 service administrators will need. And those are
11 clearly articulated in the Gaming Act.

12 COMMISSIONER ZUNIGA: Correct.

13 COMMISSIONER CAMERON: So, you think
14 this respondent better fits the responsibility that
15 we have to meet those goals from the Act, correct?

16 COMMISSIONER ZUNIGA: That's what we
17 believe. It's comparatively. Again, that's not
18 to say that the other respondent does not do a good
19 job at covering a lot of those goals.

20 But what we believe is that a
21 cross-sectional approach would be in a better
22 position, would not help just this Commission but
23 service providers be better informed as to how to
24 target, design services, which is ultimately what

1 we believe a central point to the mandate of
2 research. It's not necessarily just doing
3 research from an academic standpoint, it's one to
4 be used.

5 COMMISSIONER STEBBINS: Usable data.

6 COMMISSIONER ZUNIGA: Yes.

7 COMMISSIONER CAMERON: That was
8 persuasive to me.

9 COMMISSIONER MCHUGH: I thought the
10 memorandum you prepared was thoughtful as all of
11 your memoranda are. It was well thought out. And
12 the process was a rigorous one.

13 But this is the biggest commitment
14 we're making thus far. It is an issue that is of
15 significant importance to the Commonwealth and to
16 all of us. Everybody is committed to having a first
17 line set of research prepared.

18 It is a process in which the two
19 finalists were closely tied in whatever scoring
20 system was used. And it is a process that is going
21 to go on for some period of time and as to which the
22 project team was divided as to which was the best.

23 I understand the distinctions between
24 the two and the judgments that were made. But given

1 the magnitude of this and given the importance of
2 it, I would like to have a presentation by the two
3 finalists within the next week or so. So, that we
4 all could take a look at, not only the proposals that
5 they made, but also ask them some questions about
6 the kinds of things that you talked about in the
7 memoranda and the judgments that have tentatively
8 been made.

9 I know that you've been at work and it's
10 not because of a doubt as to the thoroughness or the
11 thoughtfulness of the approach that has been taken,
12 but when something is this close and this important
13 and this expensive, I would like, as one
14 Commissioner, to spend a few more minutes with it
15 at a meeting where we talk to the proponents
16 themselves. That's what I'd like to do.

17 CHAIRMAN CROSBY: Other?
18 Commissioner Stebbins, do you have a reaction?

19 COMMISSIONER STEBBINS: One of the
20 distinctions I saw between -- in your memo about the
21 two proposals is one might be more directly focused
22 on some of the economic data and information that
23 we would be pulling out as opposed to the other,
24 which tended to focus more on some of the social data

1 we may collect.

2 So, if you can share with me how that
3 may have weighed into your decision one way or the
4 other. I'm curious also to get your thoughts on
5 Commissioner McHugh's recommendation.

6 COMMISSIONER ZUNIGA: Well, this
7 certainly is something that is very much at the
8 discretion of all five of us. Relative to the
9 economic piece, I believe not unlike what we've
10 talked about in terms of social impacts, the
11 economic team or the economic piece was stronger on
12 the other team, perhaps a little bit more.
13 Comparatively, it's hard to quantify just how much.

14 I can speak from my experience, I read
15 this -- I wrote the RFP mostly with the help of a
16 few others. I read the responses very
17 thoughtfully. I went through talking about them.
18 And my understanding of the nuances and what's
19 really behind here evolved as I went through that
20 process.

21 To some degree, I tried to capture that
22 in the memo. But your suggestion about having
23 presenting -- having these teams come present to
24 this Commission as a whole, I think is a good one.

1 It could enrich the understanding of everybody.

2 CHAIRMAN CROSBY: I don't quite agree
3 with that, oddly enough, in this situation. I'm
4 certainly happy to go either way. But these
5 proposals are so long and so dense and so
6 complicated. The project management team, and I
7 sat in on number of these conversations, not all of
8 them, the project team spent hours talking about
9 these with two people who are experts in the two
10 fields, research and problem gaming.

11 And they couldn't come to a -- It was
12 so dense that they eventually had to hire an outside
13 consultant who is a really professional researcher
14 to help work their way through that stuff. And I
15 would be concerned that somebody might come in and
16 people make a presentation and look good in the
17 presentation. But we'd never have an opportunity
18 to get to the level of depth and analysis that is
19 required to do this.

20 And somebody might look terrible. Or
21 somebody might look good and cause us to make a
22 decision, which is really not be the best decision.

23 This is one case where I think actually
24 we're better served, and I don't think this is very

1 often the case, we are better served by outsourcing
2 the judgment to a substantial extent to other folks.
3 But I wouldn't fight it. That's just my sense.

4 COMMISSIONER CAMERON: I agree with
5 the Chair, but I see the work that went into this
6 with experts. And I know that I would not be
7 willing to listen to one presentation and feel like
8 I had a better understanding than the team did.

9 COMMISSIONER STEBBINS: Just sitting
10 here thinking about it, I would welcome the
11 approach. My concern is, obviously, we are talking
12 about right now if you're at this meeting selecting
13 one team over the other, and I'm not sure if I was
14 the other team how anxious I would be to show up
15 knowing that there's recommendation on the table.

16 Having the UMass team come in and maybe
17 make a presentation, giving us a chance to ask more
18 in-depth questions as we may have them might be
19 helpful. But sitting here and thinking about it,
20 I'm not sure if I was the other candidate or the
21 other bidder that I'd be interested in coming in at
22 this point.

23 COMMISSIONER MCHUGH: I was talking
24 about both. I wasn't talking about just having the

1 one that was picked here come in. And I understand,
2 Mr. Chairman, what you said, but in the last
3 analysis that means that we're not capable of making
4 an intelligent decision. And that's a conclusion
5 I am not willing to accept.

6 CHAIRMAN CROSBY: It's a matter of
7 efficiency. We have delegated the dramatic lead on
8 many of our hiring decisions to a Commissioner.
9 And I think in if not every case, most cases the
10 Commissioner has made along with the help of an
11 outside search team and assessment team and a very
12 rigorous search process, that one Commissioner has
13 pretty much made the decision by recommending to us
14 who we should hire for our major positions.

15 So, it's no reflection -- it's not that
16 we can't do it. It's that in order to make an
17 informed decision, we have to split ourselves up in
18 order to parcel out the responsibilities so we can
19 get everything done. And the team that's been
20 assigned this has been able to take the time to
21 really vet it properly.

22 COMMISSIONER ZUNIGA: Maybe I should
23 add that to a great extent we could not go wrong with
24 either one of these teams. Even the peer reviewer

1 that we used confirmed that from the get-go.

2 CHAIRMAN CROSBY: The peer reviewer
3 referred to them both as dream teams.

4 COMMISSIONER ZUNIGA: Right. I may
5 be arguing both sides here, but this decision is
6 very important relative to what we do up front
7 really lays the foundation to the ongoing or
8 recurring piece of this research. So, I wouldn't
9 want it to be doubtful or misunderstood.

10 COMMISSIONER STEBBINS: Just one more
11 thought, Mr. Chairman. You raised the suggestion
12 that when we have had -- when we've served as hiring
13 managers, we've always had those final candidates
14 come in front of the five of us. I think it
15 certainly would be worth our time -- And again the
16 recommendation here is for Commissioner Zuniga to
17 begin the further process of refining the scope of
18 work and undertaking a contract negotiation.

19 But in terms of us taking a vote on a
20 final selection, I think having UMass come in and
21 make a final presentation to all five of us would
22 be similar to how we've conducted some of our hiring
23 decisions.

24 CHAIRMAN CROSBY: That's actually not

1 a bad idea. This is not to contract with one
2 vendor. This is to authorize Commissioner Zuniga
3 to begin to negotiate with one vendor.

4 We could have that vendor come in as you
5 said even as the process begins and make a
6 presentation, talk about these issues as much as
7 possible. And if there is lingering concern, this
8 is a big enough decision that as desperately as I
9 feel the pressure for time to get moving on this,
10 I don't want to railroad this one through.

11 Would that work for you, Commissioner
12 McHugh? If they came in and then we don't make a
13 final commitment. We hear from them and then see
14 how everybody feels at the end of that?

15 COMMISSIONER MCHUGH: I would prefer
16 that. That's a step in the direction of -- I would
17 prefer that.

18 CHAIRMAN CROSBY: It sounds like maybe
19 that's sort of the preferred middle ground. And I
20 think unless somebody wants to take a vote on this,
21 I think we sort of talked ourselves to a strategy,
22 if you're comfortable with that.

23 COMMISSIONER MCHUGH: Yes, thank you.

24 CHAIRMAN CROSBY: Let's do that. It

1 is a very tough decision. The inexpensive contract
2 is a \$4.5 million contract. So, this we're talking
3 serious money. This is not one we want to make
4 lightly.

5 So, let's proceed on that and try to get
6 them in next week, even as you begin talking. I
7 guess we are adopting your motion subject to them
8 coming in. We're not executing anything. We're
9 adopting your motion. So, we need to do that
10 subject to them coming in next week, right?

11 COMMISSIONER ZUNIGA: Sure. Do you
12 want me to read that for the record?

13 CHAIRMAN CROSBY: Yes, why don't you
14 and add in them coming in for final approval.

15 COMMISSIONER ZUNIGA: Sure. So, I
16 will move that the Gaming Commission authorize me,
17 Enrique Zuniga, to begin the process of further
18 refining the scope of work and undertake contract
19 negotiation with a team of UMass Amherst as part of
20 the response to the research RFP, subject to their
21 presentation -- their further presentation about
22 scope to this Commission.

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? The ayes
7 have it unanimously. Thank you, folks for your
8 patience with us.

9 We are now to the major item on our
10 agenda, which is the discussion about how to proceed
11 in Southeastern Mass. in the business of seeing
12 whether we can't one way or another get an expanded
13 gaming facility here.

14 Just a couple of introductory
15 comments. This is an issue that we take very, very
16 seriously. As I said, we are committed to a
17 process, which is participatory, transparent and
18 fair. This is a situation where there are
19 conflicting interests.

20 The legislation that we operate under
21 recognize those conflicting interests, made an
22 attempt to give us some tools to reconcile them. We
23 know that there are strong interests, strong
24 rights, strong economic impacts, strong emotions on

1 many sides of this issue.

2 We are going to take really seriously
3 the one thing the Legislature did not do was give
4 us clear direction on how to proceed and has left
5 it up to us to figure out how to proceed. And we're
6 going to take that very seriously.

7 There are two ways to participate in
8 that decision thus far. One is to submit comments
9 on our website. Many of you have. And anybody is
10 invited to. We all read all those and we talk about
11 them. And we take them very seriously and we
12 welcome them.

13 The second alternative thus far is to
14 have signed up to speak here by the end of the day
15 yesterday if you are a public official or you are
16 a representative of one of the various groups
17 involved in one way or another for this process.

18 We have 15, I think, speakers. We are
19 going to limit speakers, including the interchange
20 with the Commissioners to 10 minutes apiece. I am
21 going to try pretty hard to stick to that, because
22 150 times 10 is going to be three hours from now.
23 So, we're going to have to stick to that.

24 So, please when you're talking, take it

1 seriously. Don't make me force you to stop. And
2 I believe we are ready to start with Cedric
3 Cromwell, the Tribal Council Chair of the Mashpee
4 Wampanoag Tribe. Mr. Chairman, welcome.

5 CHAIRMAN CROMWELL: Chairman Crosby,
6 Commissioners, winee keesuz neetôpâak. That means
7 good day, my friends in Mashpee Wampanoag. I am the
8 Tribal Chairman of the Mashpee Wampanoag Tribe.
9 And I want to thank you for the opportunity to speak
10 on behalf of my tribe today.

11 Joining us today are members of our
12 tribal community. We have members of our tribal
13 council, our elders and many others who are working
14 hard to build a better future for our tribal nation.
15 As you know, the Wampanoag people have inhabited
16 this area for more than 12,000 years.

17 Roughly 400 years ago, our ancestors
18 greeted the first explorers from Europe who
19 welcomed the Pilgrims and helped them to survive
20 their first harsh winters here. Without
21 enumerating the many injustices brought upon our
22 people, our existence today is a reflection of the
23 determination and perseverance that has taken for
24 our people to remain and survive in our homelands.

1 As a federally recognized tribal
2 government, today we have an obligation to provide
3 housing, healthcare, education and employment
4 services to the members of our tribe and members of
5 other tribes who live in our Barnstable, Bristol,
6 Norfolk, Plymouth and Bristol Counties.

7 To meet our obligations as a sovereign
8 government, federal law has given us the right to
9 pursue gaming as an economic development tool. And
10 to provide us with resources that we need to provide
11 services to our people under our care.

12 The Commonwealth fully recognized
13 these rights with the passage of the Expanded Gaming
14 Act. I'm here today to make it quite clear that it
15 is unnecessary to open up Region C for commercial
16 gaming license applications.

17 While our legal counsel has informed
18 you of the legal basis of this belief, I'm not here
19 to discuss the legal matters with you today. I'm
20 here to tell you that our project is on track. That
21 in fact we have made historic and swift progress
22 towards our land being taken into trust by the
23 Secretary of the Interior.

24 That we are literally years ahead of

1 any other project in the Commonwealth. And that we
2 are poised to bring thousands of jobs and hundreds
3 of millions of dollars in economic growth to
4 Southeastern Massachusetts in the very near future.
5 We have systematically worked to meet every
6 condition set forth in the Expanded Gaming law as
7 well as federal regulations governing tribal
8 gaming.

9 First, we have acquired land in an
10 industrial park in Taunton where we will build a
11 first-class destination resort casino. This land
12 along with land in Mashpee is under active review
13 at the Department of Interior to become an initial
14 reservation for our tribe.

15 Second, the National Indian Gaming
16 Commission has approved our tribal gaming
17 ordinance. And we have established a tribal gaming
18 commission that will govern our tribal gaming
19 operations.

20 Third, we have successfully negotiated
21 an intergovernmental agreement with the City of
22 Taunton to mitigate all impacts on that community.
23 In addition to the millions of dollars in mitigation
24 for needs like traffic improvements, public safety

1 and infrastructure, we will also pay the City of
2 Taunton at least \$8 million per year in revenue.

3 Fourth, in June of last year, the
4 voters of Taunton overwhelmingly supported a ballot
5 question authorizing this project to move forward.

6 Fifth, we have drafted an
7 environmental impact statement under the National
8 Environmental Protection Act supported by
9 thousands of pages of detailed traffic
10 environmental studies.

11 Sixth, we have voluntarily
12 participated in a full environmental evaluation
13 under the Massachusetts Environmental Protection
14 Act ensuring that all residents of Southeastern
15 Massachusetts have ample opportunity to learn about
16 the project.

17 Seventh, on December 31, 2012 Kevin
18 Washburn, the Assistant Secretary of the Bureau of
19 Indian Affairs sent our tribe a letter announcing
20 that our land in Taunton will qualify as an initial
21 reservation under gaming regulatory act that's
22 called IGRA. This means our tribe may conduct
23 gaming on this land once it's taken into trust. We
24 have provided the Commission with a copy of this

1 letter.

2 In simple terms this means that we have
3 demonstrated to satisfaction of the federal
4 government that the lands in Taunton where we will
5 have our casino are part of our historic tribal
6 lands. I note that numerous people who have tried
7 to undermine our project have said that this is
8 something we could never demonstrate. They were
9 wrong.

10 Eight, just yesterday, Solicitor
11 Hilary Tompkins from the Department of Interior,
12 the lead lawyer at the Department of Interior
13 informed us that the Department is making
14 substantial progress in its active review of the
15 tribe's Carcierri submission, and considers the
16 determination a top priority of the Department.

17 As we did with the report that
18 demonstrated our historic ties, we have provided to
19 the Interior Department with voluminous
20 information establishing without a doubt that the
21 tribe meets all applicable criteria.

22 Based on the decisions made by the
23 Department for other tribes on the Carcierri issue,
24 we believe that the Department's decision will be

1 favorable and this decision will be made very soon.

2 So, what does this mean? Put simply,
3 it means that we expect to put and have our land
4 taken into trust by the Department of Interior this
5 year. And that will have shovels in the ground by
6 this time next year. And we will open for gaming
7 by early 2015.

8 Let me now turn to the compact.
9 Governor Patrick and I signed a new compact this
10 week, which will be sent to the Legislature for
11 approval. We are extremely grateful to the
12 Governor for his determination and not to let the
13 disapproval of our compact last fall become an
14 obstacle or our economic development plans. This
15 time our compact has been drafted with full input
16 from the Department Interior for which we are also
17 grateful.

18 On this agreement, once it's approved
19 by the Legislature and submitted to the Department
20 of Interior, we expect speedy approval. Given
21 these circumstances, we believe that it would be
22 unwise for the Commission to accept applications
23 and nonrefundable \$400,000 fee from commercial
24 applicants.

1 The Expanded Gaming Act says that the
2 Commission may not award a commercial license in
3 Region C unless it is determined that the Secretary
4 of the Department of Interior shall not take our
5 land into trust. That's clearly the opposite of
6 what is happening.

7 We recognize that the rules related to
8 tribal rights are unfamiliar to most people, but the
9 Commission and the public should understand that if
10 our plans to build and operate a casino under
11 compact are derailed, the tribe will still build and
12 operate a class two Indian gaming casino in Taunton.
13 In that event, we will not pay any revenue to the
14 Commonwealth at all.

15 However, despite our rights to proceed
16 on our own, we have chosen to negotiate in good faith
17 a compact with Governor Patrick because we wish to
18 be partners with the Commonwealth in bringing
19 economic growth to Southeastern Massachusetts.

20 Let me close by saying that as the
21 Assistant Secretary has stated in his letter, the
22 tribe is not involved in an indefinite process. We
23 will have all decisions in place this year. There
24 is simply no reason whatsoever for the Commission

1 to open Region C for commercial applications.

2 (INAUDIBLE) That means thank you to you all in my
3 language.

4 CHAIRMAN CROSBY: Questions for the
5 Chairman?

6 COMMISSIONER MCHUGH: Let me say that
7 our obligation is to reach out to all participants
8 in this forum and in others. In keeping with that,
9 I talked to Secretary Washburn about an hour and a
10 half ago. I'd been trying to reach him and we were
11 able to make that connection an hour and a half ago.

12 The essence of our conversation with
13 this, and we talked about really three topics.
14 Number one, insofar as the compact is concerned, he
15 said that the Bureau of Indian Affairs had provided
16 both the Commonwealth and the tribe substantial
17 technical assistance. That their policy is not to
18 reject compacts if it's at all possible not to do
19 that. So, they had, in the hope that this one will
20 survive, provided substantial technical assistance
21 to both the state and the tribe.

22 Insofar as the Carcierri issue is
23 concerned, he said that that was in the Solicitor's
24 office. For everybody to understand, the Carcierri

1 decision is basically a decision of the Supreme
2 Court of the United States that says that the only
3 land that can be taken into trust under the statute
4 is land of a tribe that was recognized in 1934 when
5 the decision was passed.

6 CHAIRMAN CROSBY: Under federal
7 jurisdiction.

8 COMMISSIONER MCHUGH: Was under
9 federal jurisdiction at the time the statute was
10 passed. And that gets into highly technical
11 issues.

12 In any event, that is in the
13 Solicitor's office. They are actively working on
14 it. But that will not be something that the Bureau
15 of Indian Affairs will make a public announcement
16 about. It is advice from the Solicitor to the
17 Undersecretary or Assistant Secretary and will be
18 a part of the final decision, not a separate
19 milestone along the way.

20 Finally, insofar as the land in trust
21 was concerned that that too is proceeding. That
22 the environmental process that you talked about,
23 Mr. Chairman, takes time. There were no red flags
24 raised thus far. And at the same time, he was

1 unable to give me an estimate even in a ballpark as
2 to when they would be finished or likely to be
3 finished.

4 So, that was in sum and substance what
5 Secretary Washburn said. Nothing of which is
6 inconsistent with what you said, Mr. Chairman, but
7 there were no commitments as to time.

8 He did say as sort of an overall thought
9 that the Bureau of Indian Affairs was particularly
10 pleased by the relationship between the tribe and
11 the Commonwealth. And had therefore viewed this
12 process as in, I think, special category were the
13 words that he used. But I can't be quoted on that
14 because I may not be precisely in repeating what he
15 said. So, that was the essence of what Secretary
16 Washburn said an hour and a half ago.

17 CHAIRMAN CROSBY: Good going, thank
18 you. Any questions for the Chairman? Mr.
19 Chairman, thank you very much.

20 CHAIRMAN CROMWELL: Thank you very
21 much. Have a good day.

22 COMMISSIONER MCHUGH: Thank you.

23 COMMISSIONER CAMERON: Thank you, Mr.
24 Chairman.

1 CHAIRMAN CROSBY: Let me just clarify
2 one thing, Commissioner McHugh. The land in trust
3 decision is not contingent upon the NEPA process,
4 is it or isn't it?

5 COMMISSIONER MCHUGH: It is. That is
6 part of that process.

7 CHAIRMAN CROSBY: So, the land in
8 trust award cannot be made until there is a
9 successful conclusion of the NEPA process.

10 COMMISSIONER MCHUGH: Of the NEPA
11 process. He and I talked about that. And I said
12 we are in a different position here in that -- He
13 said that you were going to have to go through --
14 commercial licensees are going to have to go through
15 an initial environmental review as well. I said
16 yes, but in all likelihood we award the license
17 subject to successfully passing that which is
18 different from your process. And he confirmed that
19 it is different.

20 CHAIRMAN CROSBY: Okay. Next on our
21 list is Representative Robert Koczera from the 11th
22 Bristol District. Representative, welcome.

23 REP. KOCZERA: Good afternoon, Mr.
24 Chairman and members of the Commission. Welcome to

1 the south coast, Southeastern Mass. or as you
2 might be familiar with it Region C.

3 My remarks will be relatively brief.
4 And I welcome any discourse or questions or comments
5 that you may care to make.

6 The Massachusetts Gaming Commission
7 without further delay should vote today to issue a
8 request for applications for a commercial casino
9 license in Region C. Delay in issuing a Category
10 1 license in Region C is costing the Commonwealth
11 revenue and the region jobs.

12 The timeframe noted in Chapter 194 of
13 the Acts of 2011 for Indian Gaming preference in
14 Massachusetts has passed. The compact negotiated
15 by the Commonwealth and the tribe has been rejected
16 by the federal government. The tribe faces
17 insurmountable obstacles to getting land placed in
18 trust by the federal government under the Indian
19 Gaming Regulatory Act due to the 2009 Carcieri
20 Supreme Court decision.

21 The 2009 Supreme Court decision
22 prevents the federal government from taking land in
23 trust for tribes that were not federally recognized
24 when the Indian Reorganization Act was passed and

1 became law in 1934. The Mashpee Wampanoag Tribe
2 did not receive federal recognition until 2007.
3 The land in trust issue effectively prevents them
4 from opening a casino in Massachusetts within a
5 reasonably suitable period of time.

6 We are not talking about tribal gaming
7 occurring months or even a year after the other two
8 regions open their commercial casinos. We are
9 talking decades after the commercial casinos are
10 opened in Massachusetts. The Gaming Commission
11 cannot afford to wait months and years from today
12 to revisit a commercial license for Region C. The
13 Commission must act today to ensure that Region C
14 will derive the same benefits from casino gaming as
15 the other two regions of the state.

16 The lack of congressional action on the
17 federal land in trust issue increases the
18 likelihood of lengthy litigation of this issue
19 should the federal administration, i.e., the Obama
20 administration, place the Wampanoag land in trust.

21 An example being the Cowlitz tribe of
22 Washington State, which is in litigation on this
23 issue since the federal administration, the Obama
24 administration, placed the land in trust in 2009.

1 There is an expectation that the Massachusetts
2 Gaming Commission shall act timely on the issuance
3 of Category 1 licenses in the Commonwealth for all
4 three regions. Time represents money and jobs for
5 the Commonwealth and its citizens. The
6 legislation clearly calls for three regional
7 destination resort casinos.

8 The Commission should not disadvantage
9 Region C for good intentions. We need the revenue.
10 We need the jobs. Today, the Massachusetts labor
11 office will release unemployment figures for the
12 month of February. The January figures however,
13 are telling of the jobs need in Region C. While the
14 statewide unemployment rate of 6.7 percent, the New
15 Bedford unemployment rate is 14.2 percent. The
16 Fall River unemployment rate is 14.9 percent. And
17 the City of Taunton's unemployment rate is 8.1
18 percent.

19 Region C unemployment is chronically
20 higher than the statewide average and is well above
21 the figures for Suffolk County, which is 6.9 percent
22 where the Boston is located, and Hampden County
23 which is 9.5 percent where Springfield is located.

24 Given the obstacles of the United

1 States Supreme Court decision, it is just plain
2 wrong to reasonably expect a timely resolution to
3 the land in trust issue of the Mashpee Wampanoag
4 Tribe of Massachusetts. I urge this Commission to
5 take action today by voting to request applications
6 for the Category 1 license in Region C.

7 I clearly see it as an issue of equal
8 treatment for all three regions of the state. And
9 in my opinion, I believe the need is greatest for
10 economic development in Region C. We've been
11 devastated by the loss of industry. If you travel
12 through the city of Fall River and Taunton and New
13 Bedford, you will see vacant mill buildings or you
14 hear of buildings that were destroyed by fires
15 because they are no longer employing people.

16 We are a gateway city. We have all --
17 All three are gateway cities. We have all of the
18 problems associated with urban America. We need
19 the jobs.

20 And I would be the first to argue for
21 exclusivity for federally recognized tribes in
22 Massachusetts if I felt that there was a reasonable
23 expectation that those jobs would come into being
24 and the state would derive the revenue from it.

1 But a Supreme Court decision -- no
2 review, no decision by an administration, Bush,
3 Obama or any ones to follow can reinterpret or
4 override the supreme law of the land, which is the
5 Supreme Court decision.

6 So, I would submit to you that to go and
7 say we are going to wait because they're showing
8 progress on the compact and the administration will
9 take it into trust is doing a great disservice to
10 the region that I am proud and have been proud to
11 represent for the last 25 years, because we are
12 suffering. We are hurting economically.

13 And I'll close on this. When Governor
14 Patrick first proposed casino gaming, not that you
15 need to know this, but when he first proposed it in
16 '09, he saw it as urban economic development. The
17 issue there was on whether slot facilities would be
18 given only to racetracks. It was defeated because
19 of legislative leaders that were absolutely
20 against.

21 When it came back in two years, there
22 was a change in legislative leadership. And the
23 parameters that we operated under were twofold.
24 One, that the slot facility would be competitively

1 bid. Okay, we agreed to that. And the third was
2 a carve out, Indian preference for this region.

3 And we could not vote for that without
4 those criteria in place. So, we did. Otherwise,
5 he would have vetoed it and we would not have the
6 votes.

7 In the Legislature today, there are
8 those who feel that two is better than three and none
9 is best of all. They're just opposed to gambling
10 and the expansion of gambling in the Commonwealth.
11 So, they will see an opportunity to vote to accept
12 a further compact. This process never ends. You
13 could be here 10 and 20 years with successors who
14 basically saying we're going to wait. We're going
15 to give them a second bite, a third bite, a fourth
16 bite, before they get this right.

17 The people in Southeastern Mass. can't
18 wait that long. And that is the only point that I
19 want to get across to you. I thank you for your
20 time. And I do thank you for as non-elected but
21 public officials nevertheless making the effort to
22 come out from beyond Boston and come out from beyond
23 128 and even beyond 495. Some people in Boston have
24 called areas beyond 495 the end of the universe.

1 Clearly, it's not. So, we thank you for your
2 presence here. And we thank you for listening.

3 CHAIRMAN CROSBY: Thank you,
4 Representative. Any questions for the
5 Representative? Representative, thank you very
6 much.

7 COMMISSIONER MCHUGH: I do have a
8 question. Do you have any sense -- We have a
9 compact. It has to be approved, put to a vote
10 before the Legislature. Do you have any sense as
11 to when the Legislature is likely to take this up?

12 REP. KOCZERA: I don't. I do know
13 that Speaker DeLeo made a comment in Merrimack
14 yesterday or today to the effect that he thought
15 that with the first compact having passed that you
16 collectively would be making a decision to move
17 forward on the issuance of applications. I don't
18 know if I took a copy of that to have it with me to
19 accurately --

20 COMMISSIONER MCHUGH: We can find it.

21 REP. KOCZERA: It was in the State
22 House news service. And I believe it was yesterday
23 or today. I don't believe I have it with me. I do
24 have written copies of my remarks if you care to --

1 I'll leave them with you.

2 COMMISSIONER MCHUGH: That would be
3 helpful.

4 CHAIRMAN CROSBY: Just one is fine,
5 thank you. You did say one thing I do want to
6 clarify, I should have said this at the beginning.
7 You said you hope we would vote today. We will not
8 be taking a vote today.

9 What we're here to do is to listen and
10 to learn, to see whether there are other issues that
11 we need to learn more about. We will then take this
12 under advisement for as short a time as possible.
13 And we will then at a subsequent meeting a week or
14 two or possibly three weeks from now we will get back
15 to this and make a final decision. Thank you again.

16 COMMISSIONER MCHUGH: Thank you.

17 CHAIRMAN CROSBY: Representative
18 Keiko Orrall from the 12th Bristol. Welcome back.

19 REP. ORRALL: Thank you, Mr. Chairman,
20 thank you Commissioners. I represent the 12th
21 Bristol. And it is the district that includes the
22 proposed tribal casino. I represent the
23 communities of Lakeville, Berkeley, parts of
24 Middleborough, parts of Taunton, including East

1 Taunton and 3B.

2 The communities in the 12th Bristol
3 continue to be concerned about mitigation funds for
4 towns surrounding the tribal casino proposed for
5 East Taunton. The renegotiated tribal state
6 compact includes mitigation for surrounding
7 communities but it has not been determined if this
8 amount will be sufficient to meet their needs, as
9 prior studies to this compact were not conducted.

10 Several officials in the region
11 believe that the issues associated with the resort
12 casino will be significant and to varying degrees
13 will impact their public safety, roads and schools.

14 In part 12 (2) of the tribal state
15 compact it states that the Massachusetts Gaming
16 Commission will expend monies from its community
17 mitigation fund to assist communities to offset
18 costs related to the construction and operation of
19 a gaming establishment, included but not limited to
20 the impacts on communities and water and sewer
21 districts in the vicinity of the facility, local and
22 regional education, transportation,
23 infrastructure, housing, environmental issues and
24 public safety. Including the Office of the County

1 District Attorney, police, fire and emergency
2 services.

3 The Massachusetts Gaming Commission
4 may at its discretion distribute funds to a
5 governmental entity or district other than a single
6 municipality in order to implement a mitigation
7 measure that affects more than one municipality.

8 It is now clear to me how the
9 Massachusetts Gaming Commission will make its
10 determination as to what communities will receive
11 mitigation and what amounts will be allocated. The
12 concern remains as to how this will be determined
13 equitably without the necessary studies having been
14 done prior.

15 In the Gaming Commission meeting
16 minutes from December 4, 2012, Commissioner McHugh
17 state that there were several obstacles that
18 remained in order for the Mashpee Wampanoag tribal
19 casino to move forward. Those obstacles included
20 a renegotiated compact with the state, the lawsuit
21 filed by KG Urban, the potential for a lawsuit
22 because of the Commonwealth's equivalent to the
23 14th amendment. And the fact that the tribal land
24 has to be taken into trust.

1 To date, only one of those concerns has
2 been addressed. And the tribal state compact has
3 not been approved by the Legislature. The ability
4 of the Mashpee Wampanoag Tribe to get land into
5 trust continues to be a major concern for this
6 particular casino. In part 9 (1)(2), the compact
7 notes that the tribe presently holds no land in
8 trust for Indian Gaming Regulatory Act gaming
9 purposes or otherwise. And thus the Commonwealth
10 is under no legal obligation to commence
11 negotiations to reach agreement on the compact.

12 IGRA does not require a state to
13 provide a tribe geographic exclusivity as to the
14 proposed location for its gaming, the games it
15 intends to offer or on any other basis. The parties
16 agree that IGRA negotiations need not be commenced
17 or concluded until the tribe has land in trust that
18 is qualified for gaming.

19 Allowing any trust land to be created
20 in Massachusetts has been permanently eliminated by
21 the Supreme Court decision that Representative
22 Koczera mentioned, Carcieri versus Salazar. The
23 Secretary of the Interior does not have the
24 authority to take land into trust for any tribe not

1 recognized and under jurisdiction in 1934.

2 And current federal law does not allow
3 this tribe to have any land in trust. In Fletcher
4 versus Peck it is clear that there is no federally
5 owned land in the Commonwealth and none can be
6 created. In Hawaii versus Office of Hawaiian
7 Affairs, the federal government may not remove land
8 ceded to a state.

9 Therefore, it remains unclear to me as
10 to how to Mashpee Wampanoag will be able to clear
11 the hurdles that Commissioner McHugh mentioned and
12 that present themselves at the federal level and
13 that their land will be granted in trust.

14 I thank you for your careful
15 consideration of these matters in future gaming
16 decisions in Region C, and your concern for strong
17 economic future for all of the cities and towns of
18 the Commonwealth.

19 CHAIRMAN CROSBY: Thank you,
20 Representative. I do have one comment.
21 Representative Orrall has been relentless on this
22 important point. And as we think about the various
23 equities here, there is a legitimate concern that
24 the Legislature, the way it set up the licensing

1 process was very respectful of the rights of
2 surrounding communities, and gave the surrounding
3 communities a substantial play in how their
4 concerns can be mitigated. And gave them leverage
5 in the negotiations. And gave us leverage in
6 making sure that they get appropriate mitigation
7 attended to. And resources to do that upfront, not
8 out of the community mitigation fund that you
9 referred to.

10 That does not exist at least at present
11 the way the plan is intended to go forward with a
12 tribal casino. And I think -- You've been talking
13 about this point for the better part of a year now.
14 And I think it's a fair point. And something that
15 we do need to remain attentive to, mindful of.

16 REP. ORRALL: And to emphasize, the
17 community mitigation fund will be administered by
18 the Massachusetts Gaming Commission. That's where
19 the concerns are regarding the surrounding
20 communities because it's unclear how those funds
21 will be distributed.

22 CHAIRMAN CROSBY: Right.

23 COMMISSIONER MCHUGH: At the same
24 time, the NEPA process, the federal equivalent of

1 our MEPA process requires does it not, some
2 mitigation efforts, regional studies that include
3 the surrounding communities and the potential for
4 imposing on the tribe the obligation to pay for
5 mitigation. And participation by the surrounding
6 communities to identify what the impacts will be.
7 Do I have that right?

8 REP. ORRALL: That is correct. And I
9 believe that the concern at this particular casino
10 is that these studies weren't done prior to this all
11 happening. So, with commercial casinos
12 surrounding communities, the safeguards are put in
13 place for surrounding committee.

14 COMMISSIONER MCHUGH: Right.

15 REP. ORRALL: So, this is kind of
16 backwards.

17 CHAIRMAN CROSBY: Under the tribal
18 program there is -- Under the tribal option there
19 are protections for surrounding communities. They
20 come from the NEPA process, yes, but it is not the
21 same level of protection.

22 REP. ORRALL: Right.

23 COMMISSIONER MCHUGH: I wasn't
24 suggesting it was. I'm just trying to make sure

1 that my understanding is correct and that the
2 surrounding communities that you represent have
3 been participants in that NEPA process. Not in
4 your view an ideal solution but they have
5 participated.

6 REP. ORRALL: Right.

7 COMMISSIONER MCHUGH: Okay, thank
8 you.

9 CHAIRMAN CROSBY: Thank you,
10 Representative. Representatives Alan Silvia from
11 the 7th Bristol District. Welcome.

12 REP. SILVIA: Mr. Chairman,
13 distinguished members of the Commission. I too
14 would like to welcome you to Fall River on this snowy
15 day. And let's hope by the time you all leave
16 there's no three or four inches out there.

17 CHAIRMAN CROSBY: President Sbrega
18 said he had a lot of sleeping bags just in case.

19 REP. SILVIA: He does. I know he can
20 accommodate you. Mr. Chairman, over the years, the
21 residents of Fall River and the south coast have
22 strongly supported several ballot initiatives
23 favoring the establishment of casino gaming. And
24 since the early 1980s, we have been told that a

1 tribal casino was right around the corner.

2 Therefore, it is incredibly
3 disheartening and so incredibly unfair that while
4 other regions of the Commonwealth finally get to
5 benefit from casino gaming, and one region pursuing
6 it for 30 years has been pushed to the side and
7 relegated to second-class status.

8 The people I represent in Fall River,
9 the City of Fall River here in Region C should not
10 be disenfranchised and provided less opportunity
11 than anybody else or any other region. When
12 statewide legislation passes whereby citizens of
13 the Commonwealth are treated differently because of
14 where they reside, it doesn't require a lot of basic
15 reasoning skills to know it's bad policy.

16 The problem for everyone in our region,
17 Region C, is that by the time the courts finally
18 arrive at what is an obvious conclusion based on
19 precedent many years will pass. Gaming facilities
20 in other areas of the Commonwealth will be
21 well-established and entrenched generating million
22 in tax revenue and creating thousands of jobs.
23 Region C will still be told it's just around the
24 corner.

1 As a member of the Legislature, the
2 people who elected me are good, hard-working
3 people. The problem they have is no work. As a
4 matter of fact, the district that I represent nearly
5 50,000 people in the City of Fall River is one of
6 the highest -- has the highest unemployment rate in
7 the Commonwealth. They need jobs.

8 My district has that highest
9 unemployment rate that I mentioned. I know casino
10 gaming is not going to be the answer to all of our
11 problems, but if you have a family and you're on the
12 unemployment line with a limited skill set where
13 English may be not your primary, a job, any job
14 anywhere is god sent.

15 Some of my colleagues are skeptical
16 about casino gaming. The people struggling and out
17 of work don't really give a damn about political
18 skepticism nor do I. They want to work and it's our
19 job to create the economic conditions where they can
20 find work. A commercial gaming license for Region
21 C starts the process of creating the economic
22 environment which creates jobs now.

23 At a time in the Commonwealth where we
24 are looking at cutting basic services to the truly

1 needy and the Governor is asking to raise taxes by
2 \$2 billion, why would anyone suggest that taxing one
3 group less than 25 percent that which every other
4 commercial gaming entity has to pay the
5 Commonwealth is okay? It's not okay. It's wrong
6 and basic common sense tells us so.

7 Why should the taxpayers of Region C
8 and frankly the entire Commonwealth financially
9 subsidize and reward a multimillion dollar
10 Malaysian gaming company?

11 Moreover the argument that you can't
12 have two casinos, a commercial and someday a tribal
13 in the same region is complete nonsense. The
14 gaming customer will patronize the facility with
15 the best value, entertainment and experience.
16 Since when have the citizens of the Commonwealth
17 become afraid of a little competition? Maybe folks
18 elsewhere up north can't handle that, but here we
19 love competition. We're not afraid.

20 Mr. Chairman and members of the
21 Commission, I respectfully ask you to please open
22 Region C to a commercial gaming license process now
23 and provide the people that I represent and the
24 entire South Coast area that which has been provided

1 to the rest of the Commonwealth, an equal process
2 to pursue a commercial gaming licensing and provide
3 jobs to the people now. We need them now. And I
4 thank you all very much for listening.

5 COMMISSIONER MCHUGH: Thank you.

6 CHAIRMAN CROSBY: Questions? Just
7 one comment and I know you know this, but just out
8 of clarity, there is no state policy or state option
9 or state intention to subsidize the tribe. If the
10 tribe gets the land in trust, it will have the right
11 to conduct a certain category of gaming without
12 paying anything to the state. That is their
13 inherent and sovereign right under federal law.
14 It's not a subsidy from the Commonwealth.

15 REP. SILVIA: Thank you. And I do
16 realize that. It's the time issue here. We're
17 here in a community that was told 20 years ago that
18 we'd have a train. And for 20 years we talked about
19 a casino.

20 CHAIRMAN CROSBY: And you keep
21 believing those guys.

22 MR. SILVIA: We do. We keep
23 believing. And someday, and I know it won't be in
24 a year, but the ground has to break so that people

1 here can work. And I thank you all.

2 CHAIRMAN CROSBY: Thank you,
3 Representative. Representative Antonio Cabral
4 from 13th Bristol. Representative Cabral?

5 How about Representative Shaunna
6 O'Connell, I think I saw her here. Why don't you
7 go ahead -- come ahead. Representative Shaunna
8 O'Connell from 3rd Bristol.

9 REP. O'CONNELL: Thank you very much.
10 And thank you for holding this hearing and for the
11 opportunity to testify. I certainly appreciate
12 it. And I will be very brief, two words that I know
13 you like to hear.

14 At the hearing in December, the
15 Commission delayed a decision on whether to open up
16 the bidding process in order to give the tribe time
17 to make adequate progress. That was the right
18 decision. The Expanded Gaming Act, which a lot of
19 my colleagues here voted for recognizes and
20 protects the federal rights of the tribe to conduct
21 gaming in Southeastern Massachusetts.

22 And it is now our obligation to follow
23 that law. The tribe continues to make progress and
24 meet the requirements of that legislation in a

1 timely manner. And they are on track to open their
2 destination resort casino sooner than the
3 commercial developers as evidenced by all of the
4 work that has already been completed.

5 They are far ahead of the rest. They
6 already have their referendum vote, as you know, in
7 Taunton. They had it in June 2012. And the casino
8 was approved by a very large margin in Taunton. And
9 I'm pleased to support the people of Taunton in that
10 decision.

11 And afterwards, the tribe worked
12 closely with the community to address concerns, to
13 have meetings, to visit peoples' homes and find out
14 what those concerns are and how to address them.

15 An IGA has been completed with the City
16 of Taunton and approved by our city council. The
17 tribe acquired options on land near the
18 intersection of Route 24 and 140. And those
19 parcels of land are now under active review, as you
20 know, to become trust lands for the tribe, which
21 will give the right to conduct gaming on those
22 lands. Designs for a facility have been made. And
23 impact and environmental studies have been
24 conducted.

1 And as we know, the second compact has
2 been made in agreement and will be voted on by the
3 Legislature very soon.

4 So, throughout this process, I think it
5 is clear that the tribe continues to meet all of
6 their obligations in a timely manner. In addition,
7 the tribe has been actively involved in the
8 community with local businesses and the surrounding
9 areas as well with businesses, organizations and
10 worthy causes. And we look forward to them being
11 a good friend of the community and the surrounding
12 areas and to building on that relationship. So,
13 we've already benefited from them being there.

14 The economic benefits are numerous for
15 not only Taunton, but the surrounding communities
16 as well. The construction will create 1000 private
17 sector jobs, which I think is very important to
18 know, with a payroll of approximately \$230 million.
19 The casino will employ over 2500 people with
20 good-paying jobs averaging about \$35,000 a year
21 with benefits that the tribe has committed to giving
22 to their employees. The tribe has also committed
23 to hiring people from Taunton, Taunton residents.
24 And that there is a provision in the IGA that speaks

1 to that issue.

2 Local businesses will also benefit,
3 not just in Taunton but in the surrounding areas in
4 Southeastern Massachusetts as the casino will have
5 to spend millions of dollars annually on goods and
6 services. And the tribe has also committed to
7 outsourcing locally whenever it is possible.

8 I think it is also very important to
9 note that this going to be a destination resort with
10 many attractions for families, a family water park,
11 which I personally am very happy about,
12 entertainment venues, shopping and dining. So, it
13 will revive tourism in Southeastern Massachusetts
14 and in the greater Taunton area as well.

15 This casino project is quickly going to
16 provide badly needed jobs and economic stimulus to
17 not only Taunton, but to the entire region as well.
18 I understand that some of my colleagues are
19 interested in having a casino in their district,
20 however I think if the shoe was on the other foot
21 right now, their testimony would be quite different
22 than it is.

23 But I understand that they're fighting
24 for their district and they should be as I am

1 fighting for mine. At this point in time though,
2 I think it is our responsibility and that we need
3 to let the tribe continue to move forward in the
4 process as required by the Expanded Gaming Act so
5 that we ensure that we have one successful casino
6 in Region C and in a timely manner as well. And I
7 want to thank you very much.

8 CHAIRMAN CROSBY: Thank you,
9 Representative. Questions?

10 COMMISSIONER MCHUGH: It seems to me,
11 Representative, that one of the things that divides
12 you and your colleagues is not the desirability of
13 the tribal casino, but how likely it is to arrive
14 and how long we have to wait, all of us, to figure
15 out whether it's going to happen.

16 On the second of those two divisions,
17 do you have an idea as to how long we should wait?

18 REP. O'CONNELL: I think that is up to
19 the Gaming Commission. And we continue to see
20 progress with the tribe. And as long as we continue
21 to see progress, I think that we need to let that
22 progress move forward.

23 There may be a point in time when it is
24 time to say okay, we're not going to get it. And

1 that might be the point at which the BIA says we're
2 not going to take your land in trust. But right now
3 I think it is premature in the process to do that
4 because we continue to see progress by the tribe.
5 And as long as we're seeing progress by them and they
6 are already ahead of any other region in all the work
7 that they've completed this far, I think we need to
8 keep going forward.

9 Again, I will restate, we want one
10 successful casino in this region. We don't want to
11 end up with two, as far as I'm concerned.

12 CHAIRMAN CROSBY: Why not?

13 REP. O'CONNELL: I'm not sure that the
14 region could handle two casinos. I'd like to see
15 one built and see how that goes. We have a license
16 for three casinos and I think we should stick with
17 three casinos -- or legislation I mean for three
18 casinos.

19 CHAIRMAN CROSBY: You said earlier
20 that the Legislature would be taking up the compact
21 very soon. Do you have some knowledge about that?

22 REP. O'CONNELL: I do not have a date.
23 I'm not sure I said very soon, but soon yes. I
24 imagine we will be taking it up soon. I do not have

1 a date though.

2 CHAIRMAN CROSBY: Okay. Thank you
3 very much, Representative.

4 REP. O'CONNELL: Thank you.

5 CHAIRMAN CROSBY: Representative
6 Cabral, Representative Antonio Cabral 13th
7 Bristol. Thank you. Not to put pressure on you,
8 but before the members of the Legislature leave, I
9 just wanted to express my appreciation for your
10 brevity. Every single one of you stuck to the time
11 limit or less. I know not an easy task for somebody
12 in your line of work, but I appreciate it. Thank
13 you.

14 MR. CABRAL: Good afternoon. Thank
15 you very much for taking me out of turn. I
16 apologize for the slight delay.

17 This is an extremely important meeting
18 that I didn't want to miss. I have submitted copies
19 of the letters that I submitted electronically to
20 the Commission. Mr. Chairman, thank you, members
21 of the Commission, thank you.

22 This is the second time I write to this
23 Commission, as you know, on this particular issue.
24 And I believe now two years after voting for the 2011

1 Massachusetts Expanded Gaming Act in hopes that it
2 would quickly create jobs in the Commonwealth to
3 urge the Commission to act today to allow Region C
4 potential bidders to join the request for
5 application Phase-1, RFA-1 process currently
6 underway in Region A and B. And to consider
7 proposals from across Massachusetts equally going
8 forward. It's important to have some regional
9 equity here.

10 As you know, the Legislature crafted
11 the Gaming Act to provide tribe that is eligible to
12 pursue gaming under federal law a very brief window
13 to explore their opportunity or opportunities for
14 casino development, because we recognize the
15 substantial hurdles any tribe would face in
16 receiving federal approval to build a casino on
17 nontribal land. And because of the importance we
18 place on insuring that Region C not be left behind
19 exploring casino development opportunities.

20 Today it is so unlikely that the sole
21 remaining tribal applicant could justify the terms
22 of the Gaming Act that it would be irresponsible to
23 drag out this process any longer. As you know, the
24 only possible candidate for a tribal casino under

1 state law is actually a group of Malaysian investors
2 called the Gentry Group who according to several
3 media reports are pursuing their hope of opening a
4 casino in Massachusetts by financing the
5 application of the Mashpee Wampanoag Tribe.

6 The United States Department of
7 Interior has rejected the tribal compact signed by
8 the Commonwealth last year. The Department's
9 reasoning for that rejection strongly suggests that
10 they will reject the revised compact the Governor
11 has proposed as well.

12 If you go back to the original compact
13 that was negotiated under Governor Weld, and it was
14 actually sent to be checked by the BIA, Governor
15 Weld did not even submit that proposal to us or that
16 compact to us to be approved because of the terms
17 which are very similar to the first compact and very
18 similar to the second compact that was just
19 negotiated by the Governor. I believe the BIA will
20 reject the second one.

21 The Legislature is about to begin its
22 annual budget process. It could be many months
23 before the Legislature considers this revised
24 compact. Even if it were to gain federal approval,

1 even if the gaming group and the tribe were to jump
2 all of those hurdles, the application would still
3 face the greatest challenge of all, the requirement
4 that the Department of the Interior take land into
5 trust for the tribe.

6 As Commissioner noted on his December
7 4, 2012 memorandum to the Commission, Mr. McHugh,
8 recent federal court decisions have made this
9 applicant successfully taking successfully land
10 into trust even less likely, now than it was when
11 we be passed the Gaming law. I'm talking about the
12 ruling of the Supreme Court that any abutter to the
13 land can have or will have up to six years to submit
14 a lawsuit.

15 Therefore, it is difficult to imagine
16 how the tribe could be perceived as being close to
17 receiving approval for a casino in Massachusetts.
18 It is imperative that the Commission move
19 immediately to allow Region C to join the rest of
20 the Commonwealth in the ongoing licensing process
21 in order to ensure that Southeastern Massachusetts
22 benefit from the economic development that the rest
23 of the Commonwealth anticipates from a casino
24 development.

1 We in Southeastern Massachusetts begun
2 this discussion of bringing casinos to
3 Massachusetts more than two decades ago. The
4 residents of my city, New Bedford have twice voted
5 to express their desire for casino development.
6 We've had two referendums in the City of New Bedford
7 that passed with substantial overwhelming support.

8 The Massachusetts Legislature passed
9 the Gaming Act because it expected that economic
10 development would quickly follow. I urge the
11 Commission to act today to allow our region to join
12 as the rest of the Commonwealth and investigate
13 casino development opportunities.

14 I think that's imperative. That was
15 the initial reason why we took up this new gaming.
16 It was to allow economic investment both not only
17 in Region A and B but also in Region C.

18 I come from a city, represent the city
19 that has the highest -- The latest unemployment just
20 figures just came out several days back. -- the
21 highest unemployment in the Commonwealth. We need
22 and to let us stay behind or to not keep pace with
23 the other regions in terms of this kind of
24 investment -- This is one of the most important,

1 one-time investments in a long time in the
2 Commonwealth. Potentially \$1 billion investment
3 in any given region.

4 And to let Southeastern Mass. behind is
5 unfair. Let the marketplace work. I believe in
6 free enterprise. Let the marketplace -- Everybody
7 is concerned that we cannot support more than three
8 casinos. Is it really the role of the Commission
9 to make sure we keep and we only have three casinos
10 in Massachusetts? I don't believe it is
11 necessarily the role of the Commission. I think
12 that is one of the desires of those who crafted the
13 original legislation. But let the marketplace
14 really determine that.

15 At some point down the road, if the
16 tribe can build a fourth casino, so be it. As long
17 as they're on sovereign land, I think they have
18 their right. If we as a Commonwealth don't collect
19 a single revenue from that proposal, that's the
20 right thing. Because they will be building on a
21 sovereign nation. Why should a sovereign nation
22 pay to the State of Massachusetts, if that was the
23 case?

24 But, at that point they are going to

1 have to deal with the marketplace, free enterprise.
2 And isn't that we are all about in this country?
3 Allow free enterprise to rule. Let it happen. If
4 a fourth casino or third casino has that opportunity
5 and can compete, let them be. What are we afraid
6 of?

7 What I think is important here is that
8 we in Southeastern Mass. should not be left behind
9 from the rest of the state. We should follow the
10 process at the same time, accompany the other
11 regions, in order for us to have the same
12 opportunity for that kind of investment that Region
13 A and Region B has.

14 I think it's unfair. I know the
15 desires or initially the reasoning for I respect
16 tribal rights. I think they have federal rights.
17 And if they are successful 10 years from now, 15
18 years from now, then they have that ability to do
19 so outside of the process of the Gaming Act. And
20 they should pursue that and I certainly would
21 support that as well. Thank you.

22 CHAIRMAN CROSBY: Thank you very much,
23 Representative. Any questions for the
24 Representative?

1 COMMISSIONER MCHUGH: No. Thank you.

2 CHAIRMAN CROSBY: Thank you, Sir.

3 The Honorable William Flanagan, the Mayor of Fall
4 River. Welcome, your Honor.

5 HON. FLANAGAN: Good afternoon, Mr.
6 Chairman, members of the Commission, let me first
7 welcome you to the City of Fall River and say thank
8 you for giving me the opportunity to give testimony
9 at your hearing.

10 And I would strongly urge this Gaming
11 Commission to end the exclusive rights of the
12 Mashpee Wampanoag in Region C. The longer the
13 Mashpee Wampanoag have exclusivity to a gaming
14 license here in Region C, the less likely there is
15 a casino from opening here in this region. Now let
16 me tell you my thought process on that.

17 Following the news reports, following
18 these Gaming Commission hearings, reviewing the
19 legislation that has been drafted, it appears that
20 Region A is well on their way to getting up and
21 running with opening a casino in that region.

22 Out in Region B you have Worcester,
23 Springfield, Palmer. They're all on their way to
24 having a casino open up in their region too. Go 15

1 minutes to Lincoln, Rhode Island, the State of Rhode
2 Island has passed a gaming bill. Twin Rivers will
3 now have table games. Drive an hour to Mohegan Sun,
4 to Foxwoods, you can go to probably two of the best
5 casinos on the globe. Get in an airplane and fly
6 less than an hour to Atlantic City or go off to Las
7 Vegas, which is a destination location.

8 So, with all of this opportunity that
9 is already out there for gaming, either developing
10 now or already here, the likelihood of a casino
11 coming here to Region C dwindles every day that the
12 Mashpee Wampanoag have exclusive rights.

13 The compact I believe will be passed by
14 the Legislature. And I believe it's going to be
15 adopted by the Bureau of Indian Affairs. But I
16 would ask that you take a look at that compact even
17 though it doesn't really factor into your
18 decision-making, I believe it should. Because the
19 compact, the way it's drafted, further prohibits in
20 my opinion a casino from opening up in this region.

21 If a commercial casino were to open in
22 this region, the profits that the Mashpee Wampanoag
23 would have to give back to the Commonwealth of
24 Massachusetts is zero. So, it would be detrimental

1 for this Commission or for the Commonwealth of
2 Massachusetts to allow a commercial venture in this
3 region because if they were to do so the profit
4 margin dwindles.

5 Another issue that you have to take up
6 is regarding racinos, where to locate them. Under
7 the compact, the opportunity for a racino to come
8 to Southeastern Massachusetts significantly is
9 diminished also, because if a racino were to open
10 here, once again the amount of profit the Mashpee
11 Wampanoag would have to give back to the
12 Commonwealth of Massachusetts once again is
13 decreased. So, that compact is detrimental for
14 gaming to occur in Southeastern Massachusetts for
15 anyone other than the Mashpee Wampanoag.

16 And I wish the Mashpee Wampanoag well.
17 I really do. We have a good relationship together.
18 And I wish them nothing but the best. But they have
19 some major hurdles that they have to overcome. One
20 of them being the Salazar Carcieri decision. Are
21 they going to be able to able to take land into
22 trust? If they are unable to do so, as the Supreme
23 Court of United States of America has indicated,
24 then their casino is not going to be able to move

1 forward because they are not going to be able to have
2 sovereign land.

3 Now the longer they take to get a shovel
4 in the ground, Boston is going to open up their
5 doors, Western Massachusetts is going to open up
6 their doors. Twin Rivers is going to have table
7 games. Foxwoods, Mohegan Sun already exist. Fall
8 River and New Bedford have double-digit
9 unemployment. The people of this region need to
10 get back to work.

11 And when I was an advocate for this
12 gaming legislation, we advocated for this because
13 it was a jobs bill. It was an opportunity to put
14 people back to work. And this part of the region
15 needs that opportunity.

16 People from Fall River, New Bedford and
17 Taunton who worked in the mills and saw their jobs
18 go overseas, and they lost their jobs through no
19 fault of their own want to get back to work. But
20 the jobs simply are not here for them to get back
21 to work.

22 So, I really urge this Commission to
23 open up the process to allow commercial applicants
24 to submit applications. By doing so you create

1 competition, but you increase the likelihood of
2 this region putting a shovel in the ground to
3 construct a casino. And whether it's Taunton, Fall
4 River or New Bedford, wherever it may be, it has to
5 happen here. Because if it does not happen here,
6 the double-digit unemployment will continue to
7 exist and the people of this region will be left
8 behind.

9 So, you have a huge decision to make.
10 And to be quite honest with you, I don't envy the
11 decision you have to make. However, I urge you to
12 make the right one, because the decision you make
13 will have a generational impact on this community.
14 Future generations and the quality of their life
15 will be determined by the vote you take here as
16 Commissioners.

17 And I strongly urge you to make the
18 right vote in deciding in casting your vote. Thank
19 you.

20 CHAIRMAN CROSBY: Thank you, Mayor
21 Flanagan. Questions for the Mayor, anybody?
22 Thank you very much. We appreciate your time.

23 HON. FLANAGAN: Thank you for allowing
24 me to testify.

1 CHAIRMAN CROSBY: The Honorable Tom
2 Hoye, Mayor of Taunton, nice to see you again your
3 Honor.

4 HON. HOYE: Chairman Crosby, members
5 of the Commission, first of all thank you for the
6 opportunity to speak here today.

7 Approximately one year ago, the City of
8 Taunton and the Mashpee Wampanoag Tribe announced
9 they were commencing discussions about the
10 possibility of locating a casino development in our
11 city that would bring much-needed jobs, development
12 and economic opportunity.

13 At that time, we knew that locating a
14 tribal casino in Taunton would be difficult given
15 the significant number of steps that had to be
16 accomplished under Section 91 of the Massachusetts
17 Expanded Gaming Act. Section 91 of the Act granted
18 the Governor and the tribe until July 31, 2012, only
19 five months from when we initially commenced the
20 discussion with the Mashpee Wampanoag tribe to
21 secure all necessary land, enter into a mutually
22 agreed-upon compact, obtain a general court's
23 approval of such a compact, enter into an
24 intergovernmental agreement between the tribe and

1 our city. And obtain approval of both our city
2 council and our residents by way of a referendum.

3 Despite this tight timeframe, through
4 the efforts and hard work of the tribe, the members
5 of my administration and certainly the members of
6 our Taunton City Council and with the affirmation
7 and overwhelming support of our residents, I am
8 pleased and proud to report that all of these steps
9 were accomplished on time, in accordance with the
10 Act, in a true partnership with tribal leadership.

11 Our IGA, our intergovernmental
12 agreement with the tribe protects the city and its
13 residents from actual and potential adverse effects
14 and impacts from the casino project and requires the
15 tribe to make substantial payments to the City in
16 lieu of property taxes to the tune of over \$8 million
17 a year.

18 Further, the IGA provides for local
19 hiring and purchasing preferences, requires that
20 the tribe consult with the city on project siting
21 and design. And calls for the formation of an
22 advisory committee that will allow community input
23 on matters encompassed by our IGA.

24 The tribe has fulfilled its promises

1 made to the City of Taunton, including paying all
2 of the city's expenses incurred for its legal,
3 mitigation and other consultants and have also made
4 a \$1.5 million payment to the City of Taunton.

5 Since entering it into the
6 intergovernmental agreement, the tribe has
7 continued its efforts towards bringing casino
8 development to fruition including negotiating a new
9 gaming compact with Governor Patrick with input
10 from the Bureau of Indian Affairs, completing a
11 draft of its environmental impact report required
12 under the National Environmental Protection Act.
13 And further developing and refining its
14 architectural design and construction plans.

15 Additionally, the tribe has taken
16 significant steps towards having land on which the
17 casino will be located being taken into trust by the
18 US Department of the Interior.

19 As you know, it has been mentioned
20 today, the land into trust process is complex and
21 cumbersome. The tribe however, is making
22 substantial progress.

23 By way of background, my legal advisors
24 have informed me that in order for the tribe to

1 conduct gaming on the land in Taunton, the tribe
2 must satisfy two criteria, two legal criteria. To
3 have land deemed to be an initial reservation under
4 Indian Gaming Regulatory Act or IGRA. And two,
5 have land taken into trust under the Indian
6 Reorganization Act.

7 The first criteria has been satisfied.
8 On December 31, 2012, the tribe received a letter
9 from Kevin Washburn, Assistant Secretary of Indian
10 Affairs of the Department of the Interior
11 announcing that the land qualifies as an initial
12 reservation under IGRA.

13 With respect to the second criteria,
14 Mr. Washburn's letter indicates that the
15 Department of Interior is actively reviewing the
16 tribe's application. In fact, just yesterday, the
17 Solicitor of the Interior confirmed in writing that
18 the Department had made positive land in trust
19 determination in the aftermath of the Carcieri
20 decision. And the Mashpee application has been
21 given top priority.

22 Once the tribe satisfies the second
23 criteria, my legal advisors have advised that the
24 process for land into trust becomes procedural in

1 nature. Therefore, to my knowledge there is
2 nothing before the Commission today that could
3 reasonably be expected to lead the Commission to
4 conclude that the tribe will not have its land taken
5 into trust by the US Department of the Interior.

6 As such, we respectfully request that
7 this Commission not commence the process of
8 soliciting bids for commercial casinos in Region C.
9 To open Region C now may have adverse and unintended
10 consequences.

11 First, we question whether any casino
12 bidder will be willing to submit a proposal for a
13 casino in Region C while the tribe is successfully
14 continuing with its land in trust, especially that
15 any casino bidder would be required to pay a
16 nonrefundable \$400,000 application fee, but never
17 have the opportunity to obtain a Category 1 license.

18 Additionally, based on a newspaper
19 article dated August 26, 2011, which the article
20 comments on the introduction of the Massachusetts
21 Legislature of the Gaming Expansion bill, including
22 the tribe's rights in Region C, we believe the
23 Legislature intended to do to grant the tribe
24 exclusivity in Region C for so long as the tribe

1 satisfied the requirements of Section 91 of the Act,
2 which as I stated earlier, it did.

3 And so long as the tribe is
4 successfully pursuing its land to trust
5 application, which it is, we believe the
6 Legislature intended this exclusivity for two
7 reasons.

8 One, so that the Commonwealth could
9 limit to three the total number of resort styled
10 casinos in the state. And two, so that the
11 Commonwealth could grant a meaningful concession to
12 the tribe to support its payment of the portion of
13 its gaming revenues to the Commonwealth under the
14 gaming compact.

15 Specifically, with the legislation of
16 the casinos in the Commonwealth, the Legislature
17 recognized that the tribe would be eligible to build
18 a casino of its own without state approval using its
19 authority under IGRA, pursuant to which the tribe
20 could acquire land into trust and open a Class 2
21 gaming facility without obtaining a state compact.

22 If that were to happen, the Legislature
23 realized that there could be the possibility of a
24 fourth resort casino in the Commonwealth, three

1 commercials was well as the tribal casino, and the
2 Commonwealth would not have any ability to receive
3 payments from the tribe.

4 We note that should the Commission
5 determine to solicit bids from casino developers in
6 Region C now while the tribe continues to proceed
7 with its land in trust application and while it
8 looks like such an application will be successful,
9 this could ultimately result in the occurrence of
10 the exact things the Legislature was trying to
11 protect against.

12 That is there could be two casinos, one
13 tribal and one commercial, located here in Region
14 C. And if there were two casinos in Region C, the
15 tribe would lose exclusivity in the region. The
16 Commonwealth may not be able to provide sufficient
17 meaningful concessions to the tribe in order to
18 support the Commonwealth's receipt of payments from
19 the tribe under the compact.

20 In fact, it is evidenced by the
21 language in the revised compact. The revised
22 compact provides that if there was another resort
23 casino in Region C, the tribe makes no payments to
24 the Commonwealth.

1 As an aside, my consultants tell me
2 that if there were two resort casinos in Region C,
3 the Commonwealth's revenues would be less than
4 expected to be received under the revised compact
5 because they doubt the region can support two resort
6 casinos, a travel casino and a commercial casino.

7 Based on the forth going, we believe it
8 would be unreasonable and unjust to all parties, the
9 tribe, the City of Taunton and even to prospective
10 Region C commercial casino bidders if the casino
11 (SIC) were to open Region C now. If in the future
12 different facts should come to light leading the
13 Commission to determine that the tribe's land will
14 not be taken into trust, we respectfully submit at
15 such time the Commission may revisit this policy
16 decision.

17 I certainly thank you for your time
18 here this afternoon.

19 CHAIRMAN CROSBY: Thank you, Mr.
20 Mayor.

21 HON. HOYE: You are very welcome.

22 COMMISSIONER MCHUGH: Mr. Mayor, you
23 are the second person today to talk about the letter
24 from the Solicitor saying that --

1 COMMISSIONER MCHUGH: We can
2 certainly forward you a copy of that letter. I
3 don't have it on me.

4 CHAIRMAN CROSBY: What were the words?
5 I was going to ask that too. What were the words
6 that you quoted from the Solicitor?

7 HON. HOYE: He confirmed in writing
8 that the Department has made positive fee to trust
9 determinations in the aftermath of the Carcieri
10 decision and the Mashpee's application has top
11 priority. I believe the Chairman has a copy of it
12 right here that I could certainly share with you.

13 CHAIRMAN CROSBY: Okay. That would
14 be helpful. You also talked about a newspaper
15 article sometime in 2011 that said something about
16 exclusivity? What was that?

17 HON. HOYE: I can certainly forward
18 that to you as well. But it talked about the
19 Legislature intended to grant the tribe exclusivity
20 in Region C as so long as the tribe satisfied its
21 requirements under section 91 of the Act, which it
22 did. And so long as pursuing the land into trust,
23 which is certainly is.

24 I understand the testimony from the

1 area legislators, Mayor Flanagan. Everybody wants
2 to see a resort style casino in this region
3 especially because we are an area of manufacturing.
4 This area was built on manufacturing and those jobs
5 simply do not exist anymore.

6 And this resort casino opportunity
7 will go a long way in creating economic opportunity.
8 But it is certainly my belief that as a matter of
9 fact the Mashpee Wampanoag tribe is much further
10 along than any of the commercial interests in any
11 region of the state at this point. So, I think to
12 kind of stop that process right now would be a
13 mistake for this region. I sincerely believe that.

14 CHAIRMAN CROSBY: As you know, there's
15 considerable difference of opinion about whether
16 there is exclusivity in the Act or not in the way
17 you describe it. And a newspaper article isn't
18 going to be dispositive but I'd still be interested
19 in seeing it.

20 HON. HOYE: I can certainly get you a
21 copy of that and forward it up.

22 CHAIRMAN CROSBY: Anything else for
23 the Mayor? Thank you.

24 HON. HOYE: Again, thank you all very

1 much for your time here today.

2 CHAIRMAN CROSBY: We are going to take
3 a brief break. And we will be back as close to five
4 minutes from now as possible.

5
6 (A recess was taken)

7
8 COMMISSIONER STEBBINS: I am going to
9 reconvene at six o'clock our meeting. We've lost
10 a few people in front, if you all want to -- those
11 of you who are here want to move to the front, you'd
12 be welcome.

13 We have another speaker. He snuck in.
14 We didn't have him registered, but we are respectful
15 of his seniority and political might, but also as
16 it turns out, one of our other speakers has decided
17 that they are not going to come. So, we have an open
18 space.

19 So, Senator Marc Pacheco we welcome to
20 our Commission meeting. Please join us.

21 SEN. PACHECO: Thank you very, very
22 much, Mr. Chairman, and through you to the members
23 of the Gaming Commission. It's an honor to be with
24 you this evening. I wish I could say the ride down

1 from Boston was without any problem. But
2 hopefully, some day in the future maybe with the
3 help of a casino in this region, we'll actually have
4 commuter rail service. So, we'll see what happens.

5 I am here tonight because of the
6 elephant in the room question that is out there that
7 all of you are needing necessarily to deal with in
8 terms of this particular zone, this particular
9 region of our state.

10 For the record, and for those of you who
11 have not had the opportunity -- that we have not have
12 the opportunity to meet before, I have represented
13 in this region in the Massachusetts State Senate and
14 House of Representatives in combined service this
15 year of 25 years. My very first meeting on what was
16 then called the Government Regulations Committee as
17 a House member, we talked about the possibility of
18 expanded gaming in the Commonwealth. So, that's
19 how long we in the Legislature, since I've been
20 there have been dealing with it. And it went on
21 years before that.

22 Now we all know what has happened.
23 Massachusetts Legislature has passed a gaming bill,
24 three resort styled casinos, one with exclusivity

1 as a part of this region and one slot parlor. And
2 we charged a Commission, all of you, with the
3 responsibility to try to make sure the best market
4 and the best opportunities for the citizens of
5 Massachusetts actually happen to be the outcome.
6 It's about jobs. It's about creating jobs.
7 That's why the Legislature did what it did.

8 I'm sure you've heard testimony from
9 some of my colleagues and others in different
10 regions of Southeastern Massachusetts that may feel
11 a little bit differently about when you should
12 utilize provisions that you have based upon what we
13 did in the Legislature to open the region to a
14 commercial based casino.

15 And we gave the discretion to this
16 Commission because this is the first time we've been
17 doing this. We've talked about it for 25 years, at
18 least since I've been there. We've talked about it
19 many more years prior to that. And not knowing what
20 the circumstances would be, not knowing what would
21 take place relative to even communities deciding to
22 vote for or not vote for a casino in their particular
23 community. All of these things all of these
24 hurdles need to be accomplished.

1 We gave that trust to the Commission to
2 make sure that whatever happened at the end of the
3 day was not only in the best interest of the region
4 but in the best interest of the Commonwealth of
5 Massachusetts as a whole.

6 So, you may hear, and I'm sure you have,
7 different opinions about what should happen and
8 when it should happen. Some would like to pull the
9 trigger right now and say open the door for a
10 commercial based casino. Well, I'm sure you're
11 familiar with the new language that we will be
12 voting on very soon in the Massachusetts
13 Legislature in terms of the new compact. And what
14 would happen if that compact passes the Legislature
15 and we have a commercial casino in the region and
16 we have a Native American casino in the region,
17 under that compact, the state does not receive any
18 additional tax revenue.

19 It's the same thing that would happen,
20 essentially, if we went forward with a commercial
21 based casino and at the federal level the land is
22 taken into trust and they can go forward and provide
23 the same options that are allowed under state law.

24 So, I'm really here to ask you to give

1 this due time and consideration before we move down
2 the road and find out that we've all made a big
3 mistake. If we wanted to put a time certain in the
4 legislation, we would have done so. If we wanted
5 to give it only a year, we would have done that.
6 Legislative intent as somebody who has worked on
7 this legislation and pieces of legislation for a
8 long time, it's about jobs.

9 So, let me summarize and conclude with
10 this statement. The naysayers around gaming said
11 there would never be a vote passed in a location for
12 a Native American casino in our region. The vote
13 passed overwhelmingly in the City of Taunton. They
14 said there would not be a compact negotiated and
15 approved by the Massachusetts Legislature. The
16 compact was negotiated and approved by the
17 Massachusetts Legislature. You know what happened
18 at the federal level. They remanded it back to the
19 state and said go back to the table. It's not
20 exactly what we want to approve.

21 The Governor and the tribe have
22 renegotiated a new compact that I assume we will be
23 seeing in the Legislature sometime shortly. And I
24 believe we will be approving that compact.

1 The naysayers said we would not see a
2 compact at the local level approved. It's done.
3 The Mayor was here and gave you his opinion. Next
4 we hear at the federal level that there is no way
5 that we're going to see land into trust. The feds.
6 have informed the Indian Tribe to go forward with
7 a proposal and have remanded it to the regional
8 level to begin the process. And you all heard
9 tonight about the letter from the Solicitor talking
10 about all of the acreage that's been put into trust
11 since the Carcieri decision.

12 So, all of these things that were never
13 supposed to happen have happened. There is no
14 other proposal so far in the Commonwealth of
15 Massachusetts that has come as far as this proposal
16 has. So, I would ask you to give it some more time
17 before you open it up to a commercial based casino,
18 which by the way let me just say this as I finish,
19 I was one of the legislators that were for a number
20 of casinos. I was not necessarily for just three
21 casinos. I would have had many more. In
22 particular, the slot parlors, I thought the two
23 existing license holders should have automatically
24 been granted the licenses.

1 So, I am not looking at it from the
2 perspective of market necessarily, although that
3 was the intent of the legislation. If you speak to
4 people like Stanley Rosenberg, the majority leader,
5 who was the point person for the Legislature and the
6 Senate on this issue, he studied this very
7 carefully. He went all around the country. He
8 looked at all of the options. And he felt that the
9 best market benefit to the Commonwealth as a whole
10 would be what we sent you to be implemented.

11 One final point on the percentages.
12 We know that the new percentages are 21, 17, 15, zero
13 depending upon what takes place, right? I will
14 submit to you and it's evidenced by what is taking
15 place in Southeastern Massachusetts, Cape Cod and
16 the Islands, this region of the state before the
17 recession hit was the fastest growing region in the
18 northeast part of the United States of America.

19 And I will submit as the economy comes
20 back and it's slowly doing that, we are going to
21 start seeing the housing market back in this region.
22 And in particular, if we have this type of resort
23 facility in this region, even a 15 percent of the
24 take, I would wager will bring you in total dollars

1 that could be greater than what Western Mass. would
2 bring in.

3 So, I would ask you to consider those
4 factors before you make a final decision here. I
5 thank you very much for listening to me. I'm simply
6 asking that we wait some time before we pull that
7 trigger, because it could actually kill the intent
8 of the bill and hurt the market share within the
9 region. I'll be glad to answer any questions that
10 you may have.

11 CHAIRMAN CROSBY: Thank you, Senator.
12 Any questions for Senator Pacheco?

13 When the Legislature takes up the
14 compact, you could address this issue for us. The
15 Legislature could tell us how they want us to handle
16 this issue. If you think your colleagues would we
17 be willing to do that, we'd look forward to their
18 direction on this if they want to give it to us.

19 SEN. PACHECO: And the good thing, Mr.
20 Chairman, and that's always been available to us.
21 And you know the legislative process very well.
22 And we've had the opportunity to work together on
23 some issues when you were at A&F. And you know full
24 well that we could six months from now, a year from

1 now, in a budget, change the date and direction.

2 So, we certainly have that option.

3 And I would think that absent the Legislature taking
4 that move, because when and if we did, obviously we
5 would have changed our position on this, right? We
6 would have said it is now our intent to do A, B or
7 C. You're only hearing that option come forth,
8 quite frankly, from some people who didn't support
9 the bill in the first place.

10 So, I ask you to look at the intent that
11 was sent you, and to please go forward with what that
12 intent really was until we see evidence that this
13 proposal is not going forward. That's not the
14 evidence that we have so far.

15 Evidence is ballot question passed.
16 Local question passed. Local compact done. State
17 compact about to be redone. Federal Government
18 indicating a willingness to move forward on this
19 including providing evidence as of tonight that the
20 Solicitor is indicated that there is plenty of land
21 that has been put into trust since this so-called
22 Carcieri decision. Everybody is saying it is dead
23 because of that. Well, that's not the evidence.
24 Thank you.

1 CHAIRMAN CROSBY: All set. Thank you
2 very much, Senator.

3 David Alves, Councilor At-Large, City
4 of New Bedford.

5 MR. ALVES: Mr. Chairman,
6 Commissioners, I want to say thank you for the
7 opportunity to appear. With me is a colleague from
8 the city council of New Bedford, Councilor Joseph
9 Lopes.

10 Just for a little highlight, I am a City
11 Councilor At-Large in the City of New Bedford,
12 Chairman of the city's gaming committee. And I've
13 been a City Councilor in the City of New Bedford for
14 20 out of the past 22 years. And I'm here to seek
15 support for opening gaming, opening the region to
16 commercial bidders. With all due respect to
17 Senator Pacheco who spoke before me, he's very
18 articulate, but I hope he respects the fact that
19 respectfully I disagree.

20 Obviously, his pitch, his comments
21 were geared because the casino that is proposed by
22 the tribe is in his district. He's looking to
23 provide job opportunities in his district, as he
24 should.

1 I am a City Councilor for the City of
2 New Bedford. I represent New Bedford and hopefully
3 the Greater New Bedford area in my conversation with
4 you today. And I am here to look for, to develop
5 jobs in my region as any mayor you heard today, any
6 councilor, any rep. would do. That's what we're
7 elected for. That's what we're elected to do.

8 I probably say that New Bedford,
9 Massachusetts has been a leader in gaming. It's
10 not new to us. Let me assure you that the comments
11 I make today are not directed or with any disrespect
12 to the tribe.

13 In fact, I've had the pleasure of
14 supporting the first major the effort in the
15 Commonwealth of Massachusetts to introduce tribal
16 gaming. It was proposed in our city about 10 years
17 ago. I can remember standing on the front steps of
18 City Hall with the Mayor of New Bedford, with labor
19 organizations, southeast building trades from
20 throughout the area not just New Bedford, but the
21 southeast region because we were on the one yard
22 line. And the Governor at that time also supported
23 gaming, but at the time legalized gaming was not
24 something that the Legislature had an appetite for.

1 Well, now about 10 or 11 years later the
2 state Legislature, the state, the Governor has an
3 appetite for gaming. And unfortunately, I am here
4 to argue because we don't have a seat at the table
5 this time. The city is being locked out and it's
6 unfortunate. I'm not here to waste your time or
7 anyone else's time. But I thought a lot about the
8 reality.

9 I've learned a lot about the potential
10 for Indian casinos after making three trips,
11 personal trips to the Bureau of Indian Affairs in
12 light of my relationship and responsibility for
13 gaming as it appears in the city or proposed in the
14 City of New Bedford.

15 For the record, I am not opposed to
16 pursuing the opportunity to the tribe pursuing the
17 opportunity to develop gaming in the future. But
18 as a New Bedford City Councilor, I'm here to fight
19 for the opportunity for both economic and
20 employment opportunities in my community.

21 May I say that I also represent a number
22 of tribal members that live in my community, a
23 number of workers from construction unions that
24 live in my community, a number of people from

1 southeast building trades that live in my
2 community. And as an elected official, I am here
3 to argue, to ask on their behalf for your
4 consideration.

5 As such, I'm here to request that the
6 Commission not lock my community or any community
7 in Area C from the opportunity to open fair
8 competition to apply for a license. I do so knowing
9 that there is no guarantee that a developer in my
10 community or any other community in Region C would
11 be successful but open and fair opportunity to apply
12 is what I'm asking for.

13 As I noted, New Bedford is not a
14 Johnny-come-lately to the arena. Our community
15 has taken numerous referendum votes on the
16 placement of a casino in New Bedford. And they've
17 passed with majority support.

18 New Bedford is a city that's been
19 considered by a number of developers for a casino
20 over the past few years. New Bedford realizes the
21 impact a casino would have in addressing our high
22 unemployment, which currently puts us about or
23 higher I should say in unemployment in the
24 Commonwealth of Massachusetts. And the impact it

1 will happen on potential economic development for
2 the City of New Bedford and for the area is what's
3 important here today.

4 One of the most pressing areas that
5 would be addressed would be a serious concern for an
6 environmental issue in our area.

7 It was said earlier that no developer
8 would consider opening a casino in our region. But
9 we have developers that have considered. In fact,
10 we have a developer who has considered and
11 considering a casino development in our area who
12 spent over \$5 million already in environmental
13 studies, environmental impact, architectural
14 studies. And they were doing it before the compact
15 was signed. They were doing it in light of the fact
16 that casinos were proposed.

17 So, we do have people who are
18 interested in casino development who have put their
19 money where their mouth is and have developed a
20 package that I think is more than competitive and
21 something that I would appreciate and feel you
22 should consider.

23 I could fight for such an opportunity
24 to save my community. And I can't fight any harder

1 to come before you. It was said that the compact
2 is signed. There's no question about it. I think
3 the Governor is committed to providing the tribe
4 with an opportunity. Many of us here that you've
5 heard this morning are also committed to ensuring
6 that opportunity isn't restricted, isn't limited,
7 isn't something that's discriminatory.

8 We want it open, above-board and fair
9 for everyone. Let the American process, let the
10 cards fall where they may.

11 The issue isn't the compact. The
12 issue is whether or not Carcieri will be changed.
13 I note to you that I've been to the Bureau of Indian
14 Affairs at least a five- to a seven-year period
15 without any opposition, without any negative
16 comments from community, negative return from
17 community. It is an important issue. Without any
18 legislation filed against it.

19 As a dedicated City Councilor and
20 elected representative of my city, I have a
21 responsibility to my constituents to advocate for
22 fair, open and nonrestrictive bidding. A process
23 to ensure that everyone is treated fairly in this
24 process. And as such, I'm appealing to the

1 Commission to open the application to as many and
2 all applicants. Once gaming contracts are offered
3 in this state, let the cards fall where they may as
4 I've noted earlier.

5 Any tribe in the state can apply. But
6 the fate of my community's employment, economic
7 development opportunities and those of other cities
8 and towns in Region C are in your hands. I ask that
9 you give communities and my constituents, give us
10 the opportunity to apply, to apply for jobs, to
11 apply for economic development, to save our
12 communities.

13 A comment was made earlier in reference
14 to the Indian Tribe having a leg up. I think
15 unfortunately they have more than a leg up.
16 They're given a restrictive preference that is for
17 many of us are considered unfair and unwarranted.
18 Continue to install the benefits of the tribe will
19 cost the region a potential revenue stream and jobs
20 for years to come. Waiting for the Bureau of Indian
21 Affairs and the pending potential litigation to
22 clear way for tribal development in the region will
23 only delay construction for years.

24 A private developer has come forth, I

1 think, in not only our area, but in a number of
2 developers throughout the area seeking to bid. I
3 know that the tribe has always had the opportunity
4 to apply -- will always have the opportunity to
5 apply in the future. Open bidding to the
6 commercial bidders is a win/win situation.

7 It's been noted that if they open a
8 casino and the Indians or the tribe looks to open
9 a casino that there's not enough market share.
10 When I look at the fact that the two richest casinos
11 in the world, Foxwoods and Mohegan Sun, I think are
12 less than seven to 10 miles apart, that's less than
13 the distance between New Bedford and Taunton --
14 that's greater than the distance between New
15 Bedford and Taunton.

16 The market will do based on
17 competition, based on the quality of service they
18 provide. You have the opportunity to open up
19 Region C to commercial bidders. You have the
20 ability to open and make it a fair and open process
21 for everyone.

22 I pray that you will use that to benefit
23 the region and not just the tribe. And I appreciate
24 the opportunity to appear before you and express the

1 concerns that I have, my City Council have and the
2 colleagues on the Council. We have submitted a
3 letter. All of the City Councilors have signed it
4 accordingly. It should be in your packet.

5 We are serious about opening it up
6 because we realize that our region, as the Senator
7 said, was doing well up until the economy fell flat.
8 We need something to boost it, you have the
9 mechanism to do it. Not just for the tribe, but for
10 all of Southeastern Massachusetts. I appreciate
11 the opportunity. Thank you. Any questions?

12 CHAIRMAN CROSBY: Thank you,
13 Councilor Alves, Councilor Lopes. Any questions
14 for the City Councilor or Councilors? Thank you
15 very much.

16 MR. ALVES: Thank you. I appreciate
17 the opportunity.

18 CHAIRMAN CROSBY: Mr. Allin Frawley,
19 Vice Chair of Middleborough Board of Selectmen.
20 Welcome.

21 MR. FRAWLEY: Thank you. Good
22 afternoon. I am here today to ask you to please
23 consider opening Region C to commercial bids in a
24 parallel track as the tribe for a gaming license.

1 The Board of Selectmen of
2 Middleborough have voted in support of such an
3 action. Middleborough has been dealing with the
4 issue of tribal gaming for over six years now,
5 longer than any other municipality in the state.
6 We have learned quite a bit about this tribe and
7 tribal gaming on a local, state and federal level
8 and most of it the hard way.

9 In 2007, Middleborough negotiated an
10 intergovernmental agreement with the tribe and
11 passed a local referendum vote in support of a
12 tribal casino by almost two to one. Shortly after,
13 the tribe submitted their first land into trust
14 application into the BIA. That was in the fall of
15 2007. In a notice dated January 19, 2012 that
16 application was returned incomplete and no longer
17 under consideration, almost five years later.

18 The tribe never notified its tribal
19 members of that decision nor did they notify the
20 Town of Middleborough. In the year 2009, a Supreme
21 Court Carcieri versus Salazar limited the
22 Department of the Interior's authority to take land
23 into trust to tribes that were recognized and under
24 federal jurisdiction on June 1, 1934. On June 1,

1 1934, the Mashpee Wampanoag Tribe was neither
2 recognized by nor under the jurisdiction of the
3 federal government.

4 I'd like to read a letter to you that
5 came from the case of the Mashpee Wampanoag versus
6 New Seabury Corporation. They were suing the State
7 of Massachusetts for the return of their native
8 lands.

9 CHAIRMAN CROSBY: When was this?

10 MR. FRAWLEY: This letter is dated
11 October 2, 1937 from the Department of the Interior.
12 It is addressed to Chief Wildhorse of the Mashpee
13 Wampanoag Tribe.

14 Mr. Wildhorse, Box 17, Mashpee,
15 Massachusetts. Dear Mr. Wildhorse, this will
16 acknowledge your letter of August 29 in which you
17 discussed the status of Indians in Massachusetts.

18 As explained in my letter of December
19 31, 1963 (SIC), the Indian office can offer no
20 assistance to Indians not members of a tribe under
21 federal jurisdiction. I can hold out no greater
22 encouragement than that contained in our letter
23 dated December 31, 1963 (SIC). Your people are the
24 same status as other citizens of the State of

1 Massachusetts and must look to the local authority
2 for assistance.

3 COMMISSIONER MCHUGH: That was 1936.

4 MR. FRAWLEY: 1936.

5 CHAIRMAN CROSBY: You said '63.

6 MR. FRAWLEY: I'm sorry, 1936. On
7 June 18, 2012 the Match-E-Be-Nash-She-Wish Band of
8 Potawatomi Indians v. Patchak. The court
9 announced that Mr. Patchak's challenge was not
10 barred by the Indian's land exception to the waiver
11 of immunity. And that Mr. Patchak an individual,
12 non-Indian landowner is within the zone of
13 interest.

14 What this translates to is the tribe is
15 not protected from lawsuits arising from abutters
16 of the proposed land in trust parcels. In the 1834
17 Final Trade and Intercourse Act, it states there is
18 no Indian country east of the Mississippi River.
19 The original 13 colonies entered into the Union with
20 all of their land under criminal, civil and taxing
21 authority of the Commonwealth or state. There are
22 no federal public lands in the original 13 colonies
23 and none can be established by the Department of the
24 Interior.

1 The Supreme Court of the United States
2 ruled in 2009, Hawaii versus the Office of Hawaiian
3 Affairs that Congress is without the authority to
4 reserve or convey a state sovereign land.
5 Accordingly, the only land subject to the authority
6 of Congress and the Secretary of the Interior
7 pursuant to the Indian Reorganization Act would be
8 federally reserved public domain lands or existing
9 federal reservations. No such lands exist in
10 Massachusetts.

11 Now, if I may switch gears a little bit.
12 Not only have I been researching tribal gaming
13 policy, laws and practices, but I've been reading
14 up a little bit on this Commission as well. And
15 Commissioner McHugh, you should get a raise.

16 COMMISSIONER MCHUGH: Oh, I agree with
17 that.

18 MR. FRAWLEY: As part of your mission
19 statement you will strive to ensure that the
20 Commission in its decision-making and regulatory
21 systems engender the confidence of the public and
22 participants. And that they provide the greatest
23 possible economic development, benefits and
24 revenues to the people of the Commonwealth to reduce

1 the maximum extent possible the potentially
2 negative or unintended consequences of the new
3 legislation. And to allow for appropriate returns
4 on investment for gaming providers that assures the
5 operation of casino resorts of the highest quality.

6 Under the section of tribal gaming, the
7 Commission states that the law acknowledges the
8 legal and political uncertainty at a federal level
9 surrounding Native American gaming by federally
10 recognized Native American tribes in the
11 Commonwealth while ensuring that its license
12 application in the Southeast Region can move
13 forward in accordance with a predetermined
14 timetable. Let me read that again, while ensuring
15 that a license application in the Southeast Region
16 can move forward in accordance with a predetermined
17 timetable.

18 Now as a selectman in Middleborough and
19 having a tribe pursue yet its third potential gaming
20 location in Taunton, it was with great interest that
21 I read the section on surrounding communities. A
22 surrounding community is being defined as a
23 municipality in proximity to a host community that
24 the Commission determines experiences or is likely

1 to experience impacts from the development or
2 operation of a gaming establishment.

3 Has the Commission determined the
4 surrounding communities of this proposed project?

5 I am certain Middleborough will qualify as we have
6 already submitted statements at two different
7 environmental impact statement hearings.

8 Regarding surrounding communities,
9 your website also provides that under the Gaming
10 Act, gaming applicants are required to submit
11 signed agreements between the surrounding
12 community and the applicants setting forth the
13 conditions to have a gaming establishment located
14 in the proximity to the surrounding communities and
15 documentation of public outreach to those
16 surrounding communities.

17 This is not a possibility for the
18 surrounding communities in Region C who are trying
19 to deal with the tribal project. In fact, during
20 the negotiations of the first and second still
21 unsigned, still unratified state tribal compact,
22 not one community was contacted regarding the
23 potential impacts. We have had no input
24 whatsoever.

1 Now, as I read your mission statement,
2 and I do believe you are doing your best to uphold
3 it, I am confused how different the tribal project
4 is being allowed to treat surrounding communities.
5 I've also read up on your proposed timelines for
6 both Region A and B and the slots parlor. You've
7 already accepted 11 gaming applications at \$400,000
8 apiece.

9 Region C did not generate any funds as
10 part of that process. License fees are \$85 million
11 dollars apiece. Region C will not generate any of
12 those funds either.

13 A tribal casino enterprise will not
14 have to go through any of the background checks the
15 other applicants are subjected to, even though the
16 former tribal Chairman Glen Marshall was only
17 recently released from prison for his criminal
18 actions in pursuit of a tribal casino.

19 As this Commission continues with this
20 undertaken, please take into consideration the
21 numerous hurdles this tribe will face in their
22 pursuit. Keep in mind the significant
23 opportunities for the land in trust acquisition to
24 fail, also to be encumbered by numerous and valid

1 and time-consuming lawsuits. Keep in mind that as
2 of today, this tribe still eight months after the
3 initial deadline, does not have a valid state tribal
4 compact.

5 They are no closer to land in trust
6 today than they were in January 2012 when their
7 first application was rejected almost five years
8 after they first submitted it.

9 Southeastern Mass. cannot afford to
10 wait for this tribe any longer. Please open this
11 region up to commercial bids. I am not sitting here
12 asking you to stop this process for licensing a
13 gaming facility in Southeastern Massachusetts.

14 I am sitting here asking you to do your
15 best to adhere to your mission statement, which is
16 to strive to ensure that its decision-making and
17 regulatory systems engender the confidence of the
18 public and participants. And that they provide the
19 greatest possible economic development benefits
20 and revenues to the people of the Commonwealth. To
21 reduce to the maximum extent possible the
22 potentially negative or unintended consequences of
23 the new legislation. And to allow for appropriate
24 return on investment for the gaming providers.

1 That assures the operation of casino resorts of the
2 highest quality. Thank you.

3 CHAIRMAN CROSBY: Thank you,
4 Selectman Frawley. Any questions for the
5 Selectman?

6 COMMISSIONER MCHUGH: No. I think
7 that covered it. Thank you very much.

8 CHAIRMAN CROSBY: Thank you for
9 reading our mission statement.

10 Kerri Babin, President and CEO of the
11 Taunton Area Chamber, welcome.

12 MS. BABIN: Thank you. I will be
13 extremely brief. Good afternoon, Mr. Chairman and
14 members of the Commission. My name is Kerri Babin
15 and I am the President of the Taunton Area Chamber
16 of Commerce. I am here today representing over 500
17 member businesses in the Greater Taunton Region.
18 The Chamber is here today not to advocate for or
19 against gaming but rather for what the proposals
20 that would establish gaming would bring to our
21 region.

22 As a matter of record, the Taunton Area
23 Chamber of Commerce represents both the City of
24 Taunton and the Town of Raynham, proposed locations

1 for gaming facility. The Chamber believes that
2 both of these proposals will bring much-needed jobs
3 both temporary construction jobs and permanent
4 operating jobs to a region that is sorely in need.

5 When considering all proposals, the
6 Chamber hopes that the Commission will consider not
7 only the benefits to the host community but also the
8 contiguous communities. Jobs in our opinion must
9 be at the forefront of any proposal in your decision
10 to award licenses.

11 Thank you. I was brief, huh?

12 CHAIRMAN CROSBY: Thank you very much,
13 any questions?

14 COMMISSIONER MCHUGH: You were a model
15 of brevity. Thank you very much.

16 CHAIRMAN CROSBY: Selectman Frawley,
17 have you submitted -- Have those comments been
18 submitted to us, the letters that you quote that you
19 have there and so forth?

20 MR. FRAWLEY: I will be submitting a
21 full packet to the Commission for you.

22 CHAIRMAN CROSBY: Okay. Thank you.
23 I don't have a name, but I have KG Urban down next.
24 Do we have a spokesperson? Welcome.

1 MS. SAJER: Chairman Crosby, members
2 of the Commission. I am very pleased to be here to
3 represent my client, KG Urban Enterprises. My name
4 is Marsha Sajer. I'm with the law firm of K&L
5 Gates.

6 And while it's unusual I think in these
7 proceedings to have a lawyer attending, my two
8 principles of KG Urban Enterprise are here, Barry
9 Gosin and Andrew Stern. They thought it was of such
10 importance that I be made available to the
11 Commission in case there are questions about the
12 memorandum that I have drafted.

13 My experiences is in tribal gaming and
14 land in trust. My role is typically to advise state
15 governments, both the legislative and executive
16 branches of state governments on these issues
17 because as you're learning, this is not an easy area
18 of the law. And frequently some education is
19 required. My clients have made me available in the
20 past to various members of the general court while
21 these bills were under consideration.

22 My client Andrew Stern is also a
23 lawyer. And he believes that you should always
24 start with your top principles, which would be the

1 United States Constitution. And the Constitution
2 contains what is referred to as the Indian Commerce
3 clause. Article 1 section 8 clause 3 authorizes
4 Congress to regulate commerce with tribes. And
5 pursuant to that authority, Congress has acted in
6 two respects that are directly relevant to your
7 consideration.

8 First, Congress enacted a statute
9 called the Indian Reorganization Act that allows
10 the Secretary of the Interior to take land in trust
11 for tribes.

12 Secondly, the Congress also enacted
13 the Indian Gaming Regulatory Act, which sets out the
14 requirements for the conduct of tribal gaming on
15 tribal lands.

16 I want to be clear that when the federal
17 government acts under the Indian Gaming Regulatory
18 Act, they're not handing out the same sort of
19 licenses as you'll be asked to do in these various
20 regions. There's no such thing as a federal Indian
21 gaming license but rather it is part of a process
22 involving the tripartite federal, state and tribes
23 in putting together an arrangement that allow for
24 tribal gaming on tribal lands.

1 And why are the tribal lands so
2 important? You need to understand the tribal
3 gaming is not commercial gaming. It is government
4 gaming. It's tribal government gaming the purpose
5 of which is to be an economic engine for the tribes
6 to strengthen the government and allow the tribal
7 governments to provide for the members of the
8 tribes. It's a different species.

9 States have no authority except for the
10 limited role that's provided in tribal state
11 compacts that are negotiated as the basis for tribal
12 gaming on tribal lands within the state in which
13 those reservations are located.

14 Now you have heard from many speakers
15 and I don't mean to belabor the point, but in 2009,
16 the Supreme Court in its Carcieri opinion upended
17 decades of Interior practice by interpreting the
18 Indian Reorganization Act, the statute that allows
19 the Secretary to take land into trust, and holding
20 that the Secretary of the Interior has authority to
21 take land into trust only for the federally
22 recognized tribes under federal jurisdiction as of
23 1934. That was the year that the --

24 CHAIRMAN CROSBY: Could I interrupt

1 you there, because this is a question that I wanted
2 to raise from your letter.

3 You are using the words recognized and
4 under federal jurisdiction as if they are
5 interchangeable or are they two clauses? Explain
6 to me what you think Carcieri actually said.

7 MS. SAJER: Chairman Crosby, that is a
8 very astute question. Because the court was
9 interpreting the Indian Reorganization Act, they
10 looked at two different provisions. They looked
11 first at what it meant to be a tribe and then what
12 it meant to be Indian.

13 And looking at the definition of
14 Indian, was looked at the terms recognized tribe
15 then under federal jurisdiction. I think that the
16 practice has been for federally recognized tribes
17 to have been deemed to be under federal
18 jurisdiction.

19 I understand and I think your question
20 is going to Justice Breyer's concurrence in the
21 Carcieri -- in the concurring opinion in Carcieri
22 to the effect that perhaps tribes may have been
23 under federal jurisdiction but the government --
24 the federal government did not then know it.

1 I have just a couple points to make
2 about that. It was not the majority opinion. It
3 has not been adopted by Congress. If Congress
4 believed that it was as easy as a mere executive
5 interpretation that would allow the Department of
6 the Interior to continue to take land into trust
7 under Justice Breyer's concurring theory that a
8 tribe may have been under federal jurisdiction but
9 the federal government did not then know it, then
10 there would have been no need for Congress as it has
11 tried to do since 2009 to pass legislation that
12 would correct the Carcieri opinion. It's been
13 known colloquially as the Carcieri fix.

14 But every Congress since Carcieri has
15 went onto the books has tried from both houses and
16 both parties to fix Carcieri through legislation.
17 And those legislation have gone nowhere.

18 CHAIRMAN MCHUGH: But that doesn't
19 rule out the possibility that the next time the
20 court or a court looks at this they interpret it the
21 way Justice Breyer did. The record in Carcieri
22 didn't illuminate the possibility and didn't
23 provide enough for the court to determine the
24 possibility that they had been under federal

1 jurisdiction but not recognized.

2 MS. SAJER: That's correct. Because
3 Narragansett the issue was kind of already taken off
4 the table.

5 COMMISSIONER MCHUGH: Right. That's
6 just an open question. And one can argue that the
7 Congress didn't have to fix anything because what
8 Justice Breyer was saying may well be the law.

9 It would be neater and cleaner.
10 Everybody agrees with that if the Congress had fixed
11 it. But the fact that they didn't doesn't rule out
12 the possibility that on appropriate record the
13 court could conclude that what Justice Breyer said
14 was exactly right.

15 MS. SAJER: One of my, I would say my
16 primary talking point, Commissioner McHugh, is to
17 address the timing issue. And while what you have
18 theorized may ultimately become the law of the land,
19 displacing Carcieri or amending Carcieri, the fact
20 of the matter is the first test case in which the
21 Department of Interior has attempted to exercise
22 that theory is in the Cowlitz case.

23 And as you know, the Cowlitz case first
24 of all took six to seven years for the land to be

1 taken into trust and then immediately upon the
2 decision the Secretary of the Interior to take the
3 land into trust, immediately two lawsuits were
4 filed.

5 And as you probably know, just last
6 week the District Court in the District of Columbia
7 remanded that case for a redo over the Indian land
8 opinion as to whether the Cowlitz -- their land to
9 be taken into trust could be considered to be an
10 initial reservation.

11 What does that do? Okay, we're now 10
12 or 11 years later and the Cowlitz are going to start
13 over. They're going to get a new record of
14 decision. Undoubtedly, there's going to be the
15 same litigation. So, it's a matter of timing.

16 COMMISSIONER MCHUGH: I understand
17 the timing issue. That's a different issue, I
18 think, and I think you agree as a substance of the
19 law. How long it takes to get clarification is an
20 issue all of its own.

21 MS. SAJER: And as one of the previous
22 speakers tried to pronounce a very difficult tribal
23 name the Potawatomi in Michigan better known
24 fortunately as the Gun Lake Tribe. With the

1 Supreme Court's Patchak opinion last year, the
2 Supreme Court clarified that rather than the 30-day
3 period in which to file a lawsuit, there is now a
4 six-year window. So, I'm just saying we're
5 compounding time on top of time.

6 First, you have a Carcieri hurdle.
7 And whether it's administratively dealt with or
8 whether there's a Carcieri fix, the bottom line is--
9 And I tried to provide you with the data with which
10 you could trust but verify. -- just the data will
11 show you that the environmental statement process
12 under NEPA that's part of taking land into trust is
13 running six years or more. Six years is on the
14 early side, probably more.

15 And I gather there is some familiarity
16 with the NEPA process on this Commission. But it's
17 intentionally a deliberative slow lengthy process.
18 It provides for considerable public input. And
19 that's not merely lip service. The goal is to get
20 it right and not to do it over.

21 COMMISSIONER MCHUGH: Right. Your
22 letter is very comprehensive and very helpful. And
23 thoughtfully and thoroughly presents your
24 position. So, it was very helpful and

1 comprehensive.

2 MS. SAJER: Then let me just move on to
3 something that we have seen repeatedly here, which
4 is a lot of news pronouncements to the effect that
5 Secretary Washburn has now indicated that there is
6 made a preliminary positive determination that the
7 Taunton land would qualify as the Mashpee's
8 reservation.

9 We have seen letters coming from NIGC,
10 the National Indian Gaming Commission, approving
11 subject to getting land in trust the tribe's gaming
12 ordinance.

13 Now we have a fanfare of news about the
14 compact. It's the cart before the horse. You
15 understand there are two separate statutory
16 processes that have to go forward. And everything
17 that the tribe has accomplished has been able to
18 accomplish on the Indian Gaming Regulatory Act
19 side.

20 Yet, if land is taken into trust, they
21 have taken these next steps. In other words,
22 they've created the cart. But without the land in
23 trust, the horse, that cart cannot move. So, all
24 of these other determinations, the compact, they're

1 all without legal effect until and unless the tribe
2 can get land in trust. But otherwise, they have no
3 legal effect with respect to land that is not in
4 trust and may never ever be taken into trust.

5 I just wanted to point out on behalf of
6 my client they recognize that a commercial license
7 in this Region C, the Southeast region is very
8 valuable. The studies were done by Spectrum for
9 the Governor, by Innovations for the General Court
10 and by Gaming Market Advisors for KG Urban. And
11 they all are anticipating revenues of about \$600
12 million annually.

13 The value is dropping with delay.
14 Why, because as you've heard some other speakers say
15 there are other very savvy gaming competitors
16 coming into the Boston area and into the Western
17 region. They're going to expand those radiuses and
18 you know there's a hot to market advantage for
19 gaming just as there is for any other industry. You
20 have a chance to build loyalty and once customers
21 are lost, they are very difficult to get back.

22 With a less valuable license,
23 investors are likely to invest at the low end not
24 the high end, not in a beautiful casino destination

1 resort but something that is commensurate to the
2 value of the license.

3 By holding the Southeast region open in
4 the hope that a tribe may one day build on land that
5 is not now and may never be Indian land, the
6 Commission will end up imposing a burden on the
7 region that as we've heard from many speakers is
8 most in need of the economic development.

9 Based on projected revenues of say \$600
10 million annually, holding the Southeast region open
11 in hopes that the tribe will one day have land in
12 trust, amounts to a loss to the Commonwealth of \$150
13 million a year. That's \$1.5 billion over 10 years.

14 So, unless the region is opened to
15 commercial bids, this region is left in limbo. The
16 Commonwealth is effectively subsidizing the hope of
17 the tribe on lands that may never be Indian lands.
18 And the Commission will end up denying this region
19 the opportunity for economic development and the
20 employment that it so desperately needs.

21 So, on behalf of my client we ask that
22 Region C be opened commercial bidding. Thank you
23 for your attention. Do you have any other
24 questions?

1 CHAIRMAN CROSBY: Any other questions
2 for Attorney Sajer?

3 COMMISSIONER MCHUGH: No. As I said I
4 think that letter was very helpful. Thank you.

5 CHAIRMAN CROSBY: You and your client
6 are prolific.

7 Elias Patoucheas, President of
8 Claremont Corp., welcome.

9 MR. PATOUCHEAS: Chairman Crosby,
10 members of the Gaming Commission, welcome to
11 Southeastern Massachusetts. Thank you for giving
12 me the time to speak today.

13 My name is Elias Patoucheas. I am
14 President of the Claremont Companies, a 45-year-old
15 family-owned real estate investment company
16 headquartered in Southeastern Massachusetts.

17 I am here to support a competition for
18 gaming, commercial gaming in Southeastern
19 Massachusetts. The obstacles facing the tribe's
20 land in trust application are insurmountable. It
21 could take years before we learn the status of their
22 application.

23 Southeastern Mass. can't wait that
24 long. Southeastern Mass. needs the economic

1 stimulus and jobs today. Why should we wait and be
2 left in the dust while the rest of the state gets
3 to prosper from commercial gaming and see revenue
4 and job growth?

5 I've had the opportunity to speak to
6 many of the world's top gaming company. They have
7 all shown interest in investing in Southeastern
8 Mass., but none of them are willing to commit until
9 the area is open for commercial gaming.

10 We should have competition in this
11 region. There are other viable options. We just
12 heard from the people from KG Enterprises. There
13 are other sites available. There are other
14 developers who want to submit an application. The
15 Wampanoag can compete as well.

16 I ask you today to please open up this
17 region to commercial gaming, and put us on the same
18 level playing field as the rest of the state. Let
19 us compete and don't leave us behind. Thank you.

20 CHAIRMAN CROSBY: Thank you. Mr.
21 Patoucheas, the companies that you've talked with
22 were they to locate on the site that you've talked
23 about, they would be running a risk of X degree that
24 they would have a tribal casino at some point in the

1 future cheek by jowl with zero tax rate as opposed
2 to the 25 percent tax rate that the company would
3 be paying.

4 Have they given you insights as to the
5 way they see that and value that and how they
6 discount that impact?

7 MR. PATOUCHEAS: Yes, Mr. Chairman.
8 Gaming is all about risk. And many of these
9 companies know the nuances involved in tribal
10 gaming and land in trust and how long it takes to
11 get land in trust.

12 There are many case studies out there.
13 And the attorney for KG Urban just cited one of them.
14 It could take many, many years to get land in trust.
15 And the first mover in the market will have to edge
16 over everybody else.

17 So, they are not concerned knowing the
18 history surrounding land in trust and the long lead
19 time involved.

20 CHAIRMAN CROSBY: Okay. Thank you.
21 Any other questions? For what it's worth, that's
22 the same answer we received in writing from KG
23 Urban.

24 COMMISSIONER ZUNIGA: They factor

1 that in.

2 CHAIRMAN CROSBY: They factor that in
3 and are not troubled by it.

4 Michelle Littlefield, Chair of
5 Preserve Taunton's Future and associate.

6 MS. LITTLEFIELD: Good afternoon. I
7 bring my own tribe. First of all, I want to thank
8 you because I for one really appreciate the
9 transparent and open process which this Commission
10 has provided us, not only as residents but as people
11 that are being affected by this process very much
12 so.

13 I can only say that I wish that that
14 process in Taunton, the political process which my
15 community faced a year ago with this tribe was as
16 transparent. It was not. A couple of things I
17 want to address. First of all, the Carcieri
18 decision keeps coming up. And I think it is very,
19 very important to note that 32 states in United
20 States of America supported and signed onto an
21 amicus brief as well as Massachusetts, but 31 other
22 states in addition Massachusetts signed onto an
23 amicus brief that supported the Carcieri decision.
24 That fact alone is the reason why a Carcieri fix will

1 never happen. That will never pass our government
2 through our Federal Legislature.

3 Furthermore, a couple of things that
4 were addressed today. First of all, I want to note
5 that I'm very, very disappointed that my elected
6 officials, my mayor that the elected officials for
7 the tribe have felt the need to come today and
8 present their point of view but then walk out the
9 door.

10 The same thing has happened numerous
11 times in Taunton when we have had public hearings,
12 when we have had other processes in Taunton where
13 we have been presented with questions or the
14 opportunity to speak to the BIA and to MEPA. They
15 say their piece and they leave. They walk out the
16 door. They don't hear what any of us have to say.
17 And I find that very disheartening.

18 I find it very disrespectful to the
19 process. If this was that important to them, you
20 would think that they would stay for the entire
21 meeting and hear everybody else.

22 CHAIRMAN CROSBY: I would point out
23 that Representative Orrall is still here.

24 MS. LITTLEFIELD: And I will say

1 Representative Orrall has my vote for life. She
2 is the one person who came forward today and gave
3 you the facts and gave you the truth as is seen by
4 the district where this casino is being proposed,
5 which is less than a mile from my home.

6 Several people got up here, Mayor Hoye,
7 Representative O'Connell, a few others got up here
8 and talked about the overwhelming vote that
9 happened in Taunton. And I'd like to correct that
10 because that is something that has bothered the
11 members of my group for quite some time.

12 The overwhelming vote in Taunton
13 happened in a few of the wards out of 16. Where this
14 casino is being constructed or allegedly or
15 hopefully will be constructed by the tribe is in
16 Ward 4, 4A, 4B. We voted overwhelmingly no,
17 overwhelmingly no, as did Ward 3, which is also
18 Representative Orrall's district.

19 So, the entire city did not
20 overwhelmingly vote yes. In fact, the regions
21 closest to the casino have overwhelmingly voted no.

22 The other thing I wanted to point out
23 really quickly that hasn't been mentioned
24 here --

1 CHAIRMAN CROSBY: It was a citywide
2 election though?

3 MS. LITTLEFIELD: It was a citywide
4 election. East Taunton is a small district within
5 the larger city. Unfortunately, had we seen this
6 coming down the pike, we probably have emancipated
7 ourselves from the city. We didn't get that
8 opportunity.

9 One of the things I wanted to point out
10 that has not been mentioned today is the tribe's
11 status of their land in trust application today is
12 incomplete. If this was that important to that
13 tribe to get this land into trust, you would think
14 after a year that application would be complete.
15 It is not. And that is evidenced by the fact that
16 it is not listed in the Federal Register.

17 The EIS is stagnant. I have had
18 contact as recently as this afternoon. One of our
19 members just approached me and said he spoke again
20 today with Holly Johnson at the Massachusetts
21 Environmental Protection Agency. They have not
22 heard one word from this tribe since July of last
23 year when we had our EIS meeting.

24 One thing, and I back up. I skipped a

1 part.

2 COMMISSIONER MCHUGH: Who is that
3 that you mentioned?

4 MS. LITTLEFIELD: Holly Johnson,
5 Massachusetts Environmental Protection Agency.

6 As a matter of fact, when I personally spoke with
7 Holly at the end of January, I said we received a
8 draft EIS. A lot of things that we see coming out
9 we refer to as smoke and mirrors because a lot of
10 what we see that they term progress, when we look
11 into it closer, we realize that it's really not
12 progress. It may appear to be some, but it's not.

13 And when we got that draft EIS in late
14 November from a company called Epsilon who works for
15 the tribe, that looked to us like it was progress.
16 When I didn't hear anything for two months and I
17 contacted Holly Johnson who is in charge of the MEPA
18 process, Holly said to me we have not heard from them
19 since last summer. Can you forward that to me. To
20 which I responded no. That's their job. And if
21 they're going to get it to you, I'm certainly not
22 going to further their cause. That's up to them to
23 get it to you.

24 One thing that has not come up today is

1 something the tribe is doing is called initial dual
2 reservation. I have done a lot of research over the
3 last year. And when this first came out, I made it
4 a point of contact legislators and the Mayor down
5 in Ledyard, Connecticut. I did a lot of research
6 on how this would impact my community, because
7 that's my concern.

8 It's being placed 300 feet from my
9 local elementary school. It abuts my local church
10 we just built there less than five years ago. An
11 initial dual reservation has never, never been
12 approved by the BIA. And I can assure you it will
13 not be approved for the Mashpee Wampanoag. The
14 three tribes in California who have applied for
15 initial dual reservation status have all been
16 denied.

17 CHAIRMAN CROSBY: I don't know what
18 this means.

19 COMMISSIONER CAMERON: The two
20 locations?

21 MS. LITTLEFIELD: Their land in trust
22 application refers to two initial reservations.
23 One in Taunton to which they have no historical
24 ties. As a matter of fact, some of us refer to them

1 as hysterical ties, because they don't exist and
2 Mashpee.

3 CHAIRMAN CROSBY: So, the land in
4 trust application -- I didn't even realize this.
5 The land in trust application is for two sites.

6 MS. LITTLEFIELD: It is.

7 CHAIRMAN CROSBY: They could possibly
8 grant one or the other.

9 MS. LITTLEFIELD: I could see maybe
10 they would grant if they qualify, which they don't
11 for Mashpee but we'll get to that in a minute.

12 The bottom-line is that land in trust
13 application is incomplete. The members of
14 Preserve Taunton's Future, we were a ballot action
15 committee that opposed the vote. And we obviously
16 as the city voted as a whole we lost that. So, at
17 that point the ballot action committee dissolved.
18 We have however remained active as a community. We
19 have gathered together on numerous occasions to
20 discuss certain points in all of this.

21 At this point we have retained an
22 attorney. And as you well know -- Adam Bond. As
23 you well know, there are numerous cases, Carcier,
24 Hawaii, Cowlitz, Patchak. We have two members here

1 that are still in the audience that we refer to as
2 our Patchaks. Because they will be filing lawsuits
3 against the BIA, against the tribe to stop if land
4 in trust were to happen.

5 We decided a few weeks back after doing
6 a lot of research -- Like I said, we've done a lot
7 of work. We've taken I can't tell you how many days
8 off from work to research this, not only in
9 Washington but in Boston, at Harvard University and
10 elsewhere. And we have uncovered numerous
11 evidence that supports our position that this tribe
12 does not qualify in any way, shape or form for land
13 in trust.

14 And in order to get that point across
15 to the BIA and to our Governor and to you the Gaming
16 Commission, we felt the need to hire an attorney.
17 So, at this point, I would like to defer to our
18 attorney Adam Bond who represents us as a community,
19 as a group. There's about 10 or 12 of us that have
20 come together and hired Adam to put together this
21 letter to submit our evidence to you.

22 CHAIRMAN CROSBY: Ms. Littlefield,
23 I'm sorry. Excuse me. Other groups asked to have
24 t more than one speaker. And we said that was not

1 going to work. That we needed to have just one.
2 And we also have a 10-minute time limit and we are
3 very close to that.

4 We will take whatever you all obviously
5 have to submit and value it. But it wouldn't be
6 fair to other organizations to allow more than one
7 person speak. You don't have to go away.

8 MS. LITTLEFIELD: This was a statement
9 that Adam Bond had put together on behalf of myself
10 and the members of our group. He's been involved
11 with this tribe like Selectman Frawley since 2007.

12 This Commission will decide the fate of
13 certain economic development in Region C.
14 Presumably, it will weigh the advisability of
15 letting commercial casinos open in Region C and
16 holding up development in Region C to allow the
17 tribe to obtain land in trust.

18 As you're surely aware, to succeed the
19 tribe must currently show that it was under federal
20 jurisdiction in 1934 as held by the US Supreme Court
21 decision in Carcier.

22 To that point, I would like to submit
23 to the Commission, which we just did, a copy of the
24 letter sent to the Secretary of the Interior on that

1 issue. We've also submitted this to the Governor.

2 Before I take you risk on a business,
3 I look at past performance and balance that with the
4 likelihood of future success. Compassion and
5 politics have no real place in this decision.
6 Looking at past performance for more than 100 years
7 the Interior has unambiguously held that the
8 Wampanoag Tribe, the Mashpee Wampanoag Tribe were
9 not under federal jurisdiction.

10 For example, on July 10, 1899 the
11 Indian Affairs Commissioner stated that "eastern
12 tribes in the states of the original 13 colonies
13 such as the Mashpee Wampanoag were residents of a
14 section of the country which constituted the
15 territory of the 13 original states. And that no
16 treaties or agreements were ever made with them by
17 the general government. Nor has it ever exercised
18 any supervision or control over them."

19 The Commissioner concluded that such
20 tribes "appearing to be citizens of the United
21 States left the Secretary of the Interior without
22 authority."

23 In 1939, Interior assembled a list of
24 tribes subject to the IRA, which you heard about

1 today. The Mashpee Wampanoag do not appear on that
2 list nor does any single tribe from the original 13
3 states.

4 In the 1970s, the Solicitor General of
5 the Interior, Leo Krulitz, testified in Mashpee
6 Tribe versus New Seabury Corp. and read a letter
7 into the record from the Interior to the Mashpee
8 Wampanoag Tribe, which we've provided you a copy of.
9 It states -- I'm sorry, that letter is dated October
10 2, 1937 stating "as I explained in my December 31,
11 1936 letter, the Indian Office can offer no
12 assistance to Indians not members of a tribe under
13 federal jurisdiction." This jurisdictional
14 statement could not have been clearer.

15 So, looking back there is more than 100
16 years of history in the clear and unambiguous
17 documents generated by the Interior that we have
18 obtained which show that the tribe was not under
19 federal jurisdiction as of 1934 as required by
20 Carcieri for the Interior to have power to grant
21 land into trust.

22 As we stand here today and as it has
23 been since the United States Supreme Court spoke to
24 the issue four years ago, we and the Interior's own

1 actions and documents show that this tribe does not
2 meet the standards for jurisdiction.

3 As to the future, this tribe is
4 actually no closer to obtaining land in trust than
5 they were 100 years ago or one year ago. They have
6 obtained some basically irrelevant bells and
7 whistles, but the four-year old core problem still
8 remains, Interior self proclaimed lack of
9 jurisdiction to take their land into trust.

10 As to the future, I further note that
11 a grant of their application by the Interior will,
12 and I stress it will, result in lengthy litigation
13 as it did in the Patchak case. That case was
14 brought in 2005 and it was decided by the United
15 States Supreme Court seven years later and the
16 dismissal was reversed.

17 As Chairman Cromwell wrote on July 25,
18 2011, "The Mashpee Wampanoag Tribe is confident
19 that the Interior has the authority to take land
20 into trust for our tribe, but Carcieri introduces
21 substantial delays. Not only will we have to face
22 direct challenges to our initial reservation, but
23 we will also have to deal with the consequences of
24 litigation arising in other areas of the United

1 States.

2 Recent cases still working through the
3 courts now expand the damage exposing all tribal
4 trust land to challenge. It is clear that these
5 legal challenges will cost tribes greatly in both
6 time and money."

7 That was obtained from an article in
8 Indian Country Today.

9 CHAIRMAN CROSBY: Excuse me. You're
10 about done. We are getting pretty far passed 10
11 minutes.

12 MS. LITTLEFIELD: Okay. One more
13 paragraph.

14 CHAIRMAN CROSBY: Okay.

15 MS. LITTLEFIELD: I've been down this
16 road once before. You don't have a little red sign.

17 As Chairman Cromwell said in his own
18 words, the Commission is looking at a substantial
19 delay and great cost and time due to certain
20 litigation regarding the tribal casino, which will
21 lead to years of delay in Region C development under
22 the expanded gaming laws with no revenue to the
23 state or to the region during that period.

24 I respectfully submit to you that with

1 more than 100 years of the Interior telling the
2 tribe it has not been under federal jurisdiction and
3 with both opponents and the Tribal Chairman
4 guaranteeing substantial litigation delays as a
5 certainty, the best course of action for this
6 Commission to take at this point regarding Region
7 C is to bet on a commercial casino at 25 percent with
8 the community mitigation and regulatory oversight.
9 And let the chips fall where they may with this
10 tribe.

11 CHAIRMAN CROSBY: Thank you.

12 MS. LITTLEFIELD: Thank you.

13 CHAIRMAN CROSBY: Any other
14 questions? Okay. We're getting close. We have
15 three more. Thomas Flaherty, Vice President
16 Sprague Operating Resources, welcome.

17 MR. FLAHERTY: Chairman Crosby,
18 Commissioners. Good evening, my name is Tom
19 Flaherty. I am the Vice President of Sprague
20 Operating Resources. We are headquartered in
21 Portsmouth, New Hampshire. We are the owner of the
22 property in New Bedford that KG Urban Enterprises
23 intends to construct a gaming facility in the event
24 that they receive a gaming license.

1 We, my firm Sprague operates 15
2 deepwater facilities in New England and New York
3 State where we store and dispense fuel oil, diesel
4 fuel, gasoline to a variety of customers,
5 home-heating oil customers, institutions,
6 hospitals, schools, that kind of customer class.

7 In addition, we supply mass transit
8 agencies like the MBTA. Also liquid fuel that's
9 supplied to MBTA buses is supplied by my firm. And
10 through the New Bedford terminal we supply
11 home-heating oil and diesel fuel to customers in the
12 general vicinity.

13 We employ people and pay taxes in the
14 City of New Bedford. Our site also contains what
15 will be the centerpiece of the KG development, which
16 is the Cannon Street Power Station, the
17 decommissioned power station in the center of our
18 property.

19 And we first purchased that back in
20 2005 from NSTAR. And I read in the Globe and I've
21 heard it said today a few times that the development
22 in Taunton is far ahead of anyone else, but I also
23 read that they got control of their property last
24 year in 2012.

1 We actually originally started our
2 work with KG back in 2007. They came to us with this
3 idea to purchase the site and develop it into a
4 gaming facility. They first set foot in our site
5 in 2008 and took a look around. And we entered into
6 a purchase and sale agreement for the property.

7 The board of directors of our firm
8 considered the agreement and finally approved the
9 sale to KG late in 2008. Our owner, the chairwoman
10 at Axel Johnson was very aware of our negotiations
11 and was pleased with the development ideas, because
12 she wanted to see that the property would be left
13 in good hands and would have a future.

14 We went to KG Urban's management team
15 and some of the other projects they were working on
16 for example the Bethlehem Steel Project and could
17 see that these guys could make a project happen
18 very, very quickly.

19 In 2009, we actually granted KG access
20 to our site and they showed up with a team of
21 specialists. People including the environmental
22 cleanup experts, historic preservation
23 specialists, landscape and architects and several
24 engineers and design architects. And the number

1 one recurring theme from everybody -- At first we
2 hosted dozens of tours through the facility with
3 various constituencies and various consultants of
4 KG and the contractors.

5 The recurring theme was just the beauty
6 of the site and the majestic view of the New Bedford
7 waterfront that's afforded from the building that
8 is the centerpiece of the property, the power plant.

9 And KG's commitment to the project has
10 also been financial. When we entered into the
11 purchase and sale agreement, they made a
12 substantial down payment to us and continue make
13 option payments to retain control of the site since
14 2009. The power plant, the Cannon Street station
15 would be transformed if the project goes forward and
16 the gaming license is awarded to KG. The power
17 plant building itself does not really have any
18 commercial use to our firm.

19 But an application as a gaming facility
20 or as a restored facility, it would be a different
21 ballgame altogether. It would provide thousands
22 of jobs for the region. And of course, as I
23 mentioned before my firm is an employer of people
24 in New Bedford, but certainly not with the magnitude

1 that would be employed at this site if KG were to
2 develop an operation there.

3 Our business is distributing liquid
4 fuel to end-users. And there is certainly multiple
5 places to distribute fuel in Southeastern
6 Massachusetts. But the opportunity to take a site
7 like this in such a fantastic development
8 waterfront location, this opportunity really
9 doesn't come along -- comes along once in a
10 lifetime. And our view certainly would be a better
11 use of the facility than a fuel oil distribution
12 facility.

13 We stand ready to quickly make the site
14 available to KG in the event that they are awarded
15 a gaming license. The site contains four large
16 fuel storage tanks and pipelines. Our demolition
17 work could begin onsite virtually immediately. As
18 soon as we receive notice from KG that they're ready
19 to go, we are ready to demolish the tanks. And that
20 would happen very, very quickly within a matter of
21 weeks. No permits or any kind of approvals are
22 required to demolish the facility other than just
23 to simply verify to the City of New Bedford that we
24 are current in our property tax obligations, which

1 of course we are. As I said, demolishing of the
2 facility would happen very quickly.

3 So, the point is that access to the site
4 could happen very, very quickly. And construction
5 could happen also very, very quickly.

6 So, I just want to thank you for the
7 time and the opportunity to address you.

8 CHAIRMAN CROSBY: Thank you, Mr.
9 Flaherty. Any questions? I'm not sure this is
10 relevant, but just out of curiosity how does this
11 use comport with what I thought was a planned use
12 by the city of that site or near that site for the
13 staging area for the wind farms? Is that the same
14 area?

15 MR. FLAHERTY: The city is actually
16 developing another core facility further south from
17 our facility. It will be called the south
18 terminal. The city's project is a separate project
19 from this.

20 CHAIRMAN CROSBY: Those two would be
21 compatible?

22 MR. FLAHERTY: Yes.

23 COMMISSIONER MCHUGH: How long has an
24 oil storage and distribution facility been on this

1 site?

2 MR. FLAHERTY: The history of the
3 facility goes back to the turn of the century as an
4 operating power plant. And the facility began to
5 burn petroleum. The facility was initially an
6 oil-fired power plant that probably had been in
7 operation since the 1940s. When the power plant
8 was decommissioned in the 90s and was converted to
9 simply to distribution.

10 COMMISSIONER MCHUGH: Thank you.

11 CHAIRMAN CROSBY: Thank you.

12 CHAIRMAN CROSBY: Last but no means
13 least, Stephen Carroll, Real Estate Manager for
14 NSTAR. Thank you for your patience, Sir.

15 MR. CARROLL: Thank you, Mr. Chairman,
16 fellow Commissioners. I appreciate the time
17 today.

18 My name is Stephen Carroll. I am the
19 Real Estate Manager with NSTAR Electric and Gas
20 Corporation. We are now a subsidiary of Northeast
21 Utilities. We are the largest gas and electric
22 utility in New England.

23 My counterpart, Tom Flaherty of
24 Sprague, kind of described the location of where KG

1 intends or hopes to intend to build a future gaming
2 resort. I can provide you a little more history and
3 the fact that the readiness of the KG team to
4 actually execute this plan.

5 I should go back a little bit. Tom
6 mentioned that the power plant shut down back in
7 1991. The City of New Bedford has been wanting to
8 do something with this property for the better part
9 of the last 23 years. We worked very closely with
10 them in an effort to get an aquarium built on the
11 power plant. There was a significant amount of
12 work that was done, both on the permitting and
13 financing for that project. Unfortunately, that
14 project was never financed. And back in the early
15 part of the 2000 decade that project kind of just
16 went away.

17 We were forced by statute to divest of
18 that property because it was a former generating
19 plant. And we do not own generating power plants
20 in the State of Massachusetts anymore. So, we
21 auctioned it off. Tom Flaherty's firm, Sprague,
22 was the high bidder. And we sold about half of the
23 property to Sprague.

24 The remaining half of the property is

1 an operating service center. It's where our crews
2 work out of. There's approximately 200 employees
3 that work out of that facility right now. And they
4 are the crews that work on our electric and gas
5 distribution system, not only in New Bedford but
6 pretty much the entire south coast community.

7 Back in 2007, we were getting
8 approached by a number of gaming developers. That
9 was around the time that gaming legislation was
10 going to be proposed. A number of firms I spoke to
11 specifically KG was the one that was more interested
12 in the site than anyone else.

13 We had a significant negotiating
14 period with KG. We started in 2007. We signed a
15 purchase and sale agreement with them in 2009.
16 They spent 18 months investigating this property.

17 Attorney Sajer, KG's attorney before
18 said they spent \$5 million investigating the
19 property. The amount of due diligence that has
20 been done on this property is unbelievable. I've
21 been in commercial real estate for 21 years. And
22 I've never seen the level of effort to a point where
23 they are ready to purchase the site, but they've
24 already done all of the due diligence.

1 They've already done the title.
2 They've already done the environmental, the survey,
3 the geotech. They've done everything on this
4 property. The key thing for us, a little different
5 from Sprague, is that we still need a facility in
6 the New Bedford area. We've made a commitment to
7 the leadership in New Bedford that we would keep our
8 operations in New Bedford. That was a critical
9 part of this deal. We were not going to move out
10 or take 200 jobs out of the city in a city that is
11 already hurting to keep jobs in there in the first
12 place. So, that was a key component.

13 What we did is we had KG go out and
14 secure a site for us in an industrial park in New
15 Bedford where when they're ready to close, they
16 would acquire this site, which is under option
17 agreement now and build out that site to our specs.

18 That work has already been essentially
19 vetted and done, which is a little amazing when you
20 think about the fact that they're still looking for
21 an opportunity to compete in Region C and they've
22 spent that amount of money on our property. That
23 just tells you the conviction that they have in
24 terms of looking at this site and the feasibility

1 and the once-in-a-lifetime, to quote Mr. Flaherty,
2 about redeveloping a really special site with close
3 proximity to downtown New Bedford.

4 I will say that there is historical
5 contamination on the site. We operated a power
6 plant there for 120 years. There's no threat to the
7 public. It's contaminated. It's contained.
8 NSTAR last year spent about \$7.5 million cleaning
9 up a portion of the harbor working with the City of
10 New Bedford.

11 KG spent a significant amount of money
12 cleaning up this property. This is a Brownfield's
13 redevelopment. This is something that they have
14 expertise in. And my company is a very, very
15 risk-averse company. When we enter into
16 transactions, we want to make sure that there is
17 someone on the backend that's going to perform this
18 and perform it appropriately.

19 So, we felt confident and we signed a
20 P and S with KG. They have a strong team with them.
21 And when I hear about people speaking to the
22 readiness of being able to pull the trigger, and the
23 fact that we were actually under agreement, both
24 Sprague and NSTAR, with KG going on four years now.

1 And it can go on for a number of more years.

2 So, I just want to thank the
3 Commission. I really wanted to be able speak to the
4 readiness and the ability of the KG team to
5 effectively pull the trigger, if they're given an
6 opportunity to pursue a license in Region 3. I want
7 to thank you for your time.

8 CHAIRMAN CROSBY: Thank you.

9 COMMISSIONER CAMERON: Mr. Chair, we
10 missed one?

11 COMMISSIONER MCHUGH: We missed one.

12 CHAIRMAN CROSBY: I'm sorry. Who did
13 I miss?

14 COMMISSIONER CAMERON: Mr. Fenton.

15 COMMISSIONER MCHUGH: Mr. Fenton from
16 the IBEW.

17 CHAIRMAN CROSBY: Oh, I'm sorry. I'm
18 sorry.

19 MR. FENTON: Thank you. Thank you for
20 having me tonight. Thank you for coming down here.

21 CHAIRMAN CROSBY: Thank you for your
22 patience.

23 MR. FENTON: My name is David Fenton.
24 I'm the Business Manager of the Electricians Union

1 Hall down here in Southeastern Mass.

2 We cover Region C. I'm not here to go
3 against any developer that's here. I'm just here
4 to say let's get this process going. As far as the
5 Mashpees are going, they're on their track to get
6 there. The other developers are in here. They are
7 moving forward also. They want to move forward.

8 However, as you heard today that
9 Mashpee are, they are on the cusp of getting this
10 thing going. We're hoping that as the Commission
11 looks at what's going on here that they can keep it
12 going. And I think we're going to be okay because
13 the jobs are going to be created.

14 The industry and the construction
15 world has been awful. We cover all of Southeastern
16 Mass. And all of Southeastern Mass. could use the
17 jobs.

18 With that being said they're moving
19 forward. I just hope -- I'll leave you my
20 testimony. I don't want to take up too much of your
21 time. I just thank you for coming down again and
22 hopefully that we can keep moving forward here.
23 Thank you.

24 CHAIRMAN CROSBY: Thank you very much.

1 COMMISSIONER MCHUGH: Thank you.

2 CHAIRMAN CROSBY: I think we've heard
3 everybody. Before we adjourn, any particular
4 thoughts while everything is right fresh in our
5 minds?

6 COMMISSIONER MCHUGH: I think there's
7 a lot to think about.

8 COMMISSIONER CAMERON: I do too.

9 CHAIRMAN CROSBY: The thing that
10 strikes me is there is a huge data point that we
11 cannot get our arms around and that is the timing.
12 There are different assertions as to the timing.
13 Nobody can point to anything short or long.

14 Clearly, the legislative intent was to
15 give the tribe a chance. The legislative intent
16 was not to let this go on forever. And they are
17 leaving it up to us to determine what forever is.

18 They would want us to understand how
19 long this is going to take and make a decision based
20 on that. And I don't know how we ever figure that
21 out.

22 But that's the huge hole here as far as
23 my data collection goes. Anything else anybody?

24 Thank you all for your help and

1 participation. The meeting is adjourned and we
2 will be back in business a week from now.

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4 (Meeting adjourned at 7:27 p.m.)

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1 ATTACHMENTS:

2

3 1. Massachusetts Gaming Commission March 21,
4 2013 Notice of Meeting and Agenda

5 2. February 28, 2013 Massachusetts Gaming
6 Commission Minutes

7 3. March 20, 2013 Memorandum Regarding
8 Recommendation Regarding Research Agenda
9 Responses

10 4. List of Speakers for March 21, 2013 Public
11 Meeting #59

12 5. Support for Speaker Requests

13 6. List of Public Written Comments

14 7. Public Written Comments

15

16

17 SPEAKERS:

18 John Ziembra, Ombudsman Mass. Gaming Commission

19

20 Dr. John J. Sbrega, President Bristol Community
21 College

22 Cedric Cromwell, Tribal Council Chair, Mashpee

23 Wampanoag Tribe

24 Rep. Robert Koczera, 11th Bristol District

1 SPEAKERS (continued):
2 Rep. Keiko Orrall, 12th Bristol District
3 Rep. Alan Silvia, 7th Bristol District
4 Rep. Shaunna O'Connell, 3rd Bristol District
5 Rep. Antonio Cabral, 13th Bristol District
6 Hon. William Flanagan, Mayor of Fall River
7 Hon. Tom Hoyer, Mayor of New Bedford
8 Sen. Marc Pacheco, 1st Plymouth and Bristol District
9 David Alves, Councilor at Large - City of New Bedford
10 Allin Frawley, Vice Chair, Middleborough Board of
11 Selectmen
12 Kerri Babin, President and CEO Taunton Area Chamber
13 Marsha Sajer, Esq., KG Urban
14 Elias Patoucheas, President, Claremont Corporation
15 Michelle Littlefield, Chairman, Preserve Taunton's
16 Future
17 Thomas Flaherty, Vice President, Sprague Operating
18 Resources
19 Stephen Carroll, Real Estate Manager, NSTAR
20 David Fenton, Business Manager, IBEW - Local 223
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C E R T I F I C A T E

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

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

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

WITNESS MY HAND this 24th day of March, 2013.



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

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